

## LICENSE AND SUBSCRIPTION AGREEMENT

This Agreement is made by and between INTERACTIVE FINANCIAL EXCHANGE FORUM (“IFX”), an Emancipated Group within the National Automated Clearing House Association (NACHA), and you (“Customer” or “you”). This Agreement is effective when accepted by you as part of the IFX account registration process (the “Effective Date”). This is a legal agreement that governs your use and IFX’s supply of the Licensed Product. You must read and accept the terms of this Agreement before you may access or use the Licensed Product.

### 1. DEFINITIONS.

1.1 Capitalized terms not otherwise defined in this Agreement will have the meanings specified in this Section 1.1.

“Agreement” means this License and Subscription Agreement.

“Authorized User” means an individual employee, agent, or independent contractor of Customer who has been authorized by Customer to access and use the Licensed Product as an end user in compliance with this Agreement and on Customer’s behalf.

“Database” shall mean the electronic repository for the Standard created by IFX and owned by NACHA on its behalf which allows access to the Standard and various tools and functionalities related to use of the Standard.

“Documentation” means any documentation for the Licensed Product normally distributed by IFX to customers with the Licensed Product, electronically or otherwise.

“Licensed Product” means the Database and Software Applications, and any and all modifications, corrections or enhancements that become part of the Licensed Product in accordance with the terms of this Agreement.

“Order Form” means a form evidencing the initial subscription for the Licensed Product and any subsequent order forms signed and submitted online or in written form specifying the Licensed Product purchased, the applicable Subscription duration and fees, and other terms as agreed to between the parties. Your Order Form incorporates by reference the terms and conditions of this Agreement.

“Software Applications” shall mean the user interfaces which enhance the ability of users of the Database to access, manipulate and customize the Database and which are being licensed to end-users as part of the Licensed Product. Basic and advanced versions of the Software Applications shall be available to Customer at different prices depending on Customer’s selection on the Order Form.

“Standard” shall mean the IFX Business Message Specification created for use in interactive financial exchange across software platforms and environments, which has been developed by IFX in specific furtherance of its exempt activities, as further described on Licensor’s website at [www.ifxforum.org](http://www.ifxforum.org).

“Subscription” shall mean the subscription-based license to access and use the Licensed Product on the terms set forth in this Agreement and on the Customer’s Order Form(s).

### 2. SUBSCRIPTION SERVICES.

2.1 **Term.** The term of this Agreement and the license granted herein (the “Term”) will commence when accepted by you as part of the IFX account registration process (the “Effective Date”) and, if Customer submits an Order Form to continue subscription services, will continue during the subscription period (the “Subscription Period”) selected by Customer in the Order Form and any renewals thereof, provided that Customer has paid or is paying the Subscription fees associated with the applicable Subscription Period and any renewals and is otherwise in compliance with all terms and conditions of this Agreement. A Subscription does not include rights to the application source code for the Licensed Product (or any part thereof).

Revision Date: March 31, 2018

**2.2 Subscription Periods.** By accepting the terms of this Agreement as part of the process of Customer registration as a user of the Standard, Customer is granted a free Guest license commencing on the date such registration is effective. In order to access to a Licensed Subscription Product, Customers must properly submit an Order Form specifying a Subscription Period and affirming the terms of this Agreement for the applicable Subscription Period. . Each Order Form shall include without limitation the type of Subscription selected, the Subscription Period, and the price related thereto. Order Form terms are incorporated herein by reference. Upon submission of an Order Form, all payment obligations are non-cancelable and all amounts paid are non-refundable. If Customer submits an Order Form for a Subscription in accordance with this Agreement, Customer's license rights hereunder will continue until the conclusion of the initial Subscription Period and any renewals thereof as provided in Section 2.3 herein.

**2.3 Renewal.** Customers will have the opportunity to renew this Agreement for successive Subscription Periods of the same length as originally purchased, or for greater or lesser periods, as the Customer may elect in subsequent Order Forms submitted by Customer at the conclusion of the initially selected Subscription Period or any renewal(s) thereof. Renewals are subject to pricing in effect at the time of renewal, which shall be stated on the applicable Order Form at the time of renewal. In the event of non-renewal, this Agreement and all of Customer's rights to access and use the Licensed Product will terminate at the conclusion of the then effective applicable Subscription Period.

