



# TERMS AND CONDITIONS FOR USERS USING ESIS ID SERVICE

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## Document History

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# 1. DEFINITIONS

The following definitions shall have the following meanings when used in these Terms and Conditions for Users Using ESIS ID Service (hereinafter - the Terms and Conditions):

- 1.1 “Application form for ESIS ID Service Client” – is the form by which the Client accepts these Terms and Conditions and provides the information specified therein.
- 1.2 “Client” – Intermediary, which has been accepted by the ESIS ID Service Provider as an ESIS ID Service Client.
- 1.3. “Confidential Information” refers to all information, both oral and written, concerning the Client or the ESIS ID Service Provider, and matters related to the Client or the ESIS ID Service Provider which are of technical, commercial or other nature, such as e.g. information about projects, customers or employees, software, manuals, models or methods, business values, conditions or analyzes, trade secrets or content of agreements.
- 1.4 “GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing the Directive 95/46/EC (General Data Protection Regulation), and any amendments made thereto.
- 1.5. “ESIS ID Service” – means services provided by the ESIS ID Service Provider to the Intermediaries as described in clause 3 of this Terms and Conditions (including all associated services provided by the ESIS ID Service Provider, from time to time) and in the ESIS ID Service User Manual.
- 1.6. “ESIS ID Service User Manual” – means the ESIS User Manual for Users Using ESIS ID Service that aims to guide the Client towards details on how to access and operate the ESIS ID Service.
- 1.7. “Intermediary” means a person, such as an investment firm, a credit institution and a central securities depository which provides services of safekeeping of shares, administration of shares, or maintenance of securities accounts on behalf of shareholders or other persons, as defined in the Shareholders Rights Directive.
- 1.8. “ESIS ID Service Provider” – Nasdaq CSD SE, the organization no. 40003242879, with its head office in Latvia and branches in Estonia, Lithuania, and Iceland.
- 1.9. “EU Model Clause Agreement” means an agreement made using the relevant EU Model Clauses as adopted by the EU Commission for the transfer of personal data to third countries.
- 1.10. “EU Personal Data Legislation” means (i) Relevant data protection law and (ii) GDPR.
- 1.11. “Implementing regulation” means Commission Implementing Regulation (EU) 2018/1212 of 3 September 2018 laying down minimum requirements implementing the provisions of Directive 2007/36/EC of the European Parliament and of the Council as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights.

1.12. "Personal data" shall have the same meaning as in EU Personal Data Legislation.

1.13. "Price List" – contains up-to-date pricing information on the fees that relate to ESIS ID Service.

1.14. "Relevant data protection law" means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of the Personal data applicable to the ESIS ID Service Provider and the Client.

1.15. "Regulatory Requirements" means (i) the privacy and personal data legislation applicable to the processing of personal data, including the EU Personal Data Legislation, such legislation as may replace the aforementioned legislation from time to time (and in case of discrepancies or contradictions between different rules or regulations, the one which provides the highest degree of privacy and/or information security shall apply), and/or (ii) laws, regulations, regulatory requirements, regulatory approvals, processes, recommendations, guidelines and other similar procedures that are directly applicable for the Client and/or the Client's use of the ESIS ID Service.

1.16. "Shareholders Rights Directive" means the Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and national laws transposing previously mentioned directive.

1.17. "Shareholders Identification Disclosure Response" means the obligation of the Intermediaries to transmit the information regarding shareholder identity directly to the company or to a third party nominated by the company, as prescribed by the Shareholders Rights Directive, the Implementing regulation, and SMPG guidelines.

1.18. "SMPG guidelines" means Shareholders' Identification Disclosure messages market practice developed by the Securities Market Practice Group.

1.19. "Special Terms and Conditions" means the integral part of these Terms and Conditions, which determines specially negotiated terms and conditions (if any) as applicable to the relevant service.

1.20. "SWIFT" means the provider of secure financial messaging services that enables the exchange of messages formatted with the traditional SWIFT standards accepted by the financial community.

