



BSTX USER AGREEMENT

Return to: BOX Exchange LLC (the “Exchange”)
Attn: Membership
101 Arch Street, Suite 610
Boston, MA 02110
Ph: (617) 235-2315
Email: membership@boxregulation.com

AGREEMENT dated _____, 20_, by and between BOX Exchange LLC (the “Exchange”), a Delaware limited liability company, and _____ (“User”), collectively referred to herein as the “parties.”

WHEREAS, the Exchange operates an electronic market for the trading of Securities (the “BSTX Market”), which is a national securities exchange pursuant to Section 6(a) of the Securities Exchange Act of 1934; and

WHEREAS, provided that User is an approved BSTX Participant in good standing with the Exchange and has paid the requisite fees, the Exchange will provide User with access to the BSTX Market pursuant to these general terms and conditions.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants in this Agreement, the parties hereto agree as follows:

1. TERM.

This Agreement is for the term of one year from the date of execution and is automatically renewed on an annual basis unless cancelled by either party pursuant to the terms of this Agreement.

2. EXCHANGE RULES.

(a) **Compliance with the Exchange Rules.** User agrees that it will abide by the Rules of the Exchange, applicable Bylaws and Circulars, as amended from time to time, and all circulars, notices, interpretations, directives or decisions adopted by the Exchange and BSTX as a facility of the Exchange (collectively “Exchange Rules”), all applicable federal and state laws and regulations, and the rules and regulations of any applicable self-regulatory organization. User will familiarize all Authorized Persons with all of the User’s obligations under this Agreement and the Exchange Rules, and will assure that they

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receive appropriate training prior to any use or access to the BSTX Market and System.

(b) **Monitoring.** User acknowledges and agrees that the Exchange and BSTX will monitor the use of the BSTX Market by User for compliance with all applicable laws and regulations, including without limitation the Exchange Rules. User acknowledges its responsibility to monitor its employees, agents, and customers for compliance with the Exchange Rules, the rules and regulations of any self-regulatory organization of which User is a member and all applicable federal and state laws and regulations.

(c) **Integrity of BSTX Market.** User will not (i) materially alter the information or data supplied to or received from the System in violation of the Exchange Rules, (ii) materially affect the integrity of the information or data supplied to or received from the system, or (iii) supply or render information or data from the System that is illegal, inaccurate, unfair, uninformative, fictitious, misleading or discriminatory.

(d) **Non-Compliance.** User's right to access the BSTX Market and System may be denied or terminated, temporarily or permanently, forthwith at any time by the Exchange upon a determination that: (i) User or its Authorized Persons are in violation or has violated any material term of the Agreement, the Exchange Rules, the rules and regulations of any self-regulatory organizations of which User is a member, any federal and state laws and regulations; (ii) the User's right to operate is terminated by its self-regulatory organization or by the United States Securities and Exchange Commission; or (iii) the User or its Authorized Person are engaged in activities that the Exchange reasonably determines to be detrimental to the BSTX Market, BSTX Users, or the public.

3. ***RIGHTS AND OBLIGATIONS.***

(a) **BSTX System.** Pursuant to the terms and conditions of this Agreement, User shall have access to certain information, data, access, capabilities, functions, features, and software, which permits User to access and participate in the BSTX Market (collectively, the "System").

(b) **Restriction on Use: Security.** User may not sell, lease, furnish, or otherwise permit or provide access to the System or any information or data made available therein to any other entity or to any individual that is not User's employee or agent. Notwithstanding the foregoing, User may disclose BSTX Market information to its customers provided that such disclosure does not violate BSTX restrictions, any other related market data or transaction reporting restrictions, the Exchange Rules, the rules and regulations of any self-regulatory organizations of which User is a member and all applicable federal and state laws. User will maintain and keep current a list of all employees or agents who are authorized to access the BSTX System on behalf of the User (the "Authorized Persons"). User accepts full responsibility for its Authorized Persons use of the System, which use must comply with the Exchange Rules and the User's obligations under this

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Agreement. User will take reasonable security precautions to prevent unauthorized use or access to the System. User understands and agrees that User is responsible for any and all orders, trades and other messages and instructions entered, transmitted or received under identifiers, passwords and security codes of User's Authorized Persons, and for the trading and other consequences thereof.

(c) **Fees.** User agrees to make timely payment of all fees payable to the Exchange and third parties arising from User's access to the BSTX Market.

4. CHANGE OF BSTX MARKET.

User acknowledges and agrees that nothing in this Agreement constitutes an understanding by the Exchange to continue the BSTX Market and System or any aspect of its current form. The Exchange may from time to time make additions, deletions or modifications to the BSTX Market or System. User acknowledges and agrees that the Exchange may temporarily or permanently, unilaterally condition, modify, or terminate the right of any individuals or entities to access, receive or use the BSTX Market and System in accordance with the Exchange Rules.

5. PROPRIETARY RIGHTS.

User acknowledges and agrees that all proprietary rights in the BSTX Market and System are and shall remain the property of the Exchange and its third party licensors. User agrees that the Exchange will own all right, title and interest in the quotations and other transaction data and information of the BSTX Market.

6. INFORMATION.

(a) **Confidentiality.** Both parties acknowledge that (i) the BSTX Market and the information and data made available therein, incorporate confidential and proprietary information developed, acquired by or licensed to the Exchange, including confidential information of the Exchange or other entities, and (ii) each party may receive or have access to the other proprietary or confidential information disclosed and marked as confidential by the disclosing party (collectively, the "Information"). The receiving party will use the disclosing party's Information solely to perform its obligations under this Agreement. The receiving party will take all precautions necessary to safeguard the confidentiality of the disclosing party's Information, including without limitation, (i) those taken by the receiving party to protect its own confidential information and (ii) those which the disclosing party may reasonably request from time to time.

(b) **Disclosure.** The receiving party will not disclose, in whole or in part, the disclosing party's information to any person, except as specifically authorized under this Agreement. User may not disclose any data or compilations or data made available to User by the Exchange without the express, prior written authorization of the Exchange. User acknowledges that any and all information provided to the BSTX Market by the User will be disclosed to the Exchange for use in accordance with the Exchange Rules. User hereby consents to such disclosure. The Exchange may also disclose information in

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accordance with its regulatory obligations.

(c) **Unauthorized Use or Disclosure.** The parties acknowledge that any unauthorized use or disclosure of the disclosing party's Information may cause irreparable damage to the disclosing party. If an unauthorized use or disclosure occurs, the receiving party will immediately notify the disclosing party and take at its expense all steps necessary to recover the disclosing party's information and to prevent its subsequent unauthorized use or dissemination, including availing itself of actions for seizure and injunctive relief. If the receiving party fails to take these steps in a timely and adequate manner, the disclosing party may take them at the receiving party's expense, and the receiving party will provide the disclosing party with its reasonable cooperation in such actions that the disclosing party may request.

(d) **Limitation.** The receiving party will have no confidentiality obligation with respect to any portion of the disclosing party's Information that (i) the receiving party independently developed before receiving the Information from the disclosing party, (ii) the receiving party lawfully obtained from a third party under no obligation of confidentiality, (iii) is or becomes available to the public other than as a result of an act or omission of the receiving party or any of its employees or (iv) the receiving party is compelled to disclose pursuant to legal process provided by a court of competent jurisdiction or other governmental entity to whose jurisdiction the receiving party is subject.

7. DISCLAIMER OF WARRANTY.

THE BSTX MARKET AND SYSTEM ARE MADE AVAILABLE "AS IS" AND WITHOUT WARRANTY OR ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM ERRORS OR INTERRUPTION OR DEFECT, MERCHANTABILITY, FITNESS FOR PARTICULAR USE OR PURPOSE, OR NON-INFRINGEMENT AND ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE).