**2.4 Subscription Fee.** There will be no fee payable by Customer for a Guest Access license. The price payable for the Subscription will be as specified in the applicable Order Form submitted by Customer. Subscription fees are non-refundable. If Customer elects to pay by credit card or direct debit, payment shall be due and payable immediately for the pertinent Subscription Period set forth in the Order Form and shall not require the issuance of a corresponding invoice. If Customer elects to receive an invoice for the amount due to NACHA on behalf of IFX for the selected Subscription Period, payment will be due within thirty (30) days of receipt of such invoice by electronic mail. NACHA and IFX reserve the right to suspend or terminate any Customer's access to the Licensed Product without notice if payment is more than 30 days past due, regardless of dollar amount, and Customer will pay all reasonable attorney's fees and costs incurred by NACHA on behalf of IFX to collect any past due amounts. Customer is responsible for all taxes and duties (including but not limited to sales, use and withholding taxes), except for taxes based on NACHA's net income. Delinquent payments are subject to interest of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection.

**2.5 Limited License.** Subject to the terms and conditions of this Agreement, NACHA on behalf of IFX grants to Customer, through its Authorized Users as end users, a nonexclusive, nontransferable, limited right and license to access and use the Licensed Product in object code form only during the Term and solely for Customer's internal use (and not for or on behalf of any third party). Customer warrants that Customer shall use the Licensed Product solely to facilitate and enhance its utilization of the Standard in connection with its products. This is not a perpetual license, and Customer has no right to use the Licensed Product after expiration or termination of the Term for any reason. Customer represents and warrants that it will comply with all laws, statutes, regulations and ordinances applicable to its use of the Licensed Product, will only use the Licensed Product for legitimate business purposes, and will be responsible for ensuring that its Authorized Users, and any employee, agents or contractors of Customer, do the same.

**2.6 Internet Access and Login.** Only Authorized Users of Customer may access and use the Licensed Product pursuant to this Agreement. The Order Form will specify whether Customer is entitled to (i) a specified limited number of individual Authorized Users, or (ii) a site specific arrangement in which all of Customer's employees, agent and contractors working together in furtherance of Customer's business and sharing Customer's domain name shall be Authorized Users. On commencement of the Term, IFX will assign to Customer user identification information and password (together, the "Login") which will allow Authorized User(s) to gain access to and use the Licensed Product. Customer and each Authorized User are responsible for maintaining the confidentiality and security of the Login. If Customer suspects that a Login is not secure for any reason, Customer shall promptly notify IFX and obtain a new Login. Each Authorized User, by accessing the Licensed Product using the Login, shall be bound by and shall comply with all provisions of this Agreement, including without limitation the agreement to use the Licensed Product solely to facilitate and enhance Customer's utilization of the Standard in connection with its

Products. In the event that NACHA on behalf of IFX reasonably determines that an Authorized User has violated any of the terms of this Agreement, it may, without limiting its other rights herein, notify Customer that such individual is prohibited from future use of the Login and will no longer be deemed an Authorized User.

**2.7 Additional License Restrictions.** Customer has no right to assign, transfer, sublicense, distribute or otherwise make available the Licensed Product to any third party. Customer may not: (a) copy, modify, disassemble, decompile or reverse engineer the Licensed Product (except to the extent expressly permitted by the law of certain jurisdictions for interoperability purposes) nor permit any third party to do so; (b) create derivative works of the Licensed Product, except as expressly permitted in Section 2.8 below; (c) use the Licensed Product to develop or market any product, program or model that is functionally similar to or derivative of the Licensed Product; or (d) remove any proprietary notices located on the Licensed Product. Customer agrees it acquires no right, title or interest in the Licensed Product other than the foregoing limited license. IFX and NACHA reserve all rights not expressly granted to Customer under this Agreement.

**2.8 Derivative Works.** With respect to derivative works, it is understood and agreed that the Licensed Product shall be used for, and only for, generating computer code that is consistent with the Standard and that will become part of the products and services sold by the Customer. Generated code will include IFX copyright information that may not be removed. To the extent that Customer's products and services hereafter contain elements of the Licensed Product, and thereby constitute derivative works: (a) Customer shall be the owner and copyright holder of such derivative works, and (b) no rights to such derivative works are granted to IFX or NACHA under this Agreement (but NACHA on behalf of IFX retains all of its right, title and interest in and to the Licensed Product and to the Standard). If Customer registers its copyrights in such derivative works, Customer shall identify in such registration the pre-existing Licensed Products that are included in the derivative work.

