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11. *Applicable Law and Forum*. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, exclusive of its choice of law rules. Each party to this Agreement hereby submits to the exclusive jurisdiction of the state and federal courts sitting in the State of Delaware, and waives any jurisdictional, venue or inconvenient forum objections to such courts. In any action to enforce this Agreement, the prevailing party will be entitled to costs and attorneys' fees. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.
12. *Entire Agreement*. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all written or oral agreements heretofore existing between the parties hereto are expressly canceled. Any modifications of this Agreement must be in writing and signed by both parties hereto, except that **NKD Group, Inc.** may modify the terms of this Agreement by sending notice to you via e-mail (at the most current e-mail address for you of file with **The NKD Group, Inc.**) fourteen (14) days in advance of the date on which such modification takes effect.
13. *Equitable Relief*. Customer acknowledges and agrees that due to the unique nature of the **Software** and Proprietary Information, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may allow you or third parties to unfairly compete with **NKD Group, Inc.** resulting in irreparable harm to **NKD Group, Inc.**, and therefore, that upon any such breach or threat thereof, **NKD Group, Inc.** shall be entitled to injunctions and other appropriate equitable relief in addition to whatever remedies it may have at law.
14. *Termination*. **NKD Group, Inc.** may terminate this Agreement at any time for any reason or for no reason by delivering notice to you by e-mail (to the most current e-mail address for you listed on file with **The NKD Group, Inc.**) of such termination. You may terminate this Agreement at any time by destroying or erasing your copy of the **Software**. Upon expiration or termination of this Agreement, you agree to destroy or erase the **Software** and any Proprietary Information. The following provisions shall survive expiration or termination of this Agreement: Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.

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**The NKD Group, Inc.** Privacy Policy (effective date: 01-JAN-07)

The NKD Group, Inc. (NKD) is committed to your privacy. This policy sets out the privacy practices for the entire NKD web site and all software products produced and marketed by The NKD Group, Inc.

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NKD will never willfully disclose information that identifies an individual visitor/software-user to any third party without first obtaining that individual's permission.

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We may occasionally ask that you provide us with information such as:

- a. Identifying information such as your name, street address or email address - This information is used to allow us to offer you specialized services such as a personalized stock portfolio, subscriptions to PC-based software or email services. You never have to answer all of these questions, although this may limit what services are available to you.
- b. General demographic information such as interests, age or income group (for example, as in our ongoing "user survey") - This information is used to assist us in improving our web site and to provide advertisers with a description of our online audience. No information that identifies an individual customer is collected for these purposes.
- c. Your comments - All users have a standing invitation to provide us with their comments about our web site. This information is used exclusively for the purpose of assisting us to improve our services. If you do choose to provide us with your name or email address, it is not shared by us; you at all times have the option of providing comments anonymously.

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### **The Visitor and Software-User is in Control**

Control over communications directed to you is placed entirely in your hands. When NKD collects name and address information about you:

- a. You can tell us if you do not wish to receive communications from NKD, such as email newsletters announcing new features;
- b. You can tell us if you do not wish to receive communications from third party companies that offer products or services NKD thinks may be of value to you;
- c. You can always decline to provide the personal information.