

Agreement
regarding
Sub-licensing of OMX Software and Documentation
between
OSLO CLEARING ASA
and

This AGREEMENT, dated is entered into by and between:

Oslo Clearing ASA (the "**Sub-licensor**"), a company with its principal place of business at Biskop Gunnerus gate 14A, 0051 Oslo.

and

(the "**Sub-licensee**"), a company/person with its principal place of business at

WHEREAS

- A. OMX Technology AB ("**OMX**") and Sub-licensor have entered into a Facilities Management Services Agreement dated 12th of September 2005 (the "FMS Agreement"), under which OMX Technology AB inter alia shall make a Test System available for testing purposes by Sub-licensor, its Participants and Third Party Developers.
- B. In the FMS Agreement, OMX has entitled Sub-licensor to sub-license to Members and Third Party Developer a right to access the Test System and Production System.
- C. In the FMS Agreement, OMX has granted to Sub-licensor a license (the "**Software_Product License**") to certain software and documentation (the "**Software Product**").
- D. The Software Product License entitles the Sub-licensor to grant sub-licenses to Members and Third Party Developer with respect to the software applications specified in Annex A hereto, being software comprised in the Software Product (the "**Sub-licensed Software**").
- E. These general terms and conditions govern the Sub-licensee's access to the Test System and Production System and the sub-licensing by the Sub-licensee of the Member Applications or the software as specified in Annex A for these purposes.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following terms when used herein shall have the meanings set forth below:

"**Agreement**" shall mean this Sub-license Agreement together with the Annexes attached hereto, as amended by the Parties from time to time.

"**Clearing Rules**" shall mean "Standardvilkår for Clearing i Oslo Clearing ASA" with appendices.

"**Confidential Information**" shall mean all confidential or proprietary information and documentation of the Parties including (1) information relating to each Party's customers, suppliers, contractors and other third parties doing business with such Party, (2) information relating to business operations or strategies of either Party, (3) any material which is marked as confidential, (4) all information comprised in and relating to the Sub-licensed Software.

"**Effective Date**" shall mean the date on which both Parties have executed this Agreement.

"**Object Code**" shall mean computer programming code, substantially or entirely in binary form, which is directly executable by a computer after suitable processing but without the intervening steps of compilation or assembly.

"**OMX**" shall mean OMX Technology AB, Tullvaktsvägen 15, SE-105 78 Stockholm, Sweden or its successors or assigns.

"**Member**" shall mean users of the Sub-licensor's Market, authorised by the Sub-licensor to access the central portions of the Software Product primarily for the purpose of entering transactions on the Sub-licensor's Market.

"**Party**" or "**Parties**" shall mean the Sub-licensor or the Sub-licensee separately or together as the context requires.

"**Production System**" shall mean the SECUR clearing communication system made available and operated by OMX.

"**Source Code**" shall mean the set of instructions expressed in a non-machine language from which the Object Code is derived.

"**Sub-license**" shall have the meaning set forth in [Section 3.1](#).

"**Sub-licensed Software**" shall have the meaning set forth in [Annex A E](#).

"**Sub-licensor's Market**" shall mean the clearing of financial derivatives as defined by the Sub-licensor at any given time, for Members world-wide operated by the Sub-licensor, exclusively in the Territory, and on which such clearing activities will take place.

"**Systems**" means Test System and Production System.

"**Territory**" shall mean Sweden, Norway, Denmark, Finland and Iceland.

"**Test System**" shall mean a system made available by OMX to be used for testing purposes by the Sub-licensor, Members and Third Party Developers.

"**Third Party Developer**" shall mean third party software developers engaged by the Sub-licensor, inter alia, for the purpose of developing applications which interface with the Software Product.

1.2 Interpretation

1.2.1 The annexes to this Agreement form an integral part of this Agreement. In case of any inconsistency between this document and the schedules, this document will take precedence.

1.2.2 The headings in this Agreement are for convenience only and do not affect the construction or interpretation of any provision to which they refer.