8. LIMITATION OF LIABILITY.

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USER UNDERSTANDS AND AGREES THAT : (i) THE EXCHANGE IS NOT DIRECTLY OR INDIRECTLY A PARTY TO OR PARTICIPANT IN ANY TRADE OR TRANSACTION ENTERED INTO OR OTHERWISE CONDUCTED THROUGH THE BSTX MARKET, AND (ii) THE EXCHANGE IS NOT LIABLE IN ANY MANNER TO ANY PERSON (INCLUDING WITHOUT LIMITATION THE USER AND ANY PERSON FOR WHOM THE USER IS AUTHORIZED TO TRADE OR ACT) FOR THE FAILURE OF ANY PERSON ENTERING INTO A TRADE OR TRANSACTION BY MEANS OF THE BSTX MARKET TO PERFORM SUCH PERSON'S SETTLEMENT OR OTHER OBLIGATIONS UNDER SUCH TRADE OR TRANSACTION. IF THIS PROVISION SHALL BE DEEMED TO CONFLICT WITH ANY OTHER PROVISION OF THIS AGREEMENT, THEN THIS PROVISION SHALL SUPERSEDE SUCH OTHER PROVISION.

9. INDEMNIFICATION.

USER AGREES TO INDEMNIFY, DEFEND AND HOLD THE EXCHANGE, ITS AFFILIATES, THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, COSTS, AND EXPENSES, OBLIGATIONS, LIABILITIES, DAMAGES, RECOVERIES, AND DEFICIENCIES, INCLUDING INTEREST, PENALTIES, AND ATTORNEY'S FEES, ARISING FROM OR AS A RESULT OF USER'S BREACH OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FROM ITS USE OF THE BSTX MARKET OR SYSTEM.

10. TERMINATION.

Notwithstanding any other provision of this Agreement to the contrary: (i) the Exchange may terminate this Agreement if the User breaches any material term of the Agreement and fails to cure such breach within ten (10) days after written notice thereof from the Exchange; and (ii) the Exchange may suspend User's access to the System immediately, on written notice to the User, if the Exchange reasonably believes that such breach or activity poses substantial risk to the BSTX Market or its users. Such action shall be instituted under, and governed by, the Exchange Rule 11000 Series (Summary Suspensions) and Rule 12000 Series (Discipline) and may be appealed by the User under the Exchange Rule 13000 Series regarding Review of Certain Exchange Actions. The User may terminate this Agreement upon providing the Exchange thirty days' notice in writing. Upon termination of this Agreement for any reason, all rights granted to User hereunder will cease. In no event will termination of this Agreement relieve User of any obligation incurred through its use of the BSTX Market. The provisions of Sections 5, 6, 8, and 9 will survive the termination or expiration of this Agreement for any reason.

11. ASSIGNMENT.

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User shall not assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder without the Exchange’s prior approval. The Exchange may assign or transfer this Agreement or any of its rights or obligations hereunder to a related or unrelated party upon notice to User.

12. MISCELLANEOUS.

All notices or approvals required or permitted under this Agreement must be given in writing to the address specified above. Any waiver or modification of this Agreement will not be effective unless executed in writing and signed by the other party. The substantive laws of the Commonwealth of Massachusetts shall govern this Agreement. All disputes, claims or controversies between the parties related to User’s use of the BSTX Market shall be resolved in accordance with the applicable Exchange Rules, all applicable federal and state laws and regulations, and the rules and regulations of any applicable securities self-regulatory organization. All non-regulatory disputes, claims or controversies between the parties related to the interpretation of this Agreement shall be submitted to arbitration pursuant to the rules of the American Arbitration Association; provided, however, that nothing herein will prevent the Exchange from seeking interim injunctive relief in any court of competent jurisdiction. If any provision of this Agreement is to be held unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement. This Agreement, together with the applicable Exchange Rules constitutes the complete and entire statement of all conditions and representations of the agreement between the Exchange and User with respect to its subject matter and supersedes all prior writings or understandings.

Agreed to as of this _____ day of _____, 20__.

User

BOX Exchange LLC

(Company Name)

By: _____
(Signature)

(Name and Title)

(Street Address)

(City, State & Zip Code)