



Platform Service Subscription Agreement

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This BluFin Platform Service Subscription Agreement ("**Agreement**") between BluFin Inc., a Delaware corporation, and the customer identified in the BluFin Platform Service Subscription Form ("**Customer**") describes the terms and conditions pursuant to which BluFin will provide services to Customer. This Agreement incorporates the BluFin Platform Service Subscription Form ("**Subscription Form**") and the additional terms and conditions from the websites expressly referenced herein. The parties hereby agree and contract as follows:

1. PURPOSE

BluFin and its affiliates collect economic and financial data by means of various surveys, market research methods and proprietary data collection tools and have created a unique data streaming service that makes this economic and financial data available to individuals, institutional investors, research universities, media organizations and other subscribers in the form of various BluFin-branded streaming data products ("**BluFin Platform Service**"). Customer desires to access and use the BluFin Platform Service, and BluFin desires to grant rights of access and use to Customer, on the terms and subject to the conditions set forth herein. This Agreement applies to all services provided by BluFin to Customer.

2. ACCESS AND USE

Subject to Customer's compliance with this Agreement, including payment of all fees when due, Customer may access and use (a) those data products that are offered by BluFin as part of the BluFin Platform Service on the Effective Date ("**Data Products**"); (b) the functionality of the mobile applications and web-based software provided by BluFin to display the Data Products ("**Software**"); and (c) the Service Content (as defined below) in the form such content is displayed by BluFin. If Customer is an entity or enterprise ("**Enterprise Subscriber**"), then Customer's access to and use of the Data Products, Software and Service Content is limited to the number of authorized users specified in its Subscription Form and those individuals identified by Customer as authorized users (each, an "**Authorized User**"). If Customer is an individual ("**Individual Subscriber**"), then Customer's access to and use of the Data Products, Software and Service Content is limited to his or her personal use. As used herein, the term "**Service Content**" means all data, content and materials (including text, graphics, animation, images, audio, video, charts, indices, reports, spreadsheets, databases, analytics, analysis, icons, FAQ terms and user guides), and any portion or combination thereof, including the design, layout and look and feel, that are embedded in or included with the Data Products or used by BluFin or its affiliates to provide the BluFin Platform Service. Customer may use the functionality provided by the Software to download and print a reasonable number of copies of reports included in the Data Products to which Customer has properly gained access, provided that Customer maintains all copyright or other proprietary notices on all such copies. If Customer is an Enterprise Subscriber, then use of the BluFin Platform Service is solely for the internal business purposes and internal research purposes of Customer (including its employees or contractors working on behalf of Customer's organization) and not for resale. If Customer is an Individual Subscriber, then use of the BluFin Platform Service is solely for personal business and research use and not for resale.

3. TERRITORY; NO EXCLUSIVITY

The rights of access and use granted in Section 2: (a) are non-exclusive and non-transferable; (b) apply in the United States only; and (c) terminate automatically upon expiration or termination of this Agreement for any reason or as otherwise set forth in this Agreement.

4. SERVICE UPGRADES

If, at any time during the term of this Agreement, Customer desires to upgrade its BluFin Platform Service plan (for example, from Single User to Enterprise User), Customer must first complete, sign and submit a new Subscription Form provided by BluFin. The new Subscription Form will replace any then-existing form and will contain pricing and additional terms, conditions and limitations applicable to the specific service plan and Data Products ordered by Customer. Such additional terms, conditions and limitations will supplement the terms and conditions contained herein. Enterprise Subscribers may add additional Authorized Users by emailing BluFin at customercare@blufinresearch.com and paying the fee specified in the Subscription Form or, if no fee is specified therein for additional Authorized Users, then the applicable rate at the time the new Authorized User(s) are added. An Enterprise Subscriber may change the individuals who are registered as its Authorized Users free of charge. Each new Authorized User will also be required to click and accept the BluFin Terms of Use. Once registered, the new Authorized Users will have access to the BluFin Platform Service when they launch the BluFin web-based application.

