

## NYSE Exchange Agreement

The New York Stock Exchange requires the following agreement to be completed before TradeKing Securities, LLC can provide real-time data. Since the agreement is submitted electronically, please print these pages for your records. You are required to check every box to confirm your agreement to these terms. We cannot process your registration without this confirmation.

\*AGREEMENT FOR MARKET DATA DISPLAY SERVICES  
(Usage-Based Services/Nonprofessional Subscriber Status)  
(Electronic Version)\*

TradeKing Securities, LLC ("Vendor") agrees to make "Market Data" available to you pursuant to the terms and conditions set forth in this agreement. By manifesting your assent in the space indicated below, you ("Subscriber") agree to comply with those terms and conditions. Section 1 sets forth terms and conditions of general applicability. Section 2 applies insofar as Subscriber receives and uses Market Data made available pursuant to this Agreement as a Nonprofessional Subscriber.

### SECTION 1: TERMS AND CONDITIONS OF GENERAL APPLICABILITY

1. MARKET DATA DEFINITION - For all purposes of this Agreement, "Market Data" means (a) last sale information and quotation information relating to securities that are listed on a national securities exchange, (b) such bond and other equity last sale and quotation information, and such index and other market information, as United States registered national securities exchanges and national securities associations (each, an "Authorizing SRO") may make available and as the New York Stock Exchange ("NYSE") or the American Stock Exchange ("AMEX") may from time to time designate as "Market Data"; and (c) all information that derives from any such information.

2. PROPRIETARY NATURE OF DATA - Subscriber understands and acknowledges that each Authorizing SRO and Other Data Disseminator has a proprietary interest in the Market Data that originates on or derives from it or its market(s).

3. ENFORCEMENT - Subscriber understands and acknowledges that (a) the Authorizing SROs are third-party beneficiaries under this Agreement and (b) the Authorizing SROs or their authorized representative(s) may enforce this Agreement, by legal proceedings or otherwise, against Subscriber or any person that obtains Market Data that is made available pursuant to this Agreement other than as this Agreement contemplates. Subscriber shall pay the reasonable attorney's fees that any Authorizing SRO incurs in enforcing this Agreement against Subscriber.

4. DATA NOT GUARANTEED - Subscriber understands that no Authorizing SRO, no other entity whose information is made available over the Authorizing SROs' facilities (an "Other Data Disseminator") and no information processor that assists any Authorizing SRO or Other Data Disseminator in making Market Data available (collectively, the "Disseminating Parties") guarantees the timeliness, sequence, accuracy or completeness of Market Data or of other market information or messages disseminated by any Disseminating Party. Neither Subscriber nor any other person shall hold any Disseminating Party liable in any way for ( a ) any inaccuracy, error or delay in, or omission of, ( i ) any such data, information or message or ( ii ) the transmission or delivery of any such data, information or message, or ( b ) any loss or damage arising from or occasioned by ( i ) any such inaccuracy, error, delay or omission, ( ii ) nonperformance or ( iii ) interruption in any such data, information or message, due either to any negligent act or omission by any Disseminating Party, to any "force majeure" (e.g., flood, extraordinary weather conditions, earthquake or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications or power failure, equipment or software malfunction) or to any other cause beyond the reasonable control of any Disseminating Party.

5. PERMITTED USE - Subscriber shall not furnish Market Data to any other person or entity and, subject to Paragraph 10, shall use Market Data only for its individual use in its business.

6. DISSEMINATION DISCONTINUANCE OR MODIFICATION - Subscriber understands and acknowledges that, at any time, the Authorizing SROs may discontinue disseminating any category of Market Data, may change or eliminate any transmission method and may change transmission speeds or other signal characteristics. The Authorizing SROs shall not be liable for any resulting liability, loss or damages that may arise there from.

7. DURATION; SURVIVAL - This Agreement remains in effect for so long as Subscriber has the ability to receive Market Data as contemplated by this Agreement. In addition, Vendor may terminate this Agreement at any time, whether at the direction of the Authorizing SROs or otherwise. Paragraphs 2, 3 and 4, and the first two sentences of Paragraph 8, survive any termination of this Agreement.

8. MISCELLANEOUS - The laws of the State of New York shall govern this Agreement and it shall be interpreted in accordance with those laws. This Agreement is subject to the Securities Exchange Act of 1934, the rules promulgated under that act, and the joint-industry plans entered into pursuant to that act. This writing contains the entire agreement between the parties in respect of its subject matter. Subscriber may not assign all or any part of this Agreement to any other person. The person manifesting assent to this agreement below represents and warrants that it has legal capacity to contract and, if that person is manifesting assent on behalf of a proprietorship or a business, partnership or other organization, represents and warrants that he or she has actual authority to bind the organization.

