Clearing Agreement E

GBP Bank Guarantee

Account Holder: [Insert full name of the Account Holder]

Bank: [Insert full name of the Bank]
[On headed paper of issuing bank]

ON-DEMAND BANK GUARANTEE

Notice

Please ensure that this document when executed does not contain any square brackets, footnotes, explanatory notes, etc. except those which are intended to remain in the document (if any). Please initial each page in the bottom right hand corner, and ensure that signatures are by duly authorised persons, accompanied by evidence of authorisation and personal identification etc as further instructed by the Clearinghouse.

Date of Issuance : [●]
Reference Number\(^1\) : [●]
Currency : [● insert currency symbol] ([● insert currency in words])
Maximum Amount Recoverable : [● insert number] ([● insert amount in words]\(^2\) or such other amount if varied pursuant to clause 2 below)
Expiry Date : [●]\(^3\) or such later date if this guarantee is extended pursuant to clause 2 below

Issuer : [● insert name of issuing bank]
registration number: [●]
address: [●]
attention: [●]
telephone no: [●]
SWIFT no: [●]

Applicant\(^4\) : [● insert full name]
registration number: [●]
address: [●]
attention: [●]

Beneficiary : NASDAQ OMX Clearing AB, acting through its Norwegian branch:
registration number: [●]
address: Karenslyst Allé 53, 0279, Oslo, Norway
attention: Market and Credit
telephone no: +47 6752 8000
SWIFT no: [●]

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\(^1\) Drafting note: This is the unique reference number which the issuing bank may assign to this bank guarantee. Please delete if the bank does not use reference numbers.

\(^2\) The same figure should be inserted in clause 1(a).

\(^3\) The same date should be inserted in clause 1(b).

\(^4\) Drafting note: This is the relevant Account Holder.
We, the undersigned, [insert name of issuing bank], hereby provide the following guarantee (the "Guarantee") in consideration of the Beneficiary permitting the Applicant to become or to continue as a participant in the Clearing System, subject to the terms and conditions set out below:

1. We guarantee the due payment to the Beneficiary of all money and liabilities for the time being due, owing or incurred by the Applicant to the Beneficiary under or in connection with Clearing Transactions (as defined below) together with all interest, commission, fees and all other charges and expenses for which the Applicant is or becomes liable to the Beneficiary (the "Guaranteed Amounts"), provided that:

   (a) the total amount recoverable from us hereunder shall not exceed the Maximum Amount Recoverable; and

   (b) no demand under this Guarantee shall be valid and result in any liability on our part unless it is made on us before 5pm on the Expiry Date. After such time we shall have no further liability under this Guarantee save to the extent of any demand(s) validly made prior to such time.

2. We may from time to time deliver a written notice (in materially the same form as set out in Schedule 2 of this Guarantee) to the Beneficiary requesting (i) a change in the limit specified in clause 1(a) above, and/or (ii) an extension of the Expiry Date, or (iii) the revocation of this Guarantee (a "Request") to take effect on a Bank Day clearly specified in that Request (the "Specified Date"). A Request will not be valid and will have no effect unless it is received by the Beneficiary before the Specified Date. The Beneficiary may, in its absolute discretion, accept or reject a Request. If the Beneficiary has not notified its decision to us in writing before 5pm on the Specified Date, the Request shall lapse and the Beneficiary shall be deemed to have rejected the Request. If the Beneficiary accepts the Request in writing, the relevant change, extension or revocation (as the case may be) shall take effect automatically at 5pm on the Specified Date and (in the case of a change or extension) this Guarantee shall continue in effect subject to that change or extension. In the case of revocation, this Guarantee shall terminate at 5pm on the Specified Date provided that such termination shall not affect any rights or obligations which may have accrued on or prior to such time (save that nothing in this clause 2 shall permit the Beneficiary to deliver a demand after 5pm on the Specified Date).

3. If any Guaranteed Amount is not paid in full by the Applicant to the Beneficiary by the specified deadline on the due date for payment in accordance with the Clearing Rules (as defined below), we shall on first written demand from the Beneficiary pay the amount so demanded to the Beneficiary as soon as operationally possible and in any event within three (3) Bank Days after (but not counting) the day of demand.

4. Every demand for payment under this Guarantee should be made to us materially in the same form as set out in Schedule 1 to this Guarantee and, if delivered by hand or courier (but not if delivered by SWIFT), signed by at least one authorised signatory of the Beneficiary (whose signature must be confirmed as authentic by the Beneficiary's bankers).

5. A demand may be delivered in one or more of the following ways:

   (a) by hand or courier to our address set out at the beginning of this Guarantee; and/or

   (b) by authenticated SWIFT (through the Beneficiary's bankers) to our SWIFT number set out at the beginning of this Guarantee.
A demand does not need to be accompanied by a copy or the original of this Guarantee. The making of one demand shall not preclude the Beneficiary from making any further demands.

6. All payments by us to the Beneficiary under this Guarantee shall be made (by electronic transfer for same day value in cleared funds) to the bank account set out below (or such other bank account in London as the Beneficiary may notify to us in writing from time to time, provided that such notice shall not take effect until the fifth Bank Day after (but not counting) the date on which such notice is given):

Bank: [●]

Branch: London

SWIFT: [●]

Account name: [●]

Account number: [●]

Payment reference: [● insert name of Applicant].

7. This Guarantee is irrevocable and unconditional and constitutes our direct primary obligation to make payment hereunder to the Beneficiary without the necessity of any reference to or consent from the Applicant and without examination of the Applicant's liability under the Clearing Rules. Any amount due hereunder will be paid without reference to any rights of set-off or counterclaim that the Applicant or we may have against the Beneficiary or any rights of set-off that we may have against the Applicant and whether or not the Applicant disputes its liability to pay the amount demanded by the Beneficiary.

8. We agree that the amount stated in any demand made by the Beneficiary under this Guarantee as being payable by the Applicant to the Beneficiary shall, as between the Beneficiary and ourselves, be conclusive evidence that our liability hereunder has accrued in respect of the amount demanded.

9. This Guarantee is a continuing guarantee and shall remain in force notwithstanding the liquidation or dissolution of the Applicant or the appointment of an administrator, receiver or similar office-holder of the Applicant or in relation to all or any part of its assets. Our liability hereunder shall not be discharged or impaired by reason of any change (substantive or otherwise) made now or in the future by the Beneficiary to the Clearing Rules or any act or matter whatsoever which (but for this provision) might have discharged or impaired our liability.

10. This Guarantee is in addition to and not in substitution for any guarantee, indemnity or security which the Beneficiary may at any time hold and may be enforced by the Beneficiary without first having recourse to the same or taking any proceedings against the Applicant.

11. No failure to exercise and no delay on the part of the Beneficiary in exercising any right under this Guarantee and no course of dealing between the parties shall be construed or operate as a waiver of that right, nor shall any single or partial exercise of any right preclude any other or further exercise of it or the exercise of any other right.

12. No variation, supplement, deletion or replacement of or from this Guarantee or any of its terms shall be effective unless made in writing and signed by or on behalf of the Beneficiary and ourselves.
13. Any notice, letter or other written communication between us and the Beneficiary must be in materially the same form as set out in Schedule 2 of this Guarantee and may be delivered to the recipient by hand or courier or by authenticated SWIFT (through the Beneficiary's bankers) at the address or SWIFT number of the recipient set out at the beginning of this Guarantee. We or the Beneficiary may at any time notify the other in writing (in materially the same form as set out in Schedule 2 of this Guarantee) of any change to its address and/or SWIFT number, provided that such change shall not take effect until the fifth (5th) Bank Day after (but not counting) the date on which such notice is given, provided that our address must be located in England or Scotland. We shall ensure that it is able at all times to receive communications by authenticated SWIFT message.

14. The Beneficiary may assign any or all of its rights (including its right to receive any amounts becoming payable by us) under this Guarantee to (i) any other Affiliate or (ii) any bank or financial institution which provides the Beneficiary with any settlement services under the Clearing System and/or any credit, liquidity or other banking facilities, in each case without the necessity of our consent. If we receive written notice of assignment, we shall within five (5) Bank Days after (but not counting) the date of delivery acknowledge receipt of the notice of assignment and confirm to the assignee the balance then capable of being demanded under this Guarantee (after deduction of any demand(s) previously received and paid by us under this Guarantee). We will promptly take any steps reasonably requested by the Beneficiary to effect any assignment permitted by this clause 14.

15. Unless the context otherwise requires or unless re-defined herein, words and phrases and principles of interpretation provided for in Appendix 1 of the Clearing Rules (as defined below) have the same meanings in this Guarantee. In addition, the following expressions shall have the following meanings:

(a) "Applicant", "Beneficiary", "Expiry Date", "Maximum Amount Recoverable" and "Issuer" shall have the meanings set out opposite them at the beginning of this Guarantee;

(b) "Affiliate" means any legal entity which is directly or indirectly controlled (whether through any shareholding or voting rights, rights provided for in any document or otherwise) by The NASDAQ OMX Group, Inc (or any successor);

(c) "Bank Day" means any day (other than a Saturday or Sunday) on which banks are generally open in London for general banking business;

(d) "Beneficiary" includes any transferee or successor (whether immediate or derivative) of the Beneficiary and any company with which it may amalgamate;

(e) "Clearing Rules" means the rules and procedures established by the Beneficiary which are, from time to time, in force in relation to participants in the Clearing System;

(f) "Clearing System" means the clearing house operated by the Beneficiary as a central counterparty for the clearing of financial electricity and other contracts and the services provided by it in connection with such arrangements;

(g) "Clearing Transaction" means a Transaction that is approved and registered in the Clearing System for clearing through the Beneficiary acting as central counterparty, as contemplated by the Clearing Rules;

(h) "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint
venture, consortium or partnership (whether or not having separate legal personality), or two or more of the foregoing; and

(h) references to time shall be references to London time.

16. This Guarantee and all non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law. Subject to Clause 17, the English courts shall have exclusive jurisdiction to settle any claim, dispute or difference which may arise out of or in connection with this Guarantee.

17. Nothing in Clause 16 shall limit the right of the Beneficiary to take proceedings against us in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law). We irrevocably waive any objections on the ground of venue or inconvenient forum or any similar grounds and irrevocably agree that any judgment in any proceedings brought in any court referred to in this clause shall be conclusive and binding and may be enforced in any other jurisdiction.

18. As soon as our liability under this Guarantee has ceased or been fully satisfied, please return this document to us for cancellation.

Issued at [insert details of place] on [insert date]

Signed for and on behalf of

[insert full name of Issuer]

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Authorised Signatory

Please attach when returning to the Clearinghouse (check off):

☐ Documentation evidencing the due authorisation of the signing person(s).

☐ Certified copy of list of signatories (with signature samples) and/or official ID of signing person(s) (passport, national ID etc).
SCHEDULE 1

Form of Demand

To: [Insert name and address of Issuer]
For the attention of [insert details]

Dated [ ]
[By courier/registered post]

Dear Sirs

GBP Bank Guarantee dated [ *** ] issued under reference number [***] (the "Guarantee") by [insert name of Issuer] to NASDAQ OMX Clearing AB in relation to [insert the Applicant's name] (the "Applicant")

1. We hereby demand the immediate payment to us of [insert words] pounds sterling (£ [insert figures]) under the Guarantee.

2. We confirm that the sum demanded is due and payable by the Applicant and that the Applicant has failed to pay the sum demanded to us.

3. Payment under this demand should be made by you to 5 [our bank account specified in clause 6 of the Guarantee] OR [the following bank account [specify details]].

Signed for and on behalf of

NASDAQ OMX Clearing AB

.......................................
Authorised Officer

5 The Clearinghouse may in its discretion choose either alternative upon making a demand. Payments to the specified account may be made with liberating effect.
SCHEDULE 2

Form of Communication

Date: [insert the date on which the letter is signed or delivered]
To: [NASDAQ OMX Clearing AB] OR [insert name of Issuer]
From: [insert name of Issuer] OR [NASDAQ OMX Clearing AB]

On-Demand Bank Guarantee dated [***] issued under reference number [***] (the "Guarantee") by [insert name of Issuer] to NASDAQ OMX Clearing AB in relation to [insert the Applicant’s name] (the "Applicant")

This notice is given in accordance with the Guarantee.

[insert text here]

For and on behalf of

[NASDAQ OMX Clearing AB] OR [insert name of issuing bank]

(signed) ..........................................................

Authorised signatory

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6 This signature block is only required if the communication is to be delivered by hand or courier. No signature is required for a communication to be delivered by SWIFT.