5. LIMITATIONS ON USE

Customer shall not use the Software, Service Content or Data Products in any manner not expressly and specifically authorized by this Agreement. In particular, and without limitation of the foregoing, Customer shall not, and shall not authorize or permit any of its employees or contractors to, directly or indirectly (a) use the Software, Service Content or Data Products to design, build, enhance, market or sell any similar or substitute product or service; (b) modify, translate, or create derivative works of the Software, Service Content or Data Products; (c) reverse engineer, decompile or disassemble or attempt to derive the methodology or source code of the Software; (d) distribute, sublicense, assign, share, timeshare, sell, rent, lease, use for service bureau purposes or otherwise transfer the rights to access the functionality of the Software, Service Content or Data Products; (e) use frames or framing techniques or technology to enclose any Service Content or use any Service Content in any meta tags or any other "hidden text" techniques or technologies; (f) create any financial product, service, index, derivative or fund which seeks to match the performance of, or the capital or income value of, a Data Product; (g) capture or store the data that forms part of the Service Content on a server or other storage device connected to a network or create a database by downloading and storing any data from the Service Content or publish all or any part of the Service Content in print or online; (h) remove, modify, enhance, translate or change any data or content included in the Service

Content or attempt to circumvent security or interfere with the proper working of the Software or any servers on which any of them are hosted; (i) damage, disable, overburden, or impair the BluFin website, computer systems or networks used to provide any Data Products or interfere with any third party's authorized use and timely enjoyment of any Data Products; or (j) gain unauthorized access to any BluFin website or service, computer systems or networks used to provide any part of the BluFin Platform Service, through hacking, password mining or any other means or use the BluFin Platform Service to further or promote any illegal activity, investment or enterprise.

6. THIRD PARTY PRODUCTS

Customer shall be solely responsible, at its expense, for establishing, maintaining, and operating the connection to the internet and other hardware and software required to access and use the BluFin Platform Service. If Customer downloads a mobile application used to view Data Products from a third party (such as the Apple App Store), Customer agrees to abide by the terms and conditions imposed by such third party in its terms of use or terms of service.

7. CHANGES TO THE BLUFIN PLATFORM SERVICE

BluFin reserves the right, in its sole discretion and without incurring any liability to Customer, to update, improve, replace, modify, delete and alter the specifications for and functionality of all or any part of the Software, Service Content or BluFin Platform Service from time to time.

8. FEES AND INVOICES

Customer agrees to pay BluFin the fees set forth on the Blufin Platform Service Subscription Form. BluFin shall invoice Customers who are Enterprise Subscribers at the times specified in the Subscription Form or, if not specified therein, on a monthly basis. Customers who are Individual Subscribers will be charged a monthly fee on the credit card provided at the time of account setup.

9. PAYMENTS

Unless otherwise specified in the Subscription Form, all payments due from a Customer who is an Enterprise Subscriber shall be due within thirty (30) days of date of invoice. Unless otherwise specified in the Subscription Form, all payments due from a Customer who is an Individual Subscriber shall be due when charged on the credit card provided by the Customer. Payment shall be deemed overdue if any amount remains unpaid thereafter. Any amount payable by Customer hereunder which remains unpaid after the due date shall be subject to a late charge equal to one and one-half percent (1.5%) per month or the highest legally-allowable rate,

whichever is lower, from the due date until BluFin receives full payment. Customer shall pay BluFin's costs of collection, including BluFin's reasonable attorneys' fees and court costs. Payments due under this Agreement shall be made by Customer without any deduction, setoff or bank charges to BluFin at the banking institution designated by BluFin. All payments made by Customer are non-refundable. In addition to its other remedies, BluFin shall have the right to suspend Customer's access to and use of the Data Products and cancel password and user ID codes in the event any amounts payable hereunder are thirty (30) days past due. Customer shall be solely responsible for collection and payment of all sales, use, and other taxes or fees associated with Customer's use of the BluFin Platform Service. BluFin shall have the right to set off any amounts due and payable to Customer under this Agreement, against any money due and payable by Customer to BluFin. BluFin shall have the right to modify the fees charged to Customer by giving Customer notice pursuant to Section 28 at least 60 days prior to the start of any Renewal Term, but the modified fees will only apply after the start of the Renewal Term.