1.21. Unless otherwise stated herein, or clearly follows from the context in which it appears, the term "including" shall mean "including without limitation".

## 2. GENERAL PROVISIONS

2.1. ESIS ID Service Provider offers to the Clients a disclosure solution that aids regulatory compliance with disclosure responsibilities according to the Shareholders Rights Directive, national laws transposing this directive, and the Implementing Regulation.

2.2. These Terms and Conditions, the Special terms and conditions set forth the rights, obligations, and liability of the ESIS ID Service Provider and the Client using the ESIS ID Service as well as constitute an agreement between the ESIS ID Service Provider and the Client for an unspecified term for the use of the ESIS ID Service. All manuals, application forms, the Special terms and conditions or other publications issued by the ESIS ID Service Provider shall be subject to these Terms and Conditions, except as may be specifically provided therein.

2.3. The Terms and Conditions shall be deemed to have been concluded by means of the ESIS ID Service from the moment the Client provided a completed and duly executed Application form for ESIS ID Service Client and the ESIS ID Service Provider authorized the Client to access the ESIS ID Service (hereinafter – Effective Date).

2.4. The Application form for ESIS ID Service Client shall be signed by a person duly authorized to sign on behalf of the Client.

## 3. SCOPE OF SERVICES

3.1. ESIS ID Service provides a disclosure solution that allows the Client to transmit the Shareholders Identification Disclosure Response in ISO 20022 standard message directly to the entitled recipient via standard SWIFT FINplus service safely and efficiently.

3.2. ESIS ID Service Provider provides the following main types of services which the Client may use within the framework of the ESIS ID Service:

3.2.1. enables the Client to upload shareholder identification information via web-based application in several formats;

3.2.2. generates ISO 20022 standard message compliant with the requirements set in the Implementing regulation and SMPG guidelines based on the Client's uploaded Shareholders Identification Disclosure Response;

3.2.3. allows the Client to upload ready-made ISO 20022 standard message;

3.2.4. sends on behalf of the Client an ISO 20022 standard message to the indicated by the Client recipient via SWIFT FINplus;

3.2.5. allows the Client to cancel a previously sent response and generate a new one in case mistakes are found;

3.2.6. allows monitoring the status of the submitted responses.

3.2.7. other operations specified in the ESIS ID Service User Manual.

3.3. Detailed instructions on the use of the ESIS ID Service are laid down in the ESIS ID Service User Manual.

## 4. ACCESSION

4.1. Following the review of the Application form for the ESIS ID Service Client, the Intermediary may be authorized as the Client. By signing the Application form for ESIS ID Service Client, the Client becomes bound by the Terms and Conditions in force at any time.

4.2. ESIS ID Service Provider is committed to complying with the applicable sanctions laws and regulations, therefore the potential client shall pass a sanctions screening check to the satisfaction of the ESIS ID Service Provider.

4.3. ESIS ID Service Provider may at any time of services require the Client to pass an additional sanctions screening check to the satisfaction of the ESIS ID Service Provider.



## 5. PROCEDURAL PROVISIONS

5.1. The Client is additionally authenticated following the procedure laid down in the ESIS ID Service User Manual. Only authorized persons of the Client are entitled to access and use the ESIS ID Service. Authorized persons are a Client Administrator and a Client User (hereinafter – **Authorized persons**).

5.2. The Client appoints the Client Administrator as its agent to provide administrative services and operations for ESIS ID Service, subject to these Terms and Conditions. The Client Administrator shall be appointed, changed, or terminated by filling out the Application form for ESIS ID Service Client. The Client Administrator shall have only such authority as granted expressly by these Terms and Conditions and the ESIS ID Service User Manual. The Client Administrator shall not have the authority to make any agreement binding upon the Client.

5.3. The Client Administrator appoints the Client User as its agent to provide operations for ESIS ID Service, subject to these Terms and Conditions. The Client User shall be appointed, changed, or terminated by the Client Administrator and shall have only such authority as granted expressly by these Terms and Conditions and the ESIS ID Service User Manual. The Client Administrator is responsible for the Client User administration following the ESIS ID Service User Manual.