## SECTION 2: NONPROFESSIONAL SUBSCRIBER

9. NONPROFESSIONAL SUBSCRIBER DEFINITION - "Nonprofessional Subscriber" means any natural person whom Vendor has determined to qualify as a "Nonprofessional Subscriber" and who is not:

(a) registered or qualified with the Securities and Exchange Commission (the "SEC"), the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association.

(b) engaged as an "investment advisor" as that term is defined in Section 201(11) of the Investment Advisor's Act of 1940 (whether or not registered or qualified under that Act), nor

(c) employed by a bank or other organization exempt from registration under Federal and/or state securities laws to perform functions that would require him or her to be so registered or qualified if he or she were to perform such functions for an organization not so exempt

10. PERMITTED USE - If Subscriber is a Nonprofessional Subscriber, he or she shall receive Market Data solely for his or her personal, non-business use. Subscriber shall notify Vendor promptly in writing of any change in his or her circumstances that may cause him or her to cease to qualify as a Nonprofessional Subscriber.

11. PERSONAL AND EMPLOYMENT DATA As a prerequisite to qualifying as a "Nonprofessional Subscriber", Subscriber shall provide the following information:

(Your Name)  
(Address)  
(Employer Address)  
(Occupation)  
(Employment Function)  
(Employment Title)

Subscriber shall notify Vendor promptly in writing of any change in his or her circumstances that may cause him or her to cease to qualify as a Nonprofessional Subscriber.

ACCEPTED AND AGREED: I, the "Subscriber" to which the preceding terms and conditions refer, acknowledge that I have read the preceding terms and conditions of this Section 1, that I understand them and that I hereby manifest my assent to, and my agreement to comply with, those terms and conditions by "clicking" on the "I agree" radio button:

**12. CERTIFICATION - By clicking on the following box, Subscriber hereby certifies that he or she falls within Paragraph 9's definition of "Nonprofessional Subscriber" and that the personal and employment information that he or she has included in Paragraph 11 is truthful and accurate.**

ACCEPTED AND AGREED: I, the "Subscriber" to which the preceding terms and conditions refer, acknowledge that I have read the preceding terms and conditions of this Section 2, that I understand them and that I hereby manifest my assent to, and my agreement to comply with, those terms and conditions by "clicking" on the "I agree" radio button:

## Online NASDAQ Exchange Agreement

THE VENDOR AND ITS AGENTS MAY NOT MODIFY OR WAIVE ANY TERM OF THIS AGREEMENT. ANY ATTEMPT TO MODIFY THIS AGREEMENT, EXCEPT BY NASDAQ, IS VOID.

1. The word "Nasdaq" means The Nasdaq Stock Market, Inc. and its affiliates. The word "Information" means certain data and other information: relating to securities or other financial instruments, products, vehicles or devices; or relating to Persons regulated by Nasdaq or to activities of Nasdaq; or gathered by Nasdaq from other sources. The

word "or" includes the word "and". The phrase "Claims or Losses" means any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, judgments, settlements, and expenses of whatever nature, whether incurred by or issued against an indemnified party or a third party, including, without limitation, (1) indirect, special, punitive, consequential or incidental loss or damage, (including, but not limited to, trading losses, loss of anticipated profits, loss by reason of shutdown in operation or increased expenses of operation, or other indirect loss or damage) and (2) administrative costs, investigatory costs, litigation costs, and auditors' and attorneys' and fees and disbursements (including in-house personnel). The word "Person" means any natural person, proprietorship, corporation, partnership, or other entity whatsoever. The phrase "Non-Professional Subscriber" means any natural person who is neither: (a) registered or qualified in any capacity with the SEC, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (b) engaged as an "investment advisor" as that term is defined in Section 201 (11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor, (c) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt. The phrase "Professional Subscriber" means all other persons who do not meet the definition of Non-Professional Subscriber. When it appears alone, the word "Subscriber" encompasses all Non-Professional and Professional Subscribers. The phrase "Vendor's Service" means the service from a vendor, including the data processing equipment, software, and communications facilities related thereto, for receiving, processing, transmitting, using and disseminating the Information to or by Subscriber.