10. SECURITY OF PASSWORDS

Customer is responsible for protecting the confidentiality of the passwords and user IDs associated with its BluFin Platform Service account and for restricting access to computers or mobile devices while logged into the BluFin Platform Service. If Customer becomes aware of any loss, theft or unauthorized use of any BluFin Platform Service password or user ID, it shall notify BluFin promptly at customercare@blufinresearch.com. BluFin may assume that any communications it receives under the user ID of a Customer have been sent by Customer and all use of the BluFin Platform Service under that user ID have been authorized by Customer, in each case unless BluFin receives written notice otherwise. Customer shall not (a) share or disclose to third parties any passwords or user IDs used to access the BluFin Platform Service, or (b) allow a third party to access or use the BluFin Platform Service as a substitute for a subscription to the Data Products being offered by BluFin or its affiliates. Customers who are Enterprise Subscribers shall take all reasonable measures required ensure that its employees and contractors do not share, disclose or use BluFin passwords or user IDs in violation of clauses (a) and (b) above. BluFin may reset passwords from time to time in accordance with its security protocols and will provide notice of such reset to each Individual Subscriber and each Enterprise Subscriber's Authorized Users via email to the addresses provided by such Individual Subscriber or Authorized User.

11. PROPRIETARY RIGHTS

As between BluFin and Customer, BluFin exclusively owns and shall retain all right, title, and interest, including all intellectual property rights, in and to the Software, Service Content, Data Products and other elements of the BluFin Platform Service. This Agreement grants no express or implied license, right or interest in or to any copyright, patent, trade secret, trademark, URL, domain, invention or other intellectual property right of BluFin or its affiliates, other than the express access and use rights granted in Section 2. Customer shall not remove, suppress or modify in any way the proprietary markings, including any trademark, service mark, word mark or copyright notice, used in relation to Data Products, Software or Service Content. Nothing in

this Agreement gives Customer the right to over-brand or co-brand any part of the Service Content. The passwords and user ID codes, pricing for the BluFin Platform Service and other terms of this Agreement are the confidential information of BluFin. Customer shall take such actions as may be necessary to maintain the confidentiality of such confidential information and shall immediately notify BluFin in writing in the event of a breach of confidentiality. Customer may voluntarily elect to provide suggestions, improvements and other feedback to BluFin with respect to the Software, Service Content or Data Products ("**Feedback**"). Feedback, even if designated as confidential by Customer, shall not, absent a separate written agreement, create any confidentiality obligation for BluFin. BluFin shall be free to use, disclose, reproduce, license or otherwise distribute, and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise. If Customer is an Enterprise Subscriber, then Customer grants BluFin the right to use Customer's corporate name and logo to identify it as a BluFin customer in BluFin's print and online customer lists.

12. COMPLIANCE WITH LAW

Customer understands and agrees that it shall have sole responsibility for compliance with all laws and regulations applicable to its use of the BluFin Platform Service.

13. LIMITED WARRANTY

BluFin warrants, solely to Customer, that during the Term BluFin will use its commercially reasonable efforts to correct or bypass a material defect in the BluFin Platform Service, on the condition that (a) Customer promptly reports the defect in writing, with reasonable specificity, to BluFin; (b) Customer cooperates with BluFin in its investigation of the defect; (c) the defect is reproducible by BluFin; and (d) the defect materially affects Customer's use of the BluFin Platform Service. Correction or bypass of such a defect may include modifying, suspending or terminating the defective portion of the BluFin Platform Service, or a combination of the foregoing, as and when BluFin in its sole discretion decides. The warranty set forth in this Section (the "**Limited Warranty**") is subject to Customer's full compliance with this Agreement, including payment of all fees when due, and any breach of this Agreement by Customer renders the Limited Warranty null and void. The Limited Warranty does not apply to, and BluFin shall have no responsibility or liability for, any defect in the BluFin Platform Service that is caused or contributed to, in whole or in part, by Customer, by any other person or entity, by any defect in any hardware, software or service supplied by Customer, or by any event beyond BluFin's reasonable control.

14. DISCLAIMERS OF WARRANTIES

EXCEPT FOR THE LIMITED WARRANTY ON THE BLUFIN PLATFORM SERVICE SET FORTH IN SECTION 13, BLUFIN PROVIDES THE SOFTWARE, SERVICE CONTENT, DATA PRODUCTS AND ALL

OTHER ELEMENTS OF THE BLUFIN PLATFORM SERVICES "AS IS," WITH ALL FAULTS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BLUFIN DISCLAIMS ALL EXPRESS WARRANTIES OTHER THAN THE LIMITED WARRANTY AND ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING ANY IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, QUIET ENJOYMENT OR PERFORMANCE. BLUFIN MAKES NO WARRANTY THAT THE SOFTWARE, SERVICE CONTENT, DATA PRODUCTS OR ANY OTHER ELEMENT OF THE BLUFIN PLATFORM SERVICE WILL BE FREE FROM DEFECTS, THAT THEY WILL MEET CUSTOMER'S NEEDS, OR THAT ANY BLUFIN PLATFORM SERVICE WILL BE UNINTERRUPTED OR ERROR FREE. EXCEPT FOR THE LIMITED WARRANTY, THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT OF THE SOFTWARE, SERVICE CONTENT, DATA PRODUCTS AND BLUFIN PLATFORM SERVICE SHALL BE WITH CUSTOMER.