**2.9 Customer Support.** IFX and NACHA shall not be obligated to furnish customer support services during the Term, but may do so at their discretion.

**2.10 No Upgrades or Improvements Required.** IFX and NACHA shall not be obligated to furnish improvements or upgrades to the Licensed Product during the Term, but may do so at their discretion.

### **3. CUSTOMER RESPONSIBILITY AND INDEMNIFICATION.**

**3.1 Customer Responsible for Users.** Customer agrees that it is responsible for the acts and omissions of its Authorized Users and all use of the Licensed Product by means of the Login, whether or not authorized by Customer, and that all such use shall constitute use by Customer for purposes of this Agreement.

**3.2. Indemnification.** Customer shall indemnify, defend and hold harmless IFX and NACHA from and against any and all loss, injury, damage and expense, and claims and demands of whatsoever nature, including reasonable attorneys' fees and costs, that IFX and NACHA incur arising out of, relating or connected with (i) the use of the Licensed Product by Customer or any Authorized User of Customer, or arising out of the use of the Login or Customer's subscription under this Agreement, including any claims by a third party, (ii) Customer's violation of this Agreement, or (iii) Customer's violation of any rights of another person or entity.

### **4. NO WARRANTY.**

CUSTOMER ACKNOWLEDGES THAT THE SUBSCRIPTION TO THE LICENSED PRODUCT IS PROVIDED "AS IS" AND ACCORDINGLY AT CUSTOMER'S OWN RISK. IFX AND NACHA MAKE NO WARRANTIES WITH RESPECT TO THE LICENSED PRODUCT OR SUBSCRIPTION SERVICES AND DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES IMPLIED BY COURSE OF DEALING OR COURSE OF PERFORMANCE.

## 5. LIMITATIONS OF LIABILITY.

IN NO EVENT WILL IFX, NACHA, OR ANY OTHER PARTY WHO HAS BEEN INVOLVED IN THE CREATION OR PRODUCTION OF THE LICENSED PRODUCT BE LIABLE TO CUSTOMER OR ANY OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, RELIANCE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF DATA OR PROFITS, OR FOR INABILITY TO USE THE LICENSED PRODUCT, EVEN IF IFX, NACHA, OR SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL IFX, NACHA, OR SUCH OTHER PARTY'S LIABILITY FOR ANY DAMAGES OR LOSS TO CUSTOMER OR ANY OTHER PARTY EXCEED THE SUBSCRIPTION FEE PAID FOR THE LICENSED PRODUCT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(A) IFX AND NACHA HAVE NO OBLIGATION TO INDEMNIFY OR DEFEND YOU AGAINST CLAIMS RELATED TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, AND (B) IFX AND NACHA MAKE NO REPRESENTATION OR WARRANTY THAT USE OF THE LICENSED PRODUCT WILL BE SECURE, TIMELY, UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE, WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, OR WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS.

## 6. TERMINATION.

**6.1 Termination of Subscription and Licenses.** Customer may terminate its Subscription at any time by written notice to NACHA or IFX. This Agreement and Customer's license to use the Licensed Product may be terminated by NACHA on behalf of IFX effective immediately upon written notice to Customer of such termination if Customer or any Authorized User violates or fails to comply with any term of this Agreement, or if IFX or NACHA believes in good faith that a security breach has occurred or that Customer or any Authorized User is engaging in unlawful, harmful, disruptive or harassing conduct or activity in connection with the Licensed Product. Termination of this Agreement will not relieve Customer of its obligations to pay charges, fees, commitments, and obligations incurred or accrued before termination.

**6.2 Customer Obligations upon Termination.** Upon termination of the Subscription, and upon expiration of the Subscription at the conclusion of the Term, the license and associated rights expire automatically and Customer shall immediately cease use of the Login and Licensed Product. At such time IFX and NACHA may deactivate your password and/or take other steps to cause your access and use to be discontinued. Customer agrees to pay any outstanding balance in full within 30 days of cancellation or termination of the Subscription.

**6.3 No Refund on Termination.** Customer is not entitled to a refund of any Subscription fee amount already paid to IFX in the event of termination.

**6.4 Survival.** In addition to those provisions that by their nature are intended to survive any termination or expiration of this Agreement or any license granted hereunder, Sections 3, 4, 5, 6 and 7 shall specifically survive any such termination or expiration.

## 7. OWNERSHIP AND CONFIDENTIALITY.

**7.1 Ownership.** The Licensed Product is the sole and exclusive property of NACHA or its licensors. By paying the fee required for the Subscription of the Licensed Product, Customer has purchased the right to use and access the Licensed Product for a specific, limited period of time, subject to the terms and conditions herein, and NACHA retains all rights, title and interest, including all intellectual property rights, in and to the Licensed Product and the Standard, including but not limited to all rights of copyright, trademark, trade secret, patent, or other intellectual property right. The Licensed Product, and its structure,

organization, and code comprise valuable trade secrets of NACHA and its licensors. The Licensed Product may contain trade names, trademarks, service marks, logos, domain names, and other distinctive brand features (collectively, "Marks") of IFX and NACHA's licensors and other third party rights holders of content included in the Licensed Product. Customer agrees not to remove, obscure or alter any Marks.

**7.2 Confidentiality.** The Licensed Product is confidential to NACHA, on behalf of IFX, and its licensors. Customer shall not, during the Term or thereafter, disclose, directly or indirectly, or take any other action which would result in the unauthorized disclosure of, any portion of the Licensed Product or any other confidential or proprietary information or data received from IFX or NACHA under this Agreement.

**7.3 Injunctive Relief.** NACHA shall be entitled to injunctive relief in order to enforce the provisions of this Section 7, in addition to any other rights and remedies at law or equity.

## **8. SERVICE AVAILABILITY.**

NACHA on behalf of IFX will use commercially reasonable efforts to make the Licensed Product available to Customer on a continuous basis. However, Customer understands and agrees that its ability to access and use the Licensed Product may be affected by down time for periodic maintenance, modifications or other IFX business reasons, and access to the Licensed Product may be interrupted for various causes beyond the reasonable control of IFX and NACHA. IFX and NACHA will not be liable to Customer for any such unavailability or interruption.

## **9. GENERAL.**

**9.1 Entire Agreement.** This Agreement and any and all Order Forms submitted by Customer constitute the complete and exclusive statement of the terms and conditions between the parties governing the subject matter of this Agreement. No modification to this Agreement or to any Order Form will be valid unless signed by an authorized representative of IFX or NACHA.

**9.2 Severability.** If any provision of this Agreement shall for any reason and to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby.

**9.4 Notices.** NACHA on behalf of IFX may provide any and all notices, statements, and other communications to Customer through email or, at the option of IFX and NACHA, by mail or express delivery service. Customer agrees to accept email notice from IFX or NACHA at the email address(es) specified in the Order Form. Customer may give notice to NACHA on behalf IFX at any time by electronic mail sent to [info@ifxforum.org](mailto:info@ifxforum.org) or by mail or express delivery service to NACHA on behalf of IFX Forum, 2550 Wasser Terrace, Suite 400, Herndon, VA 20171. Notices sent to either party by email will be deemed received twelve (12) hours after sending. All other notices will be deemed received on the date of delivery thereof. Customer agrees to keep all account information current and inform IFX and NACHA of any changes in Customer's business name, address, email address and phone number.

**9.5 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflict of laws provisions. The parties consent to the jurisdiction of the state and federal courts located within the State of Delaware over any dispute between the parties arising under this Agreement.

**9.6 Assignment.** This Agreement and the rights granted under it may not be assigned or transferred by Customer, including without limitation by merger or operation of law, without the prior written consent of NACHA. Any such transfer or assignment shall be void.

## **10. EXECUTION:**

NACHA is willing to supply the Licensed Product only on the condition that you accept the terms in this

Agreement. Your acceptance of this Agreement, and your agreement to be bound by all of the terms and conditions of this Agreement, is evidenced by your checking "I Accept" where indicated below. By checking "I accept," you additionally agree to bound by the Terms of Use and Privacy Policy applicable to all users of the website ifxforum.org. If you do not accept these terms in their entirety, you are not authorized to access or use the Licensed Product. If you are an individual signing on behalf of an entity, then you represent that you have the authority to enter into this Agreement on behalf of that entity.