5.4. The ESIS ID Service Provider is entitled to effect changes in the systems used for the ESIS ID Service. Information about changes shall be published on the ESIS ID Service Provider's website.

## 6. DATA PROCESSING

6.1. Being responsible for the processing of the Personal data, the ESIS ID Service Provider and the Client (hereinafter both referred to separately as Party or together as Parties) confirm that from the moment the Client provided a completed and duly executed Application form for ESIS ID Service Client, the Parties accepted and will follow the Standard Contractual Conditions for Processing of Personal Data, which constitute an integral part of these Terms and Conditions and is attached as an annex hereto.

6.2. The ESIS ID Service Provider is also committed to complying with applicable privacy requirements, as stipulated in the Nasdaq Privacy Policy and Privacy letter.

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## 7. RIGHTS AND OBLIGATIONS OF THE CLIENT

7.1. The Client is entitled to use the ESIS ID Service to comply with obligations prescribed by the Shareholders Rights Directive, the Implementing Regulation, SMPG guidelines and other related legal acts.

7.2. The Client hereby undertakes:

7.2.1. when performing data transmission operations by means of the ESIS ID Service, to be guided by these Terms and Conditions, the ESIS ID Service User Manual, and relevant legislation and follow any other user instructions provided to this end by the ESIS ID Service Provider;

7.2.2. to ensure that the security features are used only by the Client or Authorized persons;

7.2.3. to ensure the due transmission of correct data;

7.2.4. to remain accountable and responsible for transmitted data correctness and timely delivery;

7.2.5. to remain accountable for compliance with the Shareholders Rights Directive, the Implementing Regulation, SMPG guidelines, and other related legal acts.

7.3. Where a change made by the ESIS ID Service Provider in the Terms and Conditions for accessing the ESIS ID Service necessitates the introduction of new security features, the Client hereby undertakes, upon a relevant request from the ESIS ID Service Provider, to perform, as per terms and procedure designated by the ESIS ID Service Provider, any actions required for the introduction of the new security features.

7.4. The Client shall pay a service fee to the ESIS ID Service Provider in accordance with the fee rates set by the Price List. The ESIS ID Service Provider shall be entitled to change the fee rates unilaterally, making the proposed changes available via the ESIS ID Service Provider no later than 1 (month) prior to the changes taking effect. In the event of a delay has occurred in the payment of a service fee, the ESIS ID Service Provider shall be entitled to require from the Client interest on arrears of 0.1% on the amount not paid on time for each day past the payment due date.

## 8. RIGHTS AND OBLIGATIONS OF THE ESIS ID SERVICE PROVIDER

8.1. The ESIS ID Service Provider shall be entitled to

8.1.1. administrate and process data provided by the Client according to these Terms and Conditions;

8.1.2. transmit any Shareholders Identification Disclosure Responses provided by the Client directly to the entitled recipient according to these Terms and Conditions and the ESIS ID Service User Manual;

8.1.3. unilaterally make any changes whatsoever, including such changes as a result of which the ESIS ID Service functionality, design, structure, access requirements, schedule of data transmission operations, user instructions, composition or scope of data, or the like are changed, by notifying the Client of the relevant changes;

8.1.4. to restrict access to the ESIS ID Service by the Client or Authorized persons concerning whom the ESIS ID Service Provider has grounds to believe that its security features have come into the possession of a person not entitled to use the ESIS ID Service. In case of suspicion, the ESIS ID Service Provider shall be entitled to conduct additional checks over the telephone on operations performed with the security features.

8.2. The ESIS ID Service Provider has a right to suspend unilaterally the data transmission operations if:

8.2.1. the Client has not paid the service fee on time for ESIS ID Service;

8.2.2. there are grounds to believe that the security features used by the Client or Authorized persons have come into the possession of a person not entitled to use the ESIS ID Service;

8.2.3. it becomes evident that the Client or Authorized persons do not use the ESIS ID Service for its intended purpose or if the continuation of operations jeopardizes the functioning of the ESIS ID Service as per its intended purpose;

8.2.4. the Client or Authorized persons breach these Terms and Conditions in a manner or to an extent that constitutes a substantial breach of legislation or these Terms and Conditions.