15. NO INVESTMENT ADVICE

The indices, compilations, analysis, articles and other Service Content contained in the Data Products are not, and should not be deemed to be construed as, financial, investment, legal, tax or other advice, of any nature whatsoever, nor should they be regarded as an offer or as a solicitation of an offer by BluFin to buy, sell or otherwise deal in any kind of investment, security, or any other money market instrument or financial product. Customer shall not refer to the BluFin Platform Service in a way which does or may imply (a) that the Data Products or Service Content form a part of the services or products offered to the Customer's clients or prospective clients, or (b) that BluFin is responsible for the accuracy or quality of the services or any other information or data that Customer provides to its clients or offers to the prospective clients. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT BLUFIN SHALL NOT, AT ANY TIME, BE LIABLE ON ACCOUNT OF ANY LOSSES OR DAMAGES SUFFERED BY CUSTOMER BY VIRTUE OF (i) CUSTOMER'S APPLICATION OF THE SERVICE CONTENT TO ITS BUSINESS OR INVESTMENTS, OR (ii) ANY ERRORS OR OMISSIONS IN THE SERVICE CONTENT OR ANY DELAYS OR LAG TIME IN TRANSMITTING THE SERVICE CONTENT TO CUSTOMER.

16. INDEMNIFICATION

Customer shall indemnify, defend and hold the BluFin Parties harmless from and against any and all liability, damage, cost and expense, including reasonable counsel fees, or other losses based on or resulting from any claim, suit, action, proceeding or demand (each a "**Claim**") against any BluFin Party arising out of, based on or relating to (a) any breach by Customer of its covenants, undertakings, agreements or obligations in this Agreement, (b) any use of the Software, Service Content, Data Products and other elements of the BluFin Platform Service by Customer, (c) any Claims that Customer's use of the Software, Service Content, Data Products or other elements of the BluFin Platform Service caused damage to a third party, including any use thereof by Customer to provide advice, recommendations, guidance, publications or alerts to Customer's clients, customers or investors. As used herein, the term "**BluFin Parties**" means BluFin, its affiliates and its and their respective providers, contractors, employees, officers, directors and agents (in their capacities as such). The obligations set forth in this Section shall survive the expiration or termination of this Agreement for any reason.

17. LIMITATION OF LIABILITY

THE CUMULATIVE LIABILITY OF THE BLUFIN PARTIES TO CUSTOMER (OR ANY PERSON OR ENTITY CLAIMING RIGHTS DERIVED FROM THE RIGHTS OF CUSTOMER) FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATING TO THIS AGREEMENT, WHETHER ARISING OUT OF, BASED ON OR RELATING TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, SHALL BE LIMITED TO THE CUSTOMER'S DIRECT DAMAGES AND SHALL NOT TO EXCEED THE CUMULATIVE FEES ACTUALLY RECEIVED BY BLUFIN FROM CUSTOMER PURSUANT TO THIS AGREEMENT IN THE SIX (6) MONTH PERIOD PRECEDING CUSTOMER'S WRITTEN NOTICE OF THE CLAIM.

18. EXCLUSION OF CERTAIN DAMAGES

IN NO EVENT SHALL ANY BLUFIN PARTY BE LIABLE FOR ANY LOSS OF USE, LOSS OF PROFITS, INTERRUPTION OF BUSINESS OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY KIND, REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF THE BLUFIN PARTY OR ANY OTHER PERSON OR ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS DEEMED UNCONSCIONABLE. THE EXCLUSION OF DAMAGES IN THIS SECTION SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW AND IS INDEPENDENT OF ANY AGREED REMEDY. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE RESULT OF THE LIMITATIONS ON LIABILITY IN SECTIONS 15 AND 17 AND THE EXCLUSION OF CERTAIN DAMAGES IN THIS SECTION MAY PREVENT CUSTOMER FROM RECOVERING LOSSES OR DAMAGES IN CONNECTION WITH OTHERWISE VALID CLAIMS, AND THAT THE SAME REPRESENTS A FAIR ALLOCATION OF RISK HEREUNDER AND IS A MATERIAL INDUCEMENT TO BLUFIN ENTERING INTO THIS AGREEMENT.

