

# DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into on the \_\_\_\_ day of June\_\_\_\_\_, 2003 (the “**Effective Date**”), by and between Strategy Runner (Israel) Ltd. of 48a Dereh Petah Tiqwa, Tel Aviv, 66184 Israel, (the “**Contractor**”), and Strategy Vendors \_\_\_\_\_(the “**Company**”).

WHEREAS, Contactor is engaged, inter alia, in the business of development of certain technology relating automated system for trading (the “**System**”) and offers various services and products with respect to the System, including the development of applicable strategies; and

WHEREAS, Company desires to engage the Contractor to develop for the benefit of the Company the Strategy (as define below), which shall be implemented in the Contractor’s System, according to the specifications attached hereto as Schedule A, for the purposes of providing trading services to Customers (as define below) and the Contractor is willing to provide such Strategy, all according to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements set forth below, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and intending to be legal bound hereby, the parties agree as follows:

## 1. Definitions

1.1 Customers shall mean any of Company’s clients (including brokers and clearing houses), permitted to use the System for the purpose of automated order entry services for trading and as specified under Schedule 1.1 attached hereto.

1.2 System shall mean an automated system and including the Software and Technology (defined below) for electronic order entry and retrieval services in automated strategies and manual trading in financial markets.

1.3 Software shall mean any software relating to the System or derived there from, including without limitation software for strategies definition and execution.

1.4 Strategy shall mean a certain strategy for trading in financial markets according to the specifications attached hereto as Schedule A.

1.5 Technology shall mean the existing proprietary know how and intellectual property owned and/or developed by Contractor, relating to or derived from the System, constituting of the Software, documented know-how, designs, production, diagrams, computer programs and their source, plans and designs for plans, skills, methods and all discoveries, processes, developments, improvements.

2. **The Engagement.**

The Company hereby engages the Contractor to develop, and the Contractor hereby agrees to develop for The Company, the Strategy according to the specifications described in Schedule A hereto.

3. **Duties and representations of Company.**

- 3.1 Not later than \_\_\_\_\_ days upon delivery of the Strategy to the Company by Contractor, Company shall deliver to Contractor a written acceptance, in which it shall acknowledge that the Strategy provided by Contractor meets the specifications, can be implemented into the System, and it has no demands towards Contractor with respect to the Strategy. For avoidance of doubt, upon delivery of such acceptance, Contractor shall not be liable in any manner towards the Company nor the Customers over wrong orders, signals and/or display of indicators (the “Implemented **System Performance**”).
- 3.2 Company shall have the sole liability for the use by its Customers of the Strategy (including with respect to its implementation into the System), and Company undertakes to Contractor that accordingly, Company shall notify its Customers that Contractor has no such liability.
- 3.3 In the event that any Customer shall notify the Company in writing that certain Implemented System Performance is incorrect, the Company shall first try to assist such Customer by providing him certain support. To the extent that the Company shall not be able to provide such assistance due to any reason, the Company may reasonably ask Contractor to provide such support to fix the discrepancy, provided however, that such support by Contractor shall be made only with respect to parameters and order definitions, and further provided that nothing contained in this Section 3.3 shall derogate from Company’s acknowledgements hereunder that Contractor shall not have any responsibility whatsoever towards the Customers.
- 3.4 Upon execution of this Agreement and thereafter, Company shall notify Contractor of each of the Customers to which the Company provides the use of the Strategy.
- 3.5 Until the later of (i) sixty (60) days following the finalization of development of the Strategy, the implementation thereof into the System and the acceptance by the Company, and (ii) the termination hereof, Company shall deliver on a monthly basis, report regarding the performance of the Strategy which shall include the details described under Schedule 3.5, attached hereto, or any other information as the parties will mutually agree between them. For the avoidance of doubt, this Section 3.5, shall survive any termination hereof.

4. **Intellectual Property Rights.**

- 4.1 Contractor acknowledges that the Strategy developed and delivered by Contractor to the Company pursuant to this Agreement shall be solely owned by the Company.
- 4.2 Company acknowledge Contractor's sole ownership of the System, and any Technology and Software related thereto, and that Contractor's services provided hereunder in connection with the Strategy shall not in any manner derogate from such Contractor's rights.

#### 5. **No Restriction on Contractor's Activities**

Company acknowledges that the Contractor is engaged, inter alia, in the business of development of certain technology relating automated system for trading. Nothing herein contained shall restrict the Contractor or prevent it from continuing such engagements, and or the use and exploitation by Contractor of the System and/or any related Software of Technology.

#### 6. **Indemnification**

Company shall hold the Contractor harmless from, and shall indemnify the Contractor against any and all damages arising out of alleged or proven liability for damage caused by the Strategy and/or otherwise associated with the use of the Strategy, including when implemented into the System, including without limitations by the Customers.

#### 7. **Confidentiality.**

- 7.1 The parties hereby acknowledge and agree that any confidential information disclosed to one party by the other party ("**Confidential Information**") shall remain confidential, and the parties shall treat (and take precautions to ensure that their employees treat) the above as confidential information in accordance with the confidentiality requirements and conditions set forth below.
- 7.2 The parties shall not disclose the Confidential Information or any part thereof to any third party whatsoever except to (a) their own employees on a "need to know" basis only in which event they shall take all steps to ensure that said employee(s) will maintain absolute secrecy with regard to any portion of the Confidential Information disclosed to them; or (b) to any third party directly engaged in the performance of this Agreement on a "need to know" basis only in which event they shall take all steps to ensure that said third party will maintain absolute secrecy with regard to any portion of the Confidential Information disclosed to it, including, inter alia, the taking by such third party of all steps to ensure that the employees thereof will maintain absolute secrecy with regard to any portion of the Confidential Information disclosed to it or them, such disclosure to be made on a "need to know" basis only.

8. **Term and Termination**

This Agreement and the performance of work hereunder may be terminated by either party by a written notice to the other party of immediate effect and without liability to the other party, upon the occurrence of one or more of the following:

- 8.1 The other party becomes insolvent or commits an act of bankruptcy; or
- 8.2 The other party is in default of any provision of this Agreement and such default has not been cured within 20 days after receipt of notice thereof or if it becomes obvious that the other party cannot or will not perform its obligations hereunder.

9. **Transfer and Assignment**

Neither party may assign any of its rights or obligations under this Agreement without the other party's prior approval, except that either party may so assign to an entity controlling, controlled by or under common control with such party (an "Affiliate").

10. **Dispute Resolution, Governing Law and Jurisdiction.**

This Agreement shall be exclusively governed by the laws of Chicago and the competent courts situated in Chicagoshall have exclusive jurisdiction over any dispute relating to this Agreement.

11. **General Provisions**

- 11.1 This Agreement constitutes the entire agreement between parties pertaining to the subject matter hereof and supersedes all prior representations, warranties, conditions, agreements, and understandings, whether oral or written, express or implied, relating to this Agreement.
- 11.2 No failure on the part of either Contractor or Company to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of the either party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy.
- 11.3 All communications required by this Agreement to be made in writing shall be hand delivered, faxed or mailed to the other party to its address as set forth in the preamble of this Agreement. Notices sent to such address by registered mail with return receipt requested, shall be deemed delivered within five working days in the postal service from dispatch.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

STRATEGY RUNNER  
(ISRAEL) LTD.

STRATEGY VENDOR

By: \_\_\_\_\_

By: \_\_\_\_\_