8.3. From the moment that the ESIS ID Service Provider has obtained information calling into question the validity of the security features of the Client or Authorized persons, the ESIS ID Service Provider shall preclude (block) the usability of invalid security features for the performance of data transmission operations.

8.4. The ESIS ID Service Provider hereby undertakes to make all reasonable efforts to ensure the uninterrupted functioning of the ESIS ID Service during the period set by the ESIS ID Service Provider for the performance of data transmission operations.

8.5. The ESIS ID Service Provider shall implement changes to these Terms and Conditions and the ESIS ID Service, as well as follow general guidelines from the Client, in the event that a change in the Regulatory Requirements would require this.

8.6. The ESIS ID Service Provider shall store at least 12 months' data related to the Shareholders' Identification Disclosure Responses for the Client's compliance and monitoring needs.

## 9. LIABILITY OF THE PARTIES

9.1. Each of the Parties shall be liable for the loss and damages caused by the breach or inadequate performance of obligations under these Terms and Conditions to the extent of the loss and damages.

9.2. Each data transmission operation performed by the Authorized persons shall be valid as an operation performed by the Client with respect to the ESIS ID Service Provider. The provisions in this Clause shall not extend to operations performed after the ESIS ID Service Provider has become aware of a circumstance provided in Clause 8.2.2.

9.3. The Client shall be liable for the non-purposeful use of the ESIS ID Service, including deliberate overloading or a breach in any other manner whatsoever; similarly, the Client shall be responsible for the activity of the User acting on its behalf and/or at its expense.

9.4. The ESIS ID Service Provider will grant the right to the Client to use the ESIS ID Service to facilitate and aid regulatory compliance, though the Client remains accountable for the compliance with shareholder identity disclosure and related obligations prescribed by the Shareholders Rights Directive, the Implementing Regulation, SMPG guidelines. The ESIS ID Service Provider shall not be accountable for any aforesaid compliance obligations of the Client.

9.5. The ESIS ID Service Provider shall not be liable for any loss or damages, or other consequences caused by the non-functioning or inadequate functioning of the ESIS ID Service if this is brought about by causes beyond the ESIS ID Service Provider's control, such as power failures, disruptions to communication lines, natural disasters, unforeseen faults in the hardware or software used for the ESIS ID Service.

9.6. The ESIS ID Service Provider shall, where necessary and as a consequence of serious market disruptions, serious disruptions in communications, serious technical problems, or for other extraordinary reasons, be entitled to take immediate measures as required in order to enable the ESIS ID Service Provider to maintain its operations in a secure manner. Upon the execution of such measures, the ESIS ID Service Provider shall, to the utmost extent possible, attempt to limit the damage incurred as a consequence of such disruptions. The ESIS ID Service Provider shall notify the Client as soon as possible of such extraordinary measures and, where the ESIS ID Service Provider deems necessary, other persons affected by the measures. The Client shall, to the extent such measures or disruptions affect their customers, inform them as soon as possible and in an appropriate manner.

## 10. CONFIDENTIALITY

10.1. Each party undertake not to disclose or otherwise make Confidential Information available to any third party without the consent of the other party and to use Confidential Information only for the purpose of fulfilling the Terms and Conditions. Each party undertakes to ensure that only such personnel and subcontractors who have a direct need to access Confidential Information, in order to fulfill that party's obligations under the Terms and Conditions, will have access to such information.

10.2. Each party shall ensure and be responsible for ensuring that employees, consultants and subcontractors and others who take part of Confidential Information, do not pass on such Confidential Information to third parties, and are bound by obligations of confidentiality regarding the Confidential Information to the same extent as the parties under this agreement, and each party will be responsible, as for itself, for any employees, consultants, subcontractors and others, who through such party have received or gained access to Confidential Information.

The confidentiality obligations under this section do not include information that:

- (a) was available to the public at the time of disclosure without the involvement of the disclosing party;
- (b) at the time of the disclosure, the disclosing party was legally in the disposal of, for reasons other than by having directly or indirectly received the information in question from the other party; or
- (c) a party, under applicable law or subject to a decision by a competent court or authority, is obliged to disclose (whereby such Confidential Information shall continue to be covered by confidentiality obligations except with respect to the person/persons to whom the party is obliged to disclose the information).

## 11. COMMUNICATION

11.1. The Parties hereby accept all queries/requests duly submitted and all data released and delivered via the ESIS ID Service interface as being equivalent to documents bearing hand-written signatures by the Parties and/or their authorized representatives.

11.2. Any notice or communication under these Term and Conditions must be in writing. A Party may send a notice and other communication to the other Party via e-mail according to the contact information indicated by the Client in the Application form for ESIS ID Service Client and by the ESIS ID Service Provider in these Term and Conditions. Such notice and other communication are deemed to have been received by the relevant Party as of the date of receipt of the respective e-mail. The receiving Party is entitled to require the sending Party to provide a copy of such notice or communication, if received via e-mail, to be also sent via mail, registered mail, or currier, provided that such notice or communication shall be deemed received on the date when it was initially received according to this Clause.

11.3. The Client shall send any notices under these Term and Conditions (including breach notices) to the ESIS ID Service Provider at the following address [csd.ops@nasdaq.com](mailto:csd.ops@nasdaq.com).

11.4. If the Client has changed contact or other details provided to the ESIS ID Service Provider, the Client shall immediately complete and submit the Application form for ESIS ID Service Client providing changed contact or other details.



## 11. OTHER TERMS AND CONDITIONS

11.1. The Client may not transfer rights and/or obligations under these Terms and Conditions for the use of the ESIS ID Service without the prior written consent of the other Party.

11.2. All intellectual property rights and technical solutions for the ESIS ID Service and any related services are the property of the ESIS ID Service Provider.

11.3. The ESIS ID Service Provider reserves the right to amend these Terms and Conditions, the ESIS User Manual, or the Application form for ESIS ID Service Client at any time on a unilateral basis. For these documents, the ESIS ID Service Provider shall notify the Client in writing by electronic means of any such amendment, at least 30 calendar days prior to the effective date. The amendments will be published through the ESIS ID Service Provider's website.

11.4. The Parties shall be entitled to unilaterally terminate these Terms and Conditions for the use of the ESIS ID Service by notifying the other Party of this in writing at least 10 (ten) calendar days in advance.

11.5. If the Client breaches obligations under these Terms and Conditions for the use of the ESIS ID Service, the ESIS ID Service Provider shall be entitled to terminate these Terms and Conditions immediately and unilaterally notifying the Client of this termination.

11.6. The termination of these Terms and Conditions for the use of the ESIS ID Service shall not affect the validity and collectability of financial claims that have arisen prior to the termination of these Terms and Conditions. The ESIS ID Service Provider shall be entitled to transfer to a third party any financial claims that have arisen with respect to the Client under these Terms and Conditions for the use of the ESIS ID Service.

11.7. A clause in the Special Terms and Conditions that is a variation of a clause from these Terms and Conditions will only be valid if it makes an express reference to the clause in the Terms and Conditions from which it varies. The Parties note, however, that the Special Terms and Conditions may include terms and conditions in addition to the clauses included in these Terms and Conditions. Where the Special Terms and Conditions are in conflict with these Terms and Conditions, the Special Terms and Conditions shall prevail.

11.8. Any disputes over these Terms and Conditions for the use of the ESIS ID Service shall be resolved by agreement between the Parties. Failing agreement, the disputes shall be resolved in accordance with the legislation of the Republic of Latvia.

11.9. For any further questions, inquiries, or comments regarding the Terms and Conditions or ESIS ID Service, please contact [csd.ops@nasdaq.com](mailto:csd.ops@nasdaq.com).