2. Subscriber is granted the right to receive from Nasdaq the Information under the terms stated herein or in the FINRA Rules. "FINRA Rules" shall mean all applicable laws (including intellectual property, communications, and securities laws), statutes, and regulations, the rules and regulations of the SEC, the rules and regulations of Nasdaq including, but not limited to, those requirements established by Nasdaq's rule filings (with such SEC approval as may be required), Nasdaq's decisions and interpretations and any User Guides, or successors of the components of the FINRA Rules, as they may exist at the time. For Professional Subscriber, if any payment is due directly to Nasdaq under this Agreement, payment in full is due Nasdaq in immediately available U.S. funds, within 30 days of the date of an invoice, whether or not use is made of, or access is made to, the Information. Interest shall be due from the date of the invoice to the time that the amount(s) that are due have been paid. Subscriber shall assume full and complete responsibility for the payment of any taxes, charges or assessments imposed on Subscriber or Nasdaq (except for U.S. federal, state, or local income taxes, if any, imposed on Nasdaq) by any foreign or domestic national, state, provincial or local governmental bodies, or subdivisions thereof, and any penalties or interest, relating to the provision of the Information to Subscriber.

3. The Information is licensed only for the personal use of the Non-Professional Subscriber and the internal business use and/or personal use of the Professional Subscriber. By representing to Vendor that Subscriber is a nonprofessional, or by continuing to receive the Information at a non-professional subscriber rate, Subscriber is affirming to Vendor and Nasdaq that Subscriber meets the definition of Non-Professional Subscriber as set forth in paragraph 1 above. Subscriber will promptly give written notice to Vendor of any change in the name or place of residence or place of business at which the Information is received. Subscriber may not sell, lease, furnish or otherwise permit or provide access to the Information to any other Person or to any other office, or place. Subscriber will not engage in the operation of any illegal business; use or permit anyone else to use the Information, or any part thereof, for any illegal purpose; or violate any FINRA Rule. Professional Subscribers may, on a non-continuous basis, furnish limited amounts of the Information to customers: in written advertisements, correspondence, or other literature; or during voice telephonic conversations not entailing computerized voice, automated information inquiry systems, or similar technologies. Subscriber may not present the Information rendered in any unfair, misleading, or discriminatory format. Subscriber shall take reasonable security precautions to prevent unauthorized Persons from gaining access to the Information.

4. Subscriber acknowledges that Nasdaq, in its sole discretion, may from time to time make modifications to its system or the Information. Such modifications may require corresponding changes to be made in Vendor's Service. Changes or the failure to make timely changes by Vendor or Subscriber may sever or affect Subscriber's access to or use of the Information. Nasdaq shall not be responsible for such effects.

5. Nasdaq grants to Subscriber a nonexclusive, non-transferable license during the term of the Agreement to receive and use the Information transmitted to it by Vendor and thereafter to use such Information for any purpose not inconsistent with the terms of the Agreement or with the FINRA Rules. Subscriber acknowledges and agrees that Nasdaq has proprietary rights in the Information that originates on or derives from markets regulated or operated by Nasdaq and compilation or other rights in Information gathered from other sources. Subscriber further acknowledges and agrees that Nasdaq's third party Information providers have exclusive proprietary rights in their respective Information. In the event of any misappropriation or misuse, Nasdaq or its third party information providers shall have the right to obtain injunctive relief for its respective materials. Subscriber will attribute source as appropriate under all

the circumstances.

6. Subscriber acknowledges that Nasdaq, as a subsidiary of FINRA, when required to do so by FINRA in fulfillment of FINRA's statutory obligations, may by notice to Vendor unilaterally limit or terminate the right of any or all Persons to receive or use the Information, and that Vendor will immediately comply with any such notice and will terminate or limit the furnishing of the Information and confirm such compliance by notice to Nasdaq. Any affected Person will have available to it such procedural protections as are provided by the Exchange Act and applicable rules there under. Neither Nasdaq nor FINRA shall have any liability when complying with such FINRA notice.

7. Professional Subscriber shall make its premises available to Nasdaq for physical inspection of Vendor's Service and of Professional Subscriber's use of the Information (including review of any records regarding use of, or access to, the Information and the number and locations of all devices that receive Information), all at reasonable times, upon reasonable notice, to ensure compliance with this Agreement. Non-professional Subscriber shall comply promptly with any reasonable request from Nasdaq for information regarding the Non-Professional Subscriber's receipt, processing, display and redistribution of the Information.

8. To the extent permitted by applicable law, Subscriber acknowledges and agrees that the termination of the Vendor's Service for failure to make payments shall not be deemed or considered to be, and Subscriber waives any right to represent or assert that any such exercise constitutes, an act or omission or an improper denial or limitation of access by Nasdaq to any service or facility operated by Nasdaq as contemplated in Section 11A of the Exchange Act, or any other provision of the Exchange Act, or any rule, regulation, or interpretation adopted there under.