19. TERM

The term of this Agreement begins on the effective date specified on the Subscription Form ("**Effective Date**") and ends on the date of expiration or termination of the Agreement, whichever occurs first. Subject to termination in accordance with Section 19, this Agreement shall remain in effect for the initial term specified on the Subscription Form or, if no initial term is specified on the Subscription Form, for a period of one (1) year ("**Initial Term**"). The term shall renew automatically for subsequent terms of one (1) year (each a "**Renewal Term**"), unless either party provides written notice of nonrenewal at least sixty (60) days but not more than ninety (90) days before a Renewal Term would otherwise begin. If a party gives timely written notice of nonrenewal, the Agreement shall expire at the end of the then-current Initial Term or Renewal Term. The Initial Term and any Renewal Terms are referred to collectively as the "**Term**".

20. TERMINATION

Customer shall have the right to terminate this Agreement (a) effective immediately on written notice to BluFin if BluFin commits a material breach of this Agreement and fails to cure the breach within thirty (30) days following written notice of the breach; or (b) in the circumstances, and subject to the conditions, specified in the Subscription Form. BluFin shall have the right to terminate this Agreement effective immediately on written notice to Customer if

- (i) Customer commits a material breach of this Agreement (other than a failure to make payments when due as described in Sections 8 and 9) and fails to cure the breach within thirty (30) days following written notice of the breach;
- (ii) Customer fails to make payments when due as required by Sections 8 and 9 and fails to cure the breach within ten (10) days following written notice of the breach;
- (iii) Customer commits any breach of Sections 5, 10, 12 or 26;
- (iv) Customer terminates its existence, discontinues business, has a receiver appointed for any of its property, makes any assignment for the benefit of creditors, or has any proceedings under any bankruptcy, reorganization, or similar laws commenced by or against it; or
- (v) BluFin determines that there is a reasonable possibility that any of the BluFin Platform Service or BluFin's provision of such BluFin Platform Service or any part thereof will violate any applicable law or a legal right of any person or entity, including any intellectual property right. In addition, BluFin shall have the right to terminate this Agreement effective on sixty (60) days' advance written notice without cause. If BluFin terminates this Agreement without cause, BluFin shall promptly refund any advance payments Customer has made for the BluFin Platform Service to be supplied after the date of such termination. In no event will BluFin be liable for any damages or subject to any penalty as a result of any termination of this Agreement.

21. SURVIVAL

Expiration or termination of this Agreement shall not relieve Customer's obligation to pay all fees and other amounts that are owed by Customer as of the date of expiration or termination, nor shall such expiration or termination prevent BluFin from pursuing other remedies available to it at law or in equity, including injunctive relief. The rights of access and use granted to Customer shall terminate automatically on the expiration or termination of this Agreement. BluFin's rights to payment and indemnification and all disclaimers of warranties, limitations of liability, and exclusions of damages by BluFin shall survive expiration or termination. In particular, and without limiting the foregoing, the following provisions shall survive expiration or termination: Sections 11, 15, 16, 17, 18 and 24.

22. GOVERNING LAW, JURISDICTION, REMEDIES

The laws of the State of New York, excluding its conflict-of-law rules, shall govern this Agreement. The U.N. Convention on Contracts for the International Sale of Goods does not apply. Subject to the arbitration provision in Section 23, BluFin and Customer agree to submit to the non-exclusive jurisdiction of, and agree that venue is proper in, state courts in the Borough of Manhattan, New York, or the United States District Court for the Southern District of New York, in any legal proceeding arising out of, based on or relating to this Agreement. Except as otherwise provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by applicable law. The parties agree that in the event of a breach of Section 5(b) or 5(c), BluFin shall be the sole and exclusive owner of any products of reverse engineering or derivative works created by or for Customer.

23. DISPUTE RESOLUTION

Any Claim arising out of, based on or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, subject to the provisions of this Agreement, including this Section, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The costs of arbitration, including the fees and expenses of the arbitrator(s), shall be shared equally by the parties. Each party shall bear its own costs and attorneys' fees for preparing and presenting its case. The place of the arbitration shall be the Borough of Manhattan, New York. In no event shall the arbitrator(s) have the authority to make any award that provides for punitive or exemplary damages. The arbitrators' decision shall follow the plain meaning of the relevant documents. In addition, notwithstanding the foregoing, BluFin shall have the right to seek injunctive relief and other equitable remedies in any court of competent jurisdiction with respect to any breach by Customer of its obligations under this Agreement, including any breach affecting BluFin's intellectual property or proprietary rights. The arbitrator(s) shall not have the power to consolidate proceedings under this Agreement with any other proceeding. In no event shall Customer bring or join any class action lawsuit or arbitration against any BluFin Party or be a representative plaintiff or plaintiff class member in any such lawsuit or arbitration.

24. PRIVACY

Customer acknowledges that it has read the BluFin Privacy Policy posted at www.blufinresearch.com/privacy. Customer hereby consents to the processing of personal data in accordance with the terms of the BluFin Privacy Policy. The Privacy Policy may be modified by BluFin at any time, in its sole discretion, as provided in therein.

25. EXCUSABLE DELAYS

If the performance of this Agreement or of any obligation hereunder, except for the payment of any amounts due hereunder, is prevented, restricted or interfered with by reason of any cause beyond the reasonable control of the affected party, such party, upon prompt written notice to the other party, shall be excused from such performance to the extent of the aforementioned prevention, restriction or interference.

26. SUCCESSORS AND ASSIGNS; SEVERABILITY

This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns. Customer may not assign or otherwise transfer, by operation of law or otherwise, this Agreement without the prior written consent of BluFin and any attempt to so assign or transfer this Agreement without such consent shall be void and of no effect. For the avoidance of doubt, BluFin may assign or otherwise transfer its rights and obligations under this Agreement, in whole or in part, without obtaining the consent of Customer. If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to this Agreement to the extent possible. Nothing in this Agreement shall be construed as giving any person or entity, other than the parties hereto and their permitted successors and assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof, except as expressly provided herein with respect to the BluFin Parties.

27. NOTICES

To the fullest extent permitted by applicable law, any amendments to this Agreement and any notices, requests, waivers or other communications regarding Customer's account and/or Customer's use of the BluFin Platform Service ("**Communications**") may be provided to Customer electronically and Customer hereby agrees to receive all Communications from BluFin in electronic form. Communications may, at BluFin's election, be (a) delivered to Customer's e-mail address, (b) displayed on a screen notice visible at login, or (c) posted on the pages within the BluFin website. In addition to the forgoing, Communications may also be sent by either party in writing via express courier to the address set forth on the Subscription Form.

28. GENERAL PROVISIONS

Neither party shall be deemed to have waived a provision of this Agreement except in a signed writing. The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof. The status of the parties under this Agreement shall be that of independent contractors. Nothing in this Agreement shall be construed to create a principal-agent relationship, partnership or joint venture between BluFin and Customer, or give rise to any fiduciary duty from one party to the other party. BluFin may amend this Agreement (including

the terms and conditions from the websites expressly referenced herein) at any time by sending a Communication to Customer advising Customer of such amendment. Any such amendment shall become effective (a) if displayed on a screen notice visible at login, on the date that Customer clicks and accepts such amendment, or (b) if delivered to Customer's email address or posted on the pages within the BluFin website, within thirty (30) days after BluFin sends or posts such Communication unless BluFin receives a written notice from Customer of its non acceptance and such notice of non acceptance is received by BluFin within fifteen (15) days after BluFin sends or posts the Communication. In the event Customer provides such written notice of non acceptance or declines to click and accept an amendment displayed on a login screen notice, BluFin shall have the right, but shall not be obligated, to terminate this Agreement and the BluFin Platform Service as of the date the amendment otherwise would have been effective. No other amendment shall be enforceable against BluFin unless set forth in a writing signed by an authorized officer of BluFin. No other act, document, usage, or custom shall be deemed to vary or amend this Agreement. As used herein, except as the context otherwise indicates, the singular shall include the plural and vice versa and words of any gender shall include any other gender. The conjunction "or" shall be understood in its inclusive sense (and/or). The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." Any inconsistent or additional terms or conditions proposed by Customer in a purchase order or other instrument are rejected and will not be binding on BluFin. By entering into this Agreement, Customer affirms that it is not relying on BluFin's advice, advertisements or any other representation, promise, condition, inducement or warranty, express or implied, that is not expressly and specifically set forth in writing in this Agreement. This Agreement (together with the Subscription Form and the additional terms and conditions from the websites expressly referenced herein) constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communications and prior writings with respect thereto.