

Nasdaq CSD SE

TERMS AND CONDITIONS FOR USERS USING ESIS ID SERVICE

Effective Date: 31.05.2021

1. DEFINITIONS

1.1. 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**):

1.1.1. **“Application form for ESIS ID Service Client”** – is the form by which the Client accepts these Terms and Conditions and provides information specified therein;

1.1.2. **“Client”** – Intermediary, which has been accepted by the ESIS ID Service Provider as a ESIS ID Service Client;

1.1.3. **“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;

1.1.4. **“ESIS ID Service”** – means services provided by 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;

1.1.5. **“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;

1.1.6. **“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;

1.1.7. **“ESIS ID Service Provider”** – Nasdaq CSD SE, organization no. 40003242879, with its head office in Latvia and branches in Estonia, Lithuania and Iceland;

1.1.8. **“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;

1.1.9. **“EU Personal Data Legislation”** means (i) Relevant data protection law and (ii) GDPR;

1.1.10. **“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;

1.1.11. **“Personal data”** shall have the same meaning as in EU Personal Data Legislation;

1.1.12. **“Price List”** – contains up to date pricing information on the fees that are connected with ESIS ID Service;

1.1.13. **“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;

1.1.14. **“Regulatory Requirements”** means 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);

1.1.15. **“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;

1.1.16. **“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;

1.1.17. **“SMPG guidelines”** means Shareholders Identification Disclosure messages market practice developed by the Securities Market Practice Group;

1.1.18. **“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;

1.1.19. 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 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 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 the 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 upload ready-made ISO 20022 standard message;

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

3.2.5. allows the Client to cancel 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 ESIS ID Service Client, the Intermediary may be accepted 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 particular 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 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 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 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 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 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 comply with applicable privacy requirements, as stipulated in the [Nasdaq Privacy Policy](#) and [Privacy letter](#).

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, 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 the 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 having 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 ESIS ID Service Provider for the performance of data transmission operations.

8.5. 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. 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 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 right to the Client to use the ESIS ID Service in order 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. COMMUNICATION

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

10.2 Any notice or communication under these Term and Conditions must be in writing. A Party may send a notice and other communication to 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 courier, provided that such notice or communication shall be deemed received on the date when it was initially received according to this Clause.

10.3 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.

10.4 If the Client has changed contact or other details provided to the ESIS ID Service Provider, the Client shall immediately complete and submit 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 unilateral basis. For these documents, the ESIS ID Service Provider shall notify the Client in writing by electronic means of any such amendment and of the effective date thereof. The amendments will be published through the ESIS ID Service Provider's web site.

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. 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.

11.8. For any further questions, inquiries or comments regarding the Terms and Conditions or ESIS ID Service, please contact csd.ops@nasdaq.com.

ANNEX TO THE TERMS AND CONDITIONS FOR USERS USING ESIS ID SERVICE

STANDARD CONTRACTUAL CONDITIONS FOR PROCESSING OF PERSONAL DATA

1. BACKGROUND

The purpose of these Standard Contractual Conditions for Processing of Personal Data (hereinafter – **the Standard Conditions**) is to describe the process to be carried out by the ESIS ID Service Provider and the Client in relation with the processing of the Personal data in respect of the Services. These Standard Conditions shall be deemed to take effect from the Effective Date and shall continue in full force and effect until the termination of the Terms and Conditions.

2. DATA SUBJECTS AND CATEGORIES OF PERSONAL DATA

The Personal data processed concerning the categories of data subjects and categories the Personal data as described in the ESIS ID Service User Manual and the Terms and Conditions.

3. PURPOSE OF THE PERSONAL DATA PROCESSING, PROCESSING OPERATIONS AND DURATION

3.1. The purpose for the collection, processing and use of the Personal data is to enable provision of the Services as described in the Terms and Conditions, which forms an integral part hereof. The processing of the Personal data is necessary for compliance with a legal obligation.

3.2. The processing of the Personal data by the ESIS ID Service Provider shall take place within the framework of these Standard Conditions, Nasdaq Privacy Policy and Privacy letter.

3.3. The Personal data processing principles applicable to these Standard Conditions:

3.3.1. Purpose limitation: the Personal data may be processed and subsequently used or further communicated only for purposes described in these Standard Conditions, the Terms and Conditions or subsequently authorized by the data subject;

3.3.2. Data quality and proportionality: the Personal data must be accurate and, where necessary, kept up to date. The Personal data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed;

3.3.3. Transparency: Data subjects must be provided with information necessary to ensure fair processing, unless such information has already been given by the data exporter;

3.3.4. Security and confidentiality: Technical and organizational security measures must be taken by the Parties that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, presented by the processing.

3.4. The Personal data will only be processed following terms determined in the Regulatory Requirements.

4. SPECIAL UNDERTAKINGS OF THE PARTIES

4.1. Roles, ownership of Personal data, processing and purpose

4.1.1. The Client shall be regarded as a data controller of all personal data processed on behalf of the Client in accordance with its instructions. The ESIS ID Service Provider shall be considered a processor of the personal data processed on behalf of the Client.

