This

EXCHANGE AND CLEARING MEMBER AGREEMENT

is made and entered into between [name of member] (“Member”) and NASDAQ OMX Stockholm AB (the “Exchange”). This Exchange and Clearing Member Agreement (the “Agreement”) is incorporated as appendix 1 of the Rules and Regulations of NASDAQ OMX Derivatives Markets (as in effect from time to time, the “Rules and Regulations”). Terms defined in the Rules and Regulations shall have the same meaning when used in this Agreement, unless otherwise expressly defined herein.

1. TYPE OF MEMBERSHIP

1.1 The Member is hereby associated with the Exchange as (mark appropriate alternative):

☐ Exchange Member

☐ Clearing Member

☐ Direct Clearing Member

☐ General Clearing Member

1.2 Exchange membership and clearing membership applies to all Instruments provided by the Exchange unless the Exchange expressly states that a special membership agreement is required for certain Instruments.

1.3 Market information shall be provided to the Member in accordance with the provisions set forth in special distribution agreements.

2. CONSENT TO THE RULES AND REGULATIONS

The Member hereby consents to the Rules and Regulations and agrees to be bound by the provisions set forth therein.

3. ACCOUNTS

Accounts shall be opened as set out in the Rules and Regulations.

4. CUSTOMER AGREEMENTS (where applicable)

4.1 The Member shall in its capacity as Clearing Member assure that Customers execute the relevant Customer Agreement. By executing such agreement the Customer consents to the Rules and Regulations and appoints the Member to represent the Customer in relation to the Exchange as further set out in the relevant Customer Agreement.
4.2 The Member agrees to verify that the information provided by Customers in the Customer Agreement is accurate and ascertain the authority of persons executing such agreements on behalf of Customers.

4.3 The Member shall store the Customer Agreement in a secure manner and shall forward a copy of the agreement to the Exchange or, if applicable in accordance with the Rules and Regulations, to CCAB for review in accordance with section 4.7 and safekeeping (through physical or electronic storage).

4.4 An account designated in a Customer Agreement as a Customer’s account may only be used for such Customer.

4.5 The Member shall have the right, in matters concerning the relationship between the Member and the Customer, to adopt supplementary provisions to the Customer Agreement. Such provisions shall be in writing and may not limit the Customer’s obligations towards the Exchange under the Rules and Regulations.

4.6 Where the Exchange has taken the requisite measures to protect its rights under Customer Contracts and where an original of the Customer Agreement is required, the Member shall, upon request, assist in producing such original. The Member’s obligation to keep and produce the Customer Agreement shall continue in full force and effect following the termination of the agreement. The provisions of the Swedish Accounting Act shall apply to the maintenance of Customer Agreements in archives.

4.7 The Exchange, or CCAB on behalf of the Exchange, will verify that Customer Agreements are complete and have been executed. Such verification shall take place immediately following receipt of the copy of the Customer Agreement. The Exchange, and CCAB on behalf of the Exchange, shall also have the right, in order to verify that the Member has verified the authority of the signatories, to request from the Member the documents which formed the basis of such verification. When CCAB has performed the review and approval of the Customer Agreement, it will notify the Exchange.

4.8 Registration on a Customer’s account must not take place prior to (i) the Exchange’s approval (or where applicable the Exchange’s receipt of notification from CCAB regarding its approval) of the relevant Customer Agreement and (ii), in case of a Direct Pledge Account, the verification by the Exchange that the Customer has made the necessary arrangements for providing Collateral as prescribed by the Exchange.

4.9 The Member hereby acknowledges that the Exchange’s and/or CCAB’s review of Customer Agreements is not intended to verify that the information which Customers provide in the Customer Agreement is accurate. The Exchange and/or CCAB shall therefore not be liable for damage incurred by the Member as a result of inaccurate information contained in Customer Agreements or unauthorised execution of Customer Agreements.
4.10 Unless otherwise provided in the Rules and Regulations, CCAB shall not have the right to disclose information concerning the identity of Customers to the Exchange or to third parties.

4.11 Where a Customer of the Exchange has opened two or more accounts, CCAB shall, without disclosing the identity of the Customer to the Exchange, provide information regarding the account numbers in order to make it possible for the Exchange to monitor any registration, exercise or collateral limits in effect.

5. COLLATERAL

Provision of Collateral by the Member for the benefit of the Exchange

5.1 The Member shall provide Collateral in accordance with the Rules and Regulations to secure obligations under Contracts that are Recorded or may be Recorded on accounts held by the Member and on accounts which the Member administers for Indirect Pledging Customers. Collateral shall be provided in a manner prescribed by the Exchange.

5.2 In addition, the Member hereby pledges to the Exchange as general collateral in accordance with the Rules and Regulations, all claims against the Exchange related to Contracts which are or may be Recorded on accounts held by the Member and on accounts administered by the Member. The general collateral under this Agreement applies, primarily, to the obligations of the Member towards the Exchange under Contracts Recorded on the account in question and, secondarily, to the obligations of the Member towards the Exchange under Contracts recorded on other accounts.

Provision of Collateral by Customers for the benefit of the Exchange

5.3 The Member hereby acknowledges the following:

5.3.1 Indirect Pledging Customers shall provide Collateral to the Clearing Member, who will in turn provide Collateral to the Exchange, and Direct Pledging Customer shall provide Collateral directly to the Exchange in accordance with the Rules and Regulations to secure obligations under Contracts Recorded on such Customer’s accounts. Collateral shall be provided in a manner prescribed by the Exchange.

5.3.2 Through the execution of a Customer Agreement regarding an Indirect Pledge Account, the Customer pledges to the Exchange as general collateral, all claims against the Exchange related to Contracts which are or may be Recorded on the account designated in the Customer Agreement. Such general collateral shall be pledged firstly in favour of the Exchange and secondly in favour of the Member in its capacity as Clearing Account Administrator. Notification to the Exchange regarding secondary pledging shall be deemed to have occurred through the filing of the Customer Agreement with CCAB and CCAB’s notification to the Exchange regarding review and approval. A Member shall have the right, when exercising its
rights to the pledged general collateral, to wind up Customer Contracts without any special notification to the Exchange.

5.3.3 Through the execution of a Customer Agreement regarding a Direct Pledge Account, the Customer pledges to the Exchange as general collateral, all claims against the Exchange related to Contracts which are or may be Recorded on the account designated in the Customer Agreement.

5.4 The Exchange shall inform the Member in its capacity as Clearing Account Administrator at least once daily of the Margin Requirement for each relevant Customer Account. The Member shall inform the Exchange, in accordance with the provisions set forth in the Rules and Regulations, if Customers fail to meet their obligations under the Rules and Regulations.

5.5 Direct Pledging Customers may not commence trading or clearing prior to verification by the Exchange that the Customer has made the necessary arrangements for providing Collateral as prescribed by the Exchange.

6. LIABILITY FOR PERFORMANCE

The Member shall be liable towards the Exchange for the performance of all obligations in relation to Contracts Recorded on accounts held by the Member in accordance with the Rules and Regulations. In relation to Contracts Recorded on accounts which the Member administers for Customers, the Member shall be liable towards the Exchange for such obligations to the extent set forth in the Rules and Regulations.

7. INFORMATION

The Member agrees to provide the Exchange with information in accordance with the Rules and Regulations. The Member shall, without demand, provide the Exchange with interim financial reports and year-end financial reports.

8. LIMITATION OF LIABILITY

8.1 The Member shall not be liable for damage which results from Swedish or foreign legislation, the decisions of Swedish or foreign government agencies, acts of war, electric power disruptions, telecommunications disruptions, fire, water damage, strikes, lockouts, boycotts, blockades or other similar circumstances. The reservation regarding strikes, lockouts, boycotts and blockades shall apply even where the Member itself is the object of such action or causes such action to be taken.

8.2 The Member shall not be liable for damage which arises as a result of other causes where the Member has acted with normal care. The Member shall not be liable for loss of data, lost profits or consequential damages.

8.3 Where the Member is unable, in whole or in part, to perform as required under this Agreement as a result of a circumstance provided for in section 8.1, the
performance shall be postponed until the cause for delay has been eliminated. In the event of postponed payment as a consequence of such circumstance, the Member shall not be liable for penalty interest.

8.4 In addition to the provisions in this section, the liability of the Exchange towards the Member shall be limited by the provisions set forth in section 1.14 of the Rules and Regulations.

9. TERM OF AGREEMENT

9.1 This Agreement shall enter into force when signed by both parties and continue in force until terminated by either party following one month’s written notice of termination.

9.2 In the event the Member should commit a material breach of this Agreement the Exchange shall have the right to terminate the Agreement with immediate effect.

9.3 In matters related to Customers for which the Member acts as Clearing Account Administrator at the time of termination of the Agreement, this Agreement shall however continue in full force and effect until the obligations as Clearing Account Administrator are transferred to a third party or until the Customer’s activities with the Exchange are terminated. In addition, the Agreement shall continue in full force and effect until the Member’s Contracts entered into prior to the expiration of the Agreement are wound up in accordance with the Rules and Regulations.

9.4 In the event this Agreement is terminated in accordance with the above provisions, the Member agrees to take all measures as requested by the Exchange, including the execution of any documents required, in order to transfer any Customer Contracts to another Clearing Account Administrator approved by the Exchange and to transfer any Collateral provided by the Customer to the Clearing Account Administrator to such new Clearing Account Administrator. A corresponding obligation applies in relation to Contracts Registered or Recorded on Client Accounts.

10. ARBITRATION CLAUSE

10.1 Any dispute, controversy or claim arising out of or in connection with the Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.

10.2 The arbitral tribunal shall be composed of three (3) arbitrators. The seat of arbitration shall be Stockholm and the language to be used in the arbitral proceedings shall be English.

10.3 This Agreement shall be governed by Swedish law.
This Agreement has been prepared in two, identical, original counterparts, of which each party has received one.

Place and date of execution

[NAME OF MEMBER]  

NASDAQ OMX STOCKHOLM AB

Signature

Name (printed)/Title

Signature

Name (printed)/Title