9. NASDAQ'S WARRANTIES/DISCLAIMER OF WARRANTIES. NASDAQ SHALL ENDEAVOR TO OFFER THE INFORMATION AS PROMPTLY AND ACCURATELY AS IS REASONABLY PRACTICABLE. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE AS A RESULT OF A FAILURE BY NASDAQ TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, NASDAQ WILL ENDEAVOR, GIVING DUE REGARD FOR THE COST, TIME, AND EFFECT ON OTHER USERS, TO CORRECT ANY SUCH FAILURE. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE, IS DELAYED, IS INTERRUPTED, IS INCOMPLETE, OR IS NOT ACCURATE OR IS OTHERWISE MATERIALLY AFFECTED FOR A CONTINUOUS PERIOD OF FOUR (4) HOURS OR MORE DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION DUE TO THE FAULT OF NASDAQ (EXCEPT FOR A REASON PERMITTED IN THIS AGREEMENT OR IN NASDAQ'S AGREEMENT WITH THE VENDOR), SUBSCRIBER'S OR ANY OTHER PERSON'S EXCLUSIVE REMEDY AGAINST NASDAQ SHALL BE (A) IF SUBSCRIBER OR ANY OTHER PERSON CONTINUES TO RECEIVE THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A PRORATED MONTH'S CREDIT OF ANY MONIES DUE, IF ANY, FOR THE AFFECTED INFORMATION DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM SAID OTHER PERSON, FOR THE PERIOD AT ISSUE OR, (B) IF SUBSCRIBER OR ANY OTHER PERSON NO LONGER RECEIVES EITHER THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A PRORATED MONTH'S REFUND OF ANY MONIES DUE FOR THE AFFECTED INFORMATION DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM SAID OTHER PERSON, FOR THE PERIOD AT ISSUE. SUCH CREDIT OR REFUND SHALL, IF APPLICABLE, BE REQUESTED BY WRITTEN NOTICE TO NASDAQ WITH ALL PERTINENT DETAILS. **BEYOND THE WARRANTIES STATED IN THIS SECTION, THERE ARE NO OTHER WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM INTERRUPTION), ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.**

#### 10. NASDAQ'S LIMITATION OF LIABILITY.

(A) EXCEPT AS MAY OTHERWISE BE SET FORTH HEREIN, NASDAQ SHALL NOT BE LIABLE TO SUBSCRIBER, ITS VENDOR OR ANY OTHER PERSON FOR INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL LOSS OR DAMAGE (INCLUDING, BUT NOT LIMITED TO, TRADING LOSSES, LOSS OF ANTICIPATED PROFITS, LOSS BY REASON OF SHUTDOWN IN OPERATION OR INCREASED EXPENSES OF OPERATION, COST OF COVER, OR OTHER INDIRECT LOSS OR DAMAGE) OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF NASDAQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(B) NASDAQ SHALL NOT BE LIABLE TO SUBSCRIBER OR ANY OTHER PERSON FOR ANY UNAVAILABILITY, INTERRUPTION, DELAY, INCOMPLETENESS, OR INACCURACY OF THE INFORMATION THAT LASTS LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION OR IF THE INFORMATION IS MATERIALLY AFFECTED FOR LESS THAN FOUR (4) CONTINUOUS HOURS DURING THE TIME THAT NASDAQ REGULARLY TRANSMITS THE INFORMATION.

(C) IF NASDAQ IS FOR ANY REASON HELD LIABLE TO SUBSCRIBER OR TO ANY OTHER PERSON, WHETHER IN TORT OR IN CONTRACT, THE LIABILITY OF NASDAQ WITHIN A SINGLE YEAR (FROM THE EFFECTIVE DATE OF THE AGREEMENT) OF THE AGREEMENT [COMBINED WITH THE TOTAL OF ALL CLAIMS OR LOSSES OF SUBSCRIBER'S VENDOR, AND ANY OTHER PERSON CLAIMING THROUGH, ON BEHALF OF, OR AS HARMED BY SUBSCRIBER] IS LIMITED TO AN AMOUNT OF SUBSCRIBER'S DAMAGES THAT ARE ACTUALLY INCURRED BY SUBSCRIBER IN REASONABLE RELIANCE, AND WHICH AMOUNT DOES NOT EXCEED THE LESSER OF: (I) IF SUBSCRIBER OR ANY OTHER PERSON CONTINUES TO RECEIVE THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A PRORATED MONTH'S CREDIT OF ANY MONIES DUE DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM ANY OTHER PERSON, FOR THE INFORMATION AT ISSUE DURING THE PERIOD AT ISSUE OR, IF SUBSCRIBER OR ANY OTHER PERSON NO LONGER RECEIVES EITHER THE INFORMATION OR ANY OTHER DATA AND/OR INFORMATION OFFERED BY NASDAQ, A REFUND OF ANY MONIES DUE DIRECTLY TO NASDAQ FROM SUBSCRIBER, OR, IF APPLICABLE, FROM ANY OTHER PERSON, FOR THE INFORMATION AT ISSUE DURING THE PERIOD AT ISSUE; OR (II) \$500.00.

(D) THIS SECTION SHALL NOT RELIEVE NASDAQ, SUBSCRIBER OR ANY OTHER PERSON FROM LIABILITY FOR DAMAGES THAT RESULT FROM THEIR OWN GROSS NEGLIGENCE OR WILLFUL TORTUOUS MISCONDUCT, OR FROM PERSONAL INJURY OR WRONGFUL DEATH CLAIMS.

(E) SUBSCRIBER AND NASDAQ UNDERSTAND AND AGREE THAT THE TERMS OF THIS SECTION REFLECT A REASONABLE ALLOCATION OF RISK AND LIMITATION OF LIABILITY.

**11. THIRD PARTY INFORMATION PROVIDERS' DISCLAIMERS OF WARRANTIES/LIMITATIONS OF LIABILITIES. NASDAQ'S THIRD PARTY INFORMATION PROVIDERS MAKE NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY (INCLUDING, WITHOUT LIMITATION, TIMELINESS, TRUTHFULNESS, SEQUENCE, COMPLETENESS, ACCURACY, FREEDOM FROM INTERRUPTION), ANY IMPLIED WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE AND THEY SHALL HAVE NO LIABILITY FOR THE ACCURACY OF, OR FOR DELAYS OR OMISSIONS IN, ANY OF THE INFORMATION PROVIDED BY THEM. NASDAQ'S THIRD PARTY INFORMATION PROVIDERS SHALL ALSO HAVE NO LIABILITY FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, WHETHER LOST PROFITS, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF THE SUBSCRIBER OR ANY OTHER PERSON SEEKING RELIEF THROUGH SUBSCRIBER, EVEN IF THE THIRD PARTY INFORMATION PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE LIABILITY OF THE THIRD PARTY INFORMATION PROVIDERS OR THEIR AFFILIATES TO SUBSCRIBER OR ANY OTHER PERSON SEEKING RELIEF THROUGH SUBSCRIBER PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEE PAID BY SUBSCRIBER OR ANY OTHER PERSON SEEKING RELIEF THROUGH SUBSCRIBER, AS APPLICABLE.**

12. Notwithstanding any other term or condition of this Agreement, Nasdaq, its third party information providers or Subscriber shall not be obligated to perform or observe their respective obligations undertaken in this Agreement (except for obligations to make payments hereunder and regulatory obligations) if prevented or hindered from doing so by any circumstances found to be beyond their control.

13. Subscriber will indemnify and hold harmless Nasdaq and its employees, officers, directors, and other agents from any and all Claims or Losses imposed on, incurred by or asserted as a result of or relating to: (a) any noncompliance by Subscriber with the terms and conditions hereof; (b) any third-party actions related to Subscriber's receipt and use of the Information, whether authorized or unauthorized under the Agreement.

14. Each party warrants and represents and will indemnify and hold harmless (and in every case, Nasdaq shall be permitted to solely defend and settle) another party (including Nasdaq) and their officers, directors, employees, and other agents, against any Claims or Losses arising from, involving, or relating to a claim of infringement or other violation of an intellectual property right by the indemnifying party, its actions or omissions, equipment, or other property. This right is conditioned on the indemnified party giving prompt written notice to the indemnifying party (as does not prejudice the defense) of the Claims or Losses and providing cooperation in the defense of the Claims or Losses (without waiver of attorney-client, work-product or other legal privilege, or disclosure of information legally required to be kept confidential).

15. Subscriber agrees that Nasdaq may enforce the terms of this Agreement against any Person, whether or not Vendor or Subscriber is a party to any such action or against Subscriber itself. In any action there shall be available injunctive relief or damages, with the prevailing party being awarded costs and attorneys' fees (including in-house

counsel).

16. In the event of any conflict between the terms of this Agreement and of the Vendor's agreement, the terms of this Agreement shall prevail as between Nasdaq and Subscriber.

17. In addition to terminations permitted under the Vