

## THE PORTAL ALLIANCE RECOGNIZED QIB/QP REQUIREMENTS AND POLICIES

These Requirements and Policies (the "Requirements") apply to all Recognized QIB/QPs ("Recognized QIB/QPs") that enter into The PORTAL Alliance Access Agreement (the "Access Agreement") with The PORTAL Alliance LLC. These Requirements are incorporated into, and form a part of, each Access Agreement. Capitalized terms used but not defined herein shall have the meaning set forth in the Access Agreement.

### I. PORTAL Alliance Configuration, Security and Confidentiality.

1. The PORTAL Alliance is under no obligation to operate the PORTAL Alliance Platform in its current form. The PORTAL Alliance may, from time to time, make modifications to the PORTAL Alliance Platform.
2. It is the sole responsibility of the Recognized QIB/QP to arrange for and obtain access to the PORTAL Alliance Platform and to limit access to the PORTAL Alliance Platform to its Authorized Users (as defined below).
3. The Recognized QIB/QP must designate and notify The PORTAL Alliance of one or more employees or agents who will be users of the Portal Alliance Platform ("Authorized Users"), and will notify The PORTAL Alliance with respect to any changes to such designation(s) (including the termination of the authorization or employment of any previously designated Authorized Users). The Recognized QIB/QP's initial Authorized Users are set out in Schedule B to the Access Agreement. The Recognized QIB/QP will at all times be responsible for (a) maintaining the security of any access to or use of the PORTAL Alliance Platform by Authorized Users (or any person using a current password allocated to the Recognized QIB/QP or its Authorized Users), (b) any breach by any employee or agent of the Recognized QIB/QP (including any Authorized Users) of any obligation of the Recognized QIB/QP under these Requirements or the Recognized QIB/QP's Access Agreement and (c) any unauthorized use of the PORTAL Alliance Platform by any person through the Recognized QIB/QP's facilities or on its behalf. Upon becoming aware of any improper use of the PORTAL Alliance Platform by any person, the Recognized QIB/QP will (A) promptly notify The PORTAL Alliance thereof, (B) take immediate actions to terminate such improper use, including by terminating such person's authorization to access the PORTAL Alliance Platform, and (C) provide The PORTAL Alliance with such assistance as The PORTAL Alliance may reasonably request in investigating and remedying the consequences of such improper use.
4. The Recognized QIB/QP will cause each Authorized User to establish a unique user identification ("User ID") and a corresponding password ("Password") in accordance with various usage requirements as The PORTAL Alliance may from time to time reasonably promulgate to enable each such Authorized User to access the PORTAL Alliance Platform in accordance with the terms hereof. The Recognized QIB/QP must take appropriate steps to maintain, and to direct each Authorized User to maintain, the confidentiality of the User ID and Password assigned to such person using reasonable precautions no less rigorous than the Recognized QIB/QP takes with respect to its own comparable information. The Recognized QIB/QP will comply with all reasonable security specifications, procedures, protocols or other requirements promulgated from time to time by The PORTAL Alliance (of which The PORTAL Alliance will give prior notice to the Recognized QIB/QP) to prevent the PORTAL Alliance Platform from being improperly used or accessed. Notwithstanding any other provision in these Requirements or any Access Agreement or applicable agreement to the contrary, The PORTAL Alliance will have the right in its reasonable discretion to terminate any Authorized User's access to the PORTAL Alliance Platform at any time if reasonably necessary to comply with applicable law, prevent actions compromising the normal operation, integrity or security of the PORTAL Alliance Platform or to respond to fraudulent activity or orders or requests from regulatory authorities.
5. The PORTAL Alliance does not warrant that any method of accessing the PORTAL Alliance Platform is secure and will have no liability whatsoever in connection with a Recognized QIB/QP's method of accessing the PORTAL Alliance Platform.
6. The PORTAL Alliance may rely on the authenticity of any notice, instruction, or other communication placed on or through the PORTAL Alliance Platform with a User ID and a Password that have been assigned to any Authorized User of the Recognized QIB/QP, regardless of whether the Recognized QIB/QP has received any acknowledgment of such notice, instruction or other communication. The PORTAL Alliance may act on any such communication and will have no duty to verify whether such communication has been authorized by the Recognized QIB/QP or was in fact transmitted by an Authorized User of such Recognized QIB/QP. The PORTAL Alliance may in its discretion decline to act upon any instructions that are insufficient or incomplete, that The PORTAL Alliance reasonably believes may be unauthorized, or are not received by The PORTAL Alliance in sufficient time for The PORTAL Alliance to act upon, or in accordance with, such instructions or communications, provided that The PORTAL Alliance shall use reasonable efforts to give notice of any such action to the Recognized QIB/QP.
7. The Recognized QIB/QP will not introduce or knowingly permit the introduction of any computer viruses, worms, bombs, Trojan horses, trap doors, stop codes, protect codes or other harmful codes (collectively, "Viruses") into the PORTAL Alliance Platform and, without limiting the foregoing, each Recognized QIB/QP shall at all times use commercially reasonable security measures to prevent Viruses from being introduced into the PORTAL Alliance Platform from the Recognized QIB/QP's computer systems.
8. The Recognized QIB/QP shall immediately cease use of the PORTAL Alliance Platform if it is notified by The PORTAL Alliance, or otherwise becomes aware of, or reasonably suspects, a material technical failure or security breach of the PORTAL Alliance Platform. The Recognized QIB/QP shall promptly notify The PORTAL Alliance of any such material failure or breach of security.
9. The Recognized QIB/QP shall submit, in conjunction with its Access Agreement, such additional information as The

PORTAL Alliance may reasonably request to determine that the Recognized QIB/QP is eligible to purchase PORTAL Alliance Securities under Rule 144A and other applicable laws and regulations or access and use other information available on the PORTAL Alliance Platform, its related website or other related media. The Recognized QIB/QP's access to and use of the PORTAL Alliance Platform shall be in compliance with all applicable statutes and regulations.

10. The Recognized QIB/QP may have access from time to time to information posted on The PORTAL Alliance Platform by issuers of PORTAL Alliance Securities that are included in the transfer tracking system of a transfer agent (such securities, "Tracked Securities"). No Recognized QIB/QP may transfer any interest in Tracked Securities other than through (i) a transfer of Tracked Securities to a Designated Investor (as defined in The PORTAL Alliance QIB/QP Transfer/Tracking Agent Agreement for the Benefit of Issuers, from Time to Time, of 144A Securities, as amended from time to time (the "Transfer/Tracking Agreement")) authorized to hold such Tracked Securities or (ii) an ordinary course securities lending arrangement with one or more entities designated by the issuer or prospective issuer of Tracked Securities to act as Designated Liquidity Providers. In particular, but without limitation, other than ordinary course securities lending arrangements with a Designated Liquidity Provider or in connection with a bona fide financing arrangement for the purchase or carry of Tracked Securities with (i) a Designated Liquidity Provider or (ii) a financial institution that is a Designated Investor and has been authorized by the issuer or prospective issuer of Tracked Securities to provide financing in respect of the purchase or carry of Tracked Securities (a "Designated Financing Provider"), such Recognized QIB/QP will not enter into any option agreement, forward contract, derivative transaction or similar transaction (whether physically or cash settled) with respect or relating to the Tracked Securities, will not sell participation interests in Tracked Securities to any other person, will not pledge Tracked Securities (provided that, in connection with bona fide financing arrangements with Designated Liquidity Providers or Designated Financing Providers, Tracked Securities may be pledged to or transferred to Designated Investors), and will not enter into any other arrangement (other than a transfer of Tracked Securities to a Designated Investor otherwise permitted by the Transfer/Tracking Agreement) pursuant to which the Tracked Securities would no longer be held for its own account or it (or any securities intermediary serving as custodian through which it holds any Tracked Securities) would cease to be the sole holder of record of such Tracked Securities under Rule 12g5-1 under the Exchange Act. The Recognized QIB/QP will not continue to be party to any transaction with respect to any Tracked Securities on the date such Recognized QIB/QP becomes a Designated Investor with respect to such Tracked Securities if such transaction would be prohibited by the Transfer/Tracking Agreement or the Additional Terms (as defined in the Transfer/Tracking Agreement) applicable to such issuance of Tracked Securities. The Recognized QIB/QP agrees that the Tracked Securities are not margin-eligible for the purposes of Regulation T of the Board of Governors of the Federal Reserve System.

## II. License to Use the PORTAL Alliance Platform

1. The PORTAL Alliance grants to the Recognized QIB/QP a non-exclusive, non-assignable, non-transferable, worldwide license to view and use during the term of the Recognized QIB/QP's Access Agreement the information and data available on the PORTAL Alliance Platform that such

Recognized QIB/QP is authorized to view and use in accordance with the then applicable requirements of The PORTAL Alliance (the "PORTAL Alliance Data") for the purposes of evaluating, monitoring and effecting transactions in PORTAL Alliance Securities or engaging in other activities authorized by these Requirements or the Recognized QIB/QP's Access Agreement. As between The PORTAL Alliance and the Recognized QIB/QP, The PORTAL Alliance retains all ownership and other rights associated with PORTAL Alliance Data other than PORTAL Alliance Data supplied to The PORTAL Alliance by the Recognized QIB/QP. The Recognized QIB/QP may in no circumstances use PORTAL Alliance Data, or any other PORTAL Alliance Information, in any manner that would constitute a general solicitation or general advertising within the meaning of Rule 502 under the Securities Act of 1933, as amended (the "Securities Act").

2. The Recognized QIB/QP may not use, extract or divert data from the PORTAL Alliance Platform, or any PORTAL Alliance service or other offering associated with the PORTAL Alliance Platform for either internal or external use, except as may be specifically authorized by The PORTAL Alliance.
3. The Recognized QIB/QP may use the PORTAL Alliance Platform solely for its proper business purposes as set forth herein or in the Recognized QIB/QP's Access Agreement or as may be otherwise authorized in writing by The PORTAL Alliance. Except as expressly provided herein or in the Access Agreement, all rights are reserved by The Portal Alliance. Without limiting the foregoing, these Requirements and the Access Agreement shall not convey any ownership or intellectual property rights from The Portal Alliance to the Recognized QIB/QP. The Recognized QIB/QP also shall not copy, modify, reverse engineer, disclose, distribute, sell, lease, furnish, provide or otherwise permit access to, directly or indirectly, the PORTAL Alliance Platform or PORTAL Alliance Data to any other entity or to any individual that is not the Recognized QIB/QP's agent or employee without The PORTAL Alliance's prior written consent.
4. Notwithstanding anything to the contrary in this Section II, nothing in these Requirements shall restrict the ability of a Recognized QIB/QP to use trade data from the Recognized QIB/QP's transactions in PORTAL Alliance Securities in the ordinary course of such Recognized QIB/QP's business, irrespective of whether such data also constitutes PORTAL Alliance Data; provided, however, that such use shall not constitute a general solicitation or general advertising within the meaning of Rule 502 of the Securities Act.

## III. PORTAL Alliance Fees.

1. Although The PORTAL Alliance currently charges no fees for access to or use of the PORTAL Alliance Platform and the PORTAL Alliance Data (the "PORTAL Alliance Fees"), The PORTAL Alliance may charge Recognized QIB/QPs fees in the future. Any PORTAL Alliance Fees or modifications of such fees shall become effective upon thirty (30) days' prior notice to the Recognized QIB/QP. The Recognized QIB/QP further shall also pay, as appropriate, any applicable sales, use, goods and services, value added, transfer, withholding and other taxes, fees and charges imposed by any governmental or taxing authority in connection with these Requirements or the Recognized QIB/QP's Access Agreement or the Recognized QIB/QP's use of the PORTAL Alliance Platform (other than income tax imposed on The

PORTAL Alliance's net income or property or employment taxes).

#### IV. Trade Names.

1. None of the Access Agreement and these Requirements shall grant either Party the right to use the other Party's trade names, trademarks, servicemarks or logos in any marketing, promotional or other materials without the prior review and written consent of the other Party; provided that The PORTAL Alliance may use the Recognized QIB/QP's name, trademark or logo to identify the Recognized QIB/QP as a user of the PORTAL Alliance Platform, and a Recognized QIB/QP may identify itself as a user of The PORTAL Alliance.

#### V. Force Majeure.

1. Notwithstanding any other term or provision of these Requirements or the Access Agreement, neither The PORTAL Alliance (including, for purposes of this Section V, its third party information and software providers) nor the Recognized QIB/QP shall be obligated to perform or observe its obligations undertaken in these Requirements (except for obligations to make payments hereunder and regulatory obligations) if prevented or hindered from doing so by any circumstances beyond its control.

#### VI. Subsequent Parties; Limited Relationship.

1. The Recognized QIB/QP's Access Agreement and these Requirements shall inure to the benefit of and shall be binding upon the Parties hereto and their respective permitted successors or assigns. The Recognized QIB/QP shall not assign its Recognized QIB/QP Access Agreement or these Requirements (including by operation of law) without the prior written consent of the Company, such consent not to be unreasonably withheld. Nothing in the Recognized QIB/QP's Access Agreement or these Requirements, express or implied, is intended to or shall: (a) confer on any individual or entity other than the Parties hereto, or their respective permitted successors or assigns, any rights or remedies under or by reason of such Access Agreement or these Requirements; (b) constitute the Parties hereto partners or participants in a joint venture; or (c) appoint one Party the agent of the other.
2. Notwithstanding the foregoing, if the Recognized QIB/QP changes its name, address or taxpayer identification number, or some other event occurs which results in an entity with a different name, address or taxpayer identification number assuming the obligations of the Recognized QIB/QP hereunder or under the Recognized QIB/QP's Access Agreement, the Recognized QIB/QP or such other entity shall promptly re-execute a form of Access Agreement with such updated information and provide it to the Company, and shall take such other or additional steps as reasonably directed by the Company.

#### VII. General; Limitation of Liability.

1. **NEITHER THE PORTAL ALLIANCE (THE "DISCLAIMING PARTY"), NOR ANY OF ITS AFFILIATES, AGENTS OR REPRESENTATIVES, MAKES ANY WARRANTY TO ANY RECOGNIZED QIB/QP OR ANY OTHER PERSON AS TO THE PORTAL ALLIANCE PLATFORM OR THE SERVICES PROVIDED THEREBY, WHETHER EXPRESS OR IMPLIED, INCLUDING (A) ANY IMPLIED WARRANTY OF**

**MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (B) ANY WARRANTY OF NON-INFRINGEMENT, OR (C) ANY WARRANTY REGARDING THE CORRECTNESS, QUALITY, ACCURACY, RELIABILITY, SECURITY, PERFORMANCE, COMPLETENESS, TIMELINESS OR CONTINUED AVAILABILITY OF THE PORTAL ALLIANCE PLATFORM OR ANY THIRD PARTY SERVICES OR ANY PORTION THEREOF. THE PORTAL ALLIANCE PLATFORM AND ANY THIRD PARTY SERVICES ARE PROVIDED ON AN "AS IS" BASIS AT THE RECOGNIZED QIB/QP'S SOLE RISK. UNLESS OTHERWISE EXPRESSLY PROVIDED IN THESE REQUIREMENTS OR THE RECOGNIZED QIB/QP'S ACCESS AGREEMENT, NEITHER THE DISCLAIMING PARTY NOR ANY AFFILIATE, AGENT OR REPRESENTATIVE THEREOF SHALL HAVE ANY DUTY OR OBLIGATION TO MAINTAIN THE PORTAL ALLIANCE PLATFORM OR ANY PORTION THEREOF OR TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED THEREON.**

2. **THE PORTAL ALLIANCE WILL NOT BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGE OF ANY KIND WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS), EVEN IF THE PORTAL ALLIANCE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION.**

3. The PORTAL Alliance shall not have any liability for any losses, liabilities, costs, expenses, and/or judgments (collectively, "Losses") for (i) any actions taken, or omitted to be taken, by The PORTAL Alliance, or any of its affiliates, agents or representatives hereunder; (ii) claims arising out of the PORTAL Alliance Platform or its use, or (iii) other claims related to a failure of the PORTAL Alliance Platform to deliver, display, transmit, execute, compare, submit for clearance and settlement, adjust, retain priority for, or otherwise correctly process an order, quote, message, or other data entered into, or created by, the PORTAL Alliance Platform, except in each case for such Losses or other claims caused by its gross negligence or willful misconduct.
4. In accessing or using the PORTAL Alliance Platform, the Recognized QIB/QP may be provided with links to websites of (or otherwise presented with content provided by) third parties. The PORTAL Alliance shall not be liable for any such third party content.
5. The PORTAL Alliance makes no recommendation, and the display of any indicative quotation or other information on the PORTAL Alliance Platform or any related website or other related information medium shall not constitute a recommendation or representation, as to the merits of any PORTAL Alliance Security or any transaction negotiated with respect to such PORTAL Alliance Security, or as to the accuracy of any information included on the PORTAL Alliance Platform. None of these Requirements, any Access Agreement or the use of the PORTAL Alliance Platform or the information contained thereon shall constitute investment advice by The PORTAL Alliance or any affiliate, agent or representative thereof, and no such person shall be an advisor or a fiduciary of the Recognized QIB/QP. The PORTAL Alliance makes no recommendation as to the creditworthiness of any other Recognized QIB/QP, nor is it confirming that a contractual relationship exists between a Recognized QIB/QP and any other Recognized QIB/QP. Accordingly, in using the PORTAL Alliance Platform and

related services, the Recognized QIB/QP does so solely in reliance on the Recognized QIB/QP's own judgment.

6. The PORTAL Alliance may rely on advice, opinions or instructions received from a Recognized QIB/QP's legal counsel or its own legal counsel. The PORTAL Alliance may also rely (a) on any writing or other instruction, including any trade information, trade details or transfer instructions, believed by it in good faith to have been furnished by or on behalf of a Recognized QIB/QP; (b) on any statement of fact contained in any such writing or other instruction which it in good faith does not believe to be inaccurate; (c) on the apparent authority of any person to act on behalf of the Recognized QIB/QP as having actual authority to the extent of its good faith belief in such apparent authority; (d) on the authenticity of any signature (manual, facsimile or electronic) appearing on any writing; and (e) on the conformity to the original of any copy, and The PORTAL Alliance will not be held liable by any Recognized QIB/QP for any action taken in reliance on the foregoing.
7. The Recognized QIB/QP is hereby notified that certain other Recognized QIB/QPs or their affiliates may be affiliated with or own interests in The PORTAL Alliance LLC.

#### **VIII. Notice.**

1. Subject to clause 2 below, all notices, invoices, and other communications required to be given under these Requirements or a Recognized QIB/QP's Access Agreement to the Recognized QIB/QP shall be: (i) posted on a specially designated location on the PORTAL Alliance Platform or (ii) given in writing and sent to the Recognized QIB/QP at the email address and/or office address most recently designated in writing by the Recognized QIB/QP. All notice and other communications required to be given under these Requirements or a Recognized QIB/QP's Access Agreement to The PORTAL Alliance shall be sent to The PORTAL Alliance, One Liberty Plaza, 165 Broadway, New York, NY 10006 (or such other address as shall be notified in writing by The PORTAL Alliance to such Recognized QIB/QP as provided herein), and addressed to the attention of the PORTAL Alliance Administrator.
2. Written notice shall be deemed to have been duly given upon (i) actual receipt by the Parties, (ii) one business day following the posting of such notice by The PORTAL Alliance on the PORTAL Alliance Platform or (iii) if sent by certified mail, return receipt requested, or by any other delivery method which obtains a signed delivery receipt, as of the date of signature or of first refusal of the return receipt; provided, however, that only system notices generally applicable to similarly situated Recognized QIB/QPs may be delivered as provided in clause (ii) above.

#### **IX. Amendments**

1. The PORTAL Alliance may amend or adopt other changes to these Requirements from time to time by posting the text of the proposed amendments or other changes on the PORTAL Alliance Platform thirty (30) days prior to the date of effectiveness and sending a notification to the Recognized QIB/QP of such posting. Upon the expiration of such thirty (30)-day period such amendments or other changes shall be incorporated into the Requirements and will be in full force and effect. The thirty (30)-day notice period may be shortened or eliminated, and such amendments or changes may become immediately effective, if The PORTAL Alliance

deems that such action is reasonably necessary to comply with regulatory requests or requirements or to address or respond to exigent circumstances.

#### **X. Arbitration.**

1. All claims, disputes, controversies, and other matters in question among The PORTAL Alliance, Recognized QIB/QPs and their employees, directors, agents and associated persons arising out of, or relating to The PORTAL Alliance or PORTAL Alliance Securities (including, without limitation, the PORTAL Alliance Platform) shall be settled by final binding arbitration in accordance with these Requirements.
2. Any arbitration proceeding shall be administered by the American Arbitration Association (the "AAA") and conducted in accordance with the Commercial Arbitration Rules of the AAA (the "AAA Rules"). The number of arbitrators to preside over an arbitration shall be as follows: (a) where the amount being sought is \$75,000.00 or less, one (1) arbitrator shall preside and the Expedited Procedures of the AAA Rules shall apply, and (b) where the amount being sought is more than \$75,000.00 or where no amount is sought, three (3) arbitrators shall preside.

In those arbitrations that will be presided over by three (3) arbitrators, the arbitrators shall be selected as follows. Each party to the arbitration shall nominate one arbitrator within thirty (30) days after delivery of the demand for arbitration. In the event one such party fails to nominate an arbitrator, upon request of the other party to the same arbitration, such arbitrator shall instead be appointed by the AAA in accordance with the AAA Rules within thirty (30) days of receiving such request. The two arbitrators appointed in accordance with the above provisions shall nominate the third arbitrator within thirty (30) days of their appointment. If the first two appointed arbitrators fail to nominate a third arbitrator, then, upon request of either party to the arbitration, the third arbitrator shall be appointed by the AAA in accordance with the AAA Rules within thirty (30) days of receiving such request. The third arbitrator shall serve as chairperson of the arbitral tribunal.

3. The arbitrators shall render a written award, if any, for each claim. Recognized QIB/QPs agree that the arbitration proceedings and any aspect thereof, including, but not limited to, the contents of any awards, shall be considered confidential information.
4. The arbitration proceeding shall be held in the Borough of Manhattan, The City of New York, unless otherwise agreed by the parties to the arbitration. The decision rendered through arbitration shall be final and binding upon the parties to the arbitration and judgment may be entered in accordance with applicable law in any court or regulatory or administrative forum having jurisdiction thereof.
5. Any challenge to an arbitration decision or proceeding (other than entry or enforcement of an arbitration award/judgment) shall be brought solely in the federal or state court(s) in the Borough of Manhattan, The City of New York.
6. The foregoing procedures shall not preclude parties to the arbitration from: (i) petitioning a regulatory body regarding a matter in question over which the regulatory body has administrative jurisdiction; or (ii) pursuing from any court or administrative forum of competent jurisdiction any form of provisional remedy, including but not limited to a preliminary