1.2.3 Unless the context otherwise requires the singular includes the plural and vice-versa.

1.2.4 "Including" shall be deemed to mean "including but not limited to".

2. ACCESS TO SYSTEMS

- 2.1** The Sub-licensor hereby grants to Sub-licensee the right to access the Test System for the purpose of testing current functionality, new functionality and to test and integrate with their own systems by using standard protocols (APIs).
- 2.2** The Sub-licensor hereby grants to Sub-licensee the right to access the Production System for Clearing purposes as further provided for in the Clearing Rules and system specifications using standard protocols (APIs).
- 2.3** OMX holds all proprietary rights in the Systems, and the Sub-licensee is not granted any such proprietary rights. Accordingly, except to the extent expressly required to be permitted by law, the Sub-licensee is not entitled to access, nor to attempt to access the Object or Source Codes of the software available on the Systems, nor to make or attempt to make any modifications thereto. Without prejudice to OMX's right with respect to any infringement of any of its intellectual property rights or other proprietary rights, the Sub-licensee acknowledges that any such attempts by the Sub-licensee to gain access or to make modifications or alterations, without prior written consent from OMX, will constitute a material breach of this Agreement.

3. LICENCE TO SUB-LICENSED SOFTWARE

- 3.1** License. The Sub-licensor hereby grants to the Sub-licensee a non-exclusive, non-transferable license, to use the Sub-licensed Software, during the Term, in Object Code form (the "**Sub-license**").
- 3.2** Scope of Sub-license. The Sub-license shall be subject to the following additional terms and conditions:
 - 3.2.1** Where the Sub-licensee is a Member, the Sub-licensee shall be entitled to use the Sub-licensed Software for production and test purposes, directly related to the Sub-licensee's activities as a Member.
 - 3.2.2** Where the Sub-licensee is a Third Party Developer, the Sub-licensee shall be entitled to use the Sub-licensed Software for any purpose in the ordinary course of business, directly related to the Sub-licensee's activities of developing software on behalf of the Sub-licensor or a Member for use on the Sub-licensor's Market.
 - 3.3** The subject of the Sub-license shall be the version of the Sub-licensed Software specified in Annex A and delivered to the Sub-licensee upon execution of this Agreement, in Object Code form, and thereafter, new versions of the Sub-licensed Software developed and licensed to the Sub-licensor by OMX and delivered to the Sub-licensee by the Sub-licensor.
 - 3.3.1** The Sub-licensed Software is licensed for execution on hardware and standard software configurations fulfilling the minimum requirements specified in Annex A, as amended by the Sub-licensor from time to time.
 - 3.3.2** Sub-licensee does not obtain by means of this Agreement any right of ownership or title to the Sub-licensed Software.
 - 3.3.3** Sub-licensee shall not sublicense or otherwise transfer or assign the Sub-license or disclose or otherwise make the Sub-licensed Software available to any third party or use or permit the use of the Sub-licensed Software outside the scope of the Sub-license.

- 3.3.4** Sub-licensee shall be entitled to make one (1) copy of the Sub-licensed Software for back up purposes only.
- 3.3.5** The Software may not be modified, adapted, altered, decompiled, reverse assembled or reverse engineered by the Sub-licensee.
- 3.3.6** The Sub-licensee shall not derive works from the Sub-licensed Software.

3.4 Intellectual Property Rights

- 3.4.1** Ownership of any intellectual property rights in (1) the Software Product (2) the Sub-licensed Software, (3) all software available on the Systems and (4) any works derived from the software specified in subsections "(1)", "(2)", and "(3)" shall vest or remain vested in OMX or any other entity as OMX may in its sole discretion elect.
- 3.4.2** The reproduction of or use of the Sub-licensed Software and/or the Test System (a) by a Member, for purposes other than those specified in Sections 2.01 and 3.2.1, or (b) by a Third Party Developer, for purposes other than those specified in Sections 2.01 and 3.2.2, is prohibited. The Sub-licensed Software and the Test System is and incorporates proprietary information and trade secrets of OMX or any third party holder of rights represented by OMX. Sub-licensee understands and acknowledges that the confidentiality provisions set forth in 9 below apply to the Sub-license.
- 3.4.3** "OM", "OM SAXESS", "OM SAXESS Trade", "OM CLICK", "OM CLICK Trade", "CLICK XT", "CLICK Trade XT", "OM SECUR Clearing", "EXIGO", "SECUR", "OM PowerCLICK", "OMlink Trader" and "OMnet" are trademarks of OMX or any third party holder of rights represented by OMX. Such trademarks or service marks applied to copies of the Sub-licensed Software, screen layouts or the like, by OMX may not be removed by Sub-licensee.

3.5 Breach of License Terms

- 3.5.1** In the event Sub-licensor or OMX has reasonable cause to believe that Sub-licensee is in breach of any of the provisions set forth herein, Sub-licensee shall provide Sub-licensor and OMX with a written explanation within thirty (30) days of receipt of such request from Sub-licensor or OMX.
- 3.5.2** In the event Sub-licensee fails or neglects to perform or observe any of its material obligations under the provisions set forth in this Agreement, and fails to remedy the same within thirty (30) days following receipt of a written notice of the occurrence of failure and demand to cure, Sub-licensee shall pay liquidated damages to OMX, in an amount of USD one hundred thousand (USD100,000), together with all costs and expenses incurred in connection with any recovery action, including legal and court costs incurred by Sub-licensor and/or OMX. In the event that the actual damage suffered is in excess of such liquidated amount, OMX shall be entitled to damages corresponding to the actual damage suffered.
- 3.5.3** In the event any breach of any of the provisions of this Agreement set forth herein is caused wilfully or with gross negligence by Sub-licensee, and is not rectified by Sub-licensee within thirty (30) days of receipt of notice of the breach, Sub-licensor shall terminate the licenses granted hereunder immediately. In the event of license termination as aforesaid Sub-licensee shall, free of charge, and without undue delay transfer to Sub-licensor the Sub-licensed Software transferred to Sub-licensee by Sub-licensor without keeping any copy or transcript thereof.

4. SUPPORT AND AVAILABILITY

- 4.1** The Sub-licensee shall report all problems related to the Systems and the Sub-licensed Software to Sub-licensor. Sub-licensor will forward such reported issues to OMX, and OMX will start to work on such issues during support hours as defined in the FMS Agreement. The Test System will always have a lower priority than the Production System.
- 4.2** The Test System will normally be open on Trading Days between 08:00 and 22:00, but may be closed during this period for scheduled maintenance.

5. FEES AND PAYMENT

- 5.1** In consideration for the rights granted under this Agreement the Sub-licensee shall pay a monthly license fee (the "**License Fee**") to the Sub-licensor per physical representative of the Sub-licensee who is granted concurrent access to the Production and Test Systems i.e. a monthly fee is payable for each user who can access and be logged into the Production and Test Systems at the same time ("**Concurrent User**").
- 5.2** The License Fee payable is specified in the Sub-licensor's price list applicable at all times, a current copy of which is attached hereto as Annex B.
- 5.3** The License Fee shall be paid quarterly in arrears, the first payment being due the first quarter after the Effective Date. The License Fee exclude sales and VAT taxes, as well as all other taxes, duties or charges which may be imposed upon the Sub-licensee by any governmental agency. Any and all such taxes, duties or other charges shall be paid by Sub-licensee.
- 5.4** Any payment overdue more than thirty (30) days shall be subject to interest charges, payable upon demand and computed at a rate of 18% per year or to the maximum extent permitted by applicable law, whichever is the lower, from the due date until the overdue amount has been paid.
- 5.5** If the Sub-licensee inquires that the Sub-licensor grant access to the Production System to a new Concurrent User, the License Fee for the new Concurrent User shall be payable by the Sub-licensee from the turn of the month following the actual grant of access for the new Concurrent User.
- 5.6** The price list may be changed by the Sub-licensor, subject to not less than one (1) calendar month prior written notice to the Sub-licensee

6. LIMITATION OF LIABILITY

THIS SUB-LICENSE IS FOR USE OF THE SYSTEMS AND THE SUB-LICENSED SOFTWARE FOR PRODUCTION AND TEST PURPOSES, AND OMX AND/OR SUB-LICENSOR WILL IN NO EVENT BE LIABLE FOR ANY DAMAGES WHATSOEVER TOWARDS SUB-LICENSEE, INCURRED BY SUB-LICENSEE AS A RESULT OF ITS USE OF THE SUB-LICENSED SOFTWARE AND/OR THE SYSTEMS.

7. WARRANTY

7.1 During the Term of this Agreement, Sub-licensor represents and warrants that it has the right to enter into this Agreement and perform all of its obligations under this Agreement.

8. TERM

8.1 This Agreement will enter into force on the Effective Date and will remain in force until termination as specified below.

8.2 The Agreement may be terminated by either Party with 90 days written notice.

8.3 In addition to the provision in Article 3.05 (3) above, this Agreement may be terminated immediately by notice in writing by either Party if the other Party is in material or continuing breach of any of its obligations hereunder, and, where such breach is capable of being remedied, fails to remedy the breach within a period of thirty (30) days after written notice by the other Party.

9. CONFIDENTIALITY

9.1 Confidential Information. All Confidential Information relating to or obtained by the Parties shall be held in confidence by the recipient to the same extent and in at least the same manner as the recipient protects its own confidential or proprietary information. The Parties further undertake to use the confidential information strictly for the purposes of this Agreement and not to make any commercial use thereof.

10. ASSIGNMENT.

10.1 Save as expressly provided, a Party may not assign or transfer this Agreement or any of its rights or obligations under it.

10.2 Sub-licensor may assign this Agreement, in whole or in part, to subsidiaries or companies owned or controlled by it or by its parent company.

11. NOTICES.

11.1 Any notice, consent or other communication required or permitted to be given to either Party pursuant to this Agreement shall be in writing and shall be sufficiently served if delivered personally or sent by confirmed facsimile or e-mail. If sent by facsimile or e-mail, evidence of the successful transmission of the facsimile or e-mail is required.

11.2 If such notice, consent or communication is being sent to Sub-licensor, the address or facsimile number shall be:

OSLO CLEARING ASA

11.3 If such notice, consent or communication is being sent to Sub-licensee, the address or facsimile number shall be:

12. GOVERNING LAW

12.1 These general terms and conditions are governed by the laws of Sweden.

This Agreement is executed in two originals, one to each of the Parties.

Place and date

Sub-licensor

Printed name and title

Place and Date

Sub-licensee

.....

Printed name and title

Annex A

Sub-licensed Software

The Sub-licensed Software shall comprise OMX's proprietary software applications SECUR Back Office Server and Client for OMex version 19 on Microsoft Windows 2000 operating systems.

Hardware Configuration

The minimum hardware configuration requirements for the operation of the Sub-licensed Software shall be as follows:

1.2 Equipment Requirements

1.2.1 Hardware Requirements for the BO Server

- Intel Pentium II 400 MHz or faster
- 512 Mb of memory
- 120 - 500 Mb of disk, depending on the amount of trades and if the BO Server creates Interface Files.
- Page-file size 500 Mb

1.2.2 Hardware Requirements for the BO Client

- Intel Pentium II 266 MHz or faster
- 256 Mb of memory
- 100 Mb of disk

1.2.3 Software Requirements

- Microsoft. Windows 2000. (Service Pack 4) operating system. BO version 6.5 and later can also be used with the Windows XP. operating system.

Annex B

The Sub-licensee shall pay NOK 2000 per month per concurrent user of the Production System.

Oslo Clearing can for special type of clearing members and deposit banks exclude the Sublicensee fee.

Third party application development support need to be agreed with Oslo Clearing in advance and is charged either per hour according to rates below or in accordance to a offered fixed price.

NOK 1,500 per hour