4.1.2. The ESIS ID Service Provider may process the Personal data for the purpose and to the extent it is necessary for the fulfilment of the ESIS ID Service Provider's obligations under these Standard Conditions and (or) the Terms and Conditions.

4.2. Obligations of the Client

4.2.1. The Client undertakes to:

- (a) ensure that there is a legal ground for processing the Personal data covered by these Standard Conditions;
- (b) Inform the ESIS ID Service Provider of any erroneous, rectified, updated or deleted personal data subject to the ESIS ID Service Provider's processing;
- (c) ensure that the processing of the Personal data has been and will continue to be carried out in accordance with the provisions of the Regulatory Requirements;
- (d) provide the ESIS ID Service Provider with such cooperation (including access to its facilities) as the ESIS ID Service Provider may reasonably request.

4.3. Obligations of the ESIS ID Service Provider

4.3.1. The ESIS ID Service Provider undertakes to:

- (a) Only process personal data in accordance with Regulatory Requirements, the Terms and Conditions and on documented instructions from the Client, including with regard to transfers of personal data to a third country or an international organization, unless required to do so by Regulatory Requirements;
- (b) Ensure that only such employees (of the ESIS ID Service Provider or its subcontractors) which must have access to the personal data in order to meet the ESIS ID Service Provider's obligations under this Standard Conditions shall have access to the personal data processed on behalf of the Client, and that such employees have received appropriate instructions regarding processing of personal data as well as committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- (c) Ensure that it has no reason to believe that the Regulatory Requirements applicable to it prevents it from fulfilling the obligations under the Terms and Conditions and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided herein, it will promptly notify the change to the Client as soon as it is aware, in which case the Client is entitled to terminate the Terms and Conditions;
- (d) Taking into account the nature of the processing, implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk;
- (e) Make available to the Client all information necessary to demonstrate compliance with the ESIS ID Service Provider's obligations laid down in this Standard Conditions;

- (f) provide the Client with such cooperation (including access to its facilities) as the Client may reasonably request.

4.4. Sub-contracting

4.4.1. The ESIS ID Service Provider shall not subcontract its obligations under these Standard Conditions to a sub-contractor without the prior written consent of the Client unless such sub-contractor undertakes, by way of written agreement, substantively the same obligations as imposed on the ESIS ID Service Provider in these Standard Conditions and the Terms and Conditions.

4.4.2. The ESIS ID Service Provider shall remain responsible for all obligations performed and any omission to perform or comply with the provisions under this Standard Conditions by sub-contractors to the same extent as if such obligations were performed or omitted by the ESIS ID Service Provider. The ESIS ID Service Provider shall also remain the Client's sole point of contact.

4.5. Transfer of Personal data outside the EU/EEA

4.5.1. When providing the Services, the ESIS ID Service Provider may need to process the Client's Personal data outside the EU/EEA. If the Personal data is to be transferred to and processed by a subcontractor located outside the EU/EEA, the ESIS ID Service Provider is obliged to ensure that the subcontractor accedes to the EU Model Clause Agreement entered into between the parties.

4.5.2. However, the above shall not apply if the jurisdiction in which the Client is established has been deemed by the EU as a jurisdiction with adequate protection for Personal data.

5. LIABILITY AND INDEMNIFICATION

Each Party shall indemnify and hold the other Party harmless from and against all losses due to claims from third parties resulting from, arising out of or relating to any breach by such first-mentioned Party of this Standard Conditions.

6. TECHNICAL AND ORGANIZATIONAL MEASURES

6.1. The ESIS ID Service Provider shall ensure the implementation of the appropriate measures to:

6.1.1. Prevent unauthorized persons from gaining access to data processing systems with which Personal data are processed or used;

6.1.2. Prevent data processing systems from being used without authorization;

6.1.3. Ensure that persons entitled to use a data processing system have access only to the Personal data to which they have a right of access, and that Personal data cannot be read, copied, modified or removed without authorization during processing or use and after storage;

6.1.4. Ensure that Personal data cannot be read, copied, modified or removed without authorization during electronic transmission or transport, and that it is impossible to check and establish to which bodies the transfer of Personal data by means of data transmission facilities is envisaged;

6.1.5. Ensure that it is possible to check and establish whether and by whom Personal data has been input into data processing systems, modified or removed.

6.2. Significant changes of the above technical and organizational measures shall be agreed by the Parties in writing.

7. TERMINATION

The Parties agree that the termination of the Terms and Conditions at any time, in any circumstances and for whatever reason does not exempt them from the obligations and/or conditions under the Standard Conditions as regards the processing of the data transferred.

8. CONFIDENTIALITY

Any information of whatever kind (whether technical, commercial, financial, operational or otherwise) and in whatever form (whether oral, written, recorded or otherwise), including the Personal data, which may be disclosed in any form or matter by one Party to the other Party, with respect to, or as a result of these Standard Conditions, shall be deemed to be of a confidential nature.

9. LAW APPLICABLE TO THE STANDARD CONDITIONS

These Standard Conditions are governed by the law that governs the Terms and Conditions.