injunction or attachment in aid of the arbitration, or to order any interim or conservatory measure. A request for such provisional remedy or interim or conservatory measure by a party to the arbitration to a court shall not be deemed a waiver of this agreement to arbitrate, and the dispute that is the subject of such provisional remedy or interim or conservatory measure shall continue to be subject to arbitration as provided in this Section X.

7. The PORTAL Alliance, Recognized QIB/QPs and their respective employees, directors, agents and associated persons shall not submit claims for special, consequential, punitive or indirect damages, and by entry into the Access Agreement, the Company and each Recognized QIB/QP waives any right to the same and the arbitrators shall not be authorized to award any such damages.
8. A demand for arbitration, which shall be effective upon receipt, shall not be made after the date when institution of legal or equitable proceedings based upon such claim, dispute, controversy or other matter in question would be barred by the applicable statute of limitations or laches. In no event shall such claim, dispute, controversy or other matter in question be made later than one year after the claim, dispute, controversy or other matter in question has arisen (unless the claim, dispute, controversy or other matter in question is related to the collection of past due payments or refunds).
9. By the Recognized QIB/QP's entry into the Access Agreement, the Parties and such Parties' employees, directors, agents and associated persons expressly waive any claim, dispute, controversy and other matters not brought within the period set forth herein.
10. When a party to a Transaction Document submits a demand for arbitration in connection with a legal relationship in respect of which arbitration proceedings between the parties to the same or another Transaction Document are already pending (an "Already Pending Proceeding"), the parties to such Transaction Document may request that the tribunal include the claims contained in the request (the "New Claims") in the Already Pending Proceeding. If the tribunal has not been fully constituted, such request shall be submitted to the AAA. If the tribunal has been fully constituted, such request shall be submitted to the tribunal. The AAA or the tribunal in the Already Pending Proceeding, as the case may be, shall determine whether to include the New Claims in the Already Pending Proceeding by considering such factors as the stage of the Already Pending Proceeding and the relatedness of the subject matter of the Already Pending Proceeding and the New Claims. For the avoidance of doubt, two or more arbitration proceedings may be consolidated in accordance with this Section X.10, even if the parties to such arbitration proceedings are not identical. A "Transaction Document" shall mean any of the Access Agreement, these Requirements, the PORTAL Alliance OTC Trade Negotiation System Participant Agreement and the related PORTAL Alliance OTC Trade Negotiation System Requirements and Policies.

## APPENDIX A

### Certain Definitions

#### Eligible Securities

In determining the aggregate amount of securities owned or invested on a discretionary basis by an entity, the following instruments and interests shall be excluded: securities issued by issuers that are affiliated with the purchaser or, if the purchaser is an investment company seeking to qualify as a QIB pursuant to Section (xvi) under the heading "Eligible Entities" below, are part of that purchaser's "family of investment companies"; bank deposit notes and certificates of deposit; loan participations; repurchase agreements; securities owned but subject to a repurchase agreement; and currency, interest rate and commodity swaps.

The value of eligible securities must be calculated based on cost (or on the basis of market value if (a) the entity reports its securities holdings in its financial statements on the basis of their market value and (b) no current information with respect to the cost of those securities has been published).

In determining the aggregate amount of securities owned by an entity or invested by the entity on a discretionary basis, securities owned by subsidiaries of the entity that are consolidated with the entity in its financial statements prepared in accordance with generally accepted accounting principles may be included if the investments of such subsidiaries are managed under the direction of the entity, except that, unless the entity is a reporting company under Section 13 or 15(d) of the Exchange Act, securities owned by such subsidiaries may not be included if the entity itself is a majority-owned subsidiary that would be included in consolidated financial statements of another enterprise.

#### Non-ERISA Entity

A Non-ERISA Entity means an entity that is not (a) an "employee benefit plan" (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) subject to Title I of ERISA; (b) a plan, individual retirement account or other arrangement subject to (i) Section 4975 of the Internal Revenue Code of 1986, as amended (the "**Code**") or (ii) any other federal, state, local, non-U.S. or other laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions contained in Title I of ERISA or Section 4975 of the Code (the entities in clauses (a) and (b) collectively, "**Plans**"); or (c) an entity whose underlying assets are considered to include "plan assets" of any such plan, account or arrangement by reason of a Plan's investment in such entity or otherwise.

#### Eligible Entities

An institution referred to in any of paragraphs (i) through (xiii) below that owns or invests on a discretionary basis at least \$100 million in "eligible securities" (defined above) and is acting for its own account or for the accounts of other QIBs, or an entity identified in (xiv) to (xvii) below.

(i)	<b>Insurance Company</b>	An insurance company as defined in Section 2(13) of the Securities Act.
(ii)	<b>Investment Company</b>	An investment company registered under the Investment Company Act.
(iii)	<b>Investment Adviser</b>	An investment adviser registered under the Investment Advisers Act of 1940, as amended (the " <b>Investment Advisers Act</b> ").
(iv)	<b>Corporation</b>	A corporation (other than a bank as defined in Section 3(a)(2) of the Securities Act or a savings and loan association or other institution referenced in Section 3(a)(5)(A) of the Securities Act or a foreign bank or savings and loan association equivalent institution).
(v)	<b>Partnership</b>	A partnership or Massachusetts or similar business trust.
(vi)	<b>Plan</b>	A plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees.
(vii)	<b>Employee Benefit Plan</b>	An employee benefit plan within the meaning of Title I of ERISA.

(viii)	<b>Trust Fund</b>	A trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in paragraph (vi) or (vii) above, except trust funds that include as participants individual retirement accounts or H.R. 10 plans.
(ix)	<b>Organization</b>	An organization described in Section 501(c)(3) of the Code.
(x)	<b>Business Development Company, Investment Company Act</b>	A business development company as defined in Section 2(a)(48) of the Investment Company Act.
(xi)	<b>Business Development Company, Advisers Act</b>	A business development company as defined in Section 202(a)(22) of the Investment Advisers Act.
(xii)	<b>Small Business Investment Company</b>	A Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958, as amended.
(xiii)	<b>Bank</b>	A bank as defined in Section 3(a)(2) of the Securities Act, a savings and loan association or other institution as referenced in Section 3(a)(5)(A) of the Securities Act or a foreign bank or savings and loan association or equivalent institution that has an audited net worth of at least \$25 million in its latest annual financial statements.
(xiv)	<b>Dealer</b>	A dealer registered pursuant to Section 15 of the Exchange Act acting for its own account or the accounts of other QIBs, that in the aggregate owns and invests on a discretionary basis at least \$10 million of securities of issuers that are not affiliated with the dealer, provided that securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as a participant in a public offering shall not be deemed to be owned by such dealer.
(xv)	<b>Dealer acting in a riskless principal transaction</b>	A dealer registered pursuant to Section 15 of the Exchange Act, acting in a riskless principal transaction on behalf of a QIB.
(xvi)	<b>Investment Company, part of a family</b>	An investment company registered under the Investment Company Act, acting for its own account that is part of a family of investment companies (as defined in Rule 144A) that own in the aggregate at least \$100 million in eligible securities.
(xvii)	<b>Entity, all of the equity owners of which are QIBs</b>	Any entity, all of the equity owners of which are QIBs, acting for its own account or the accounts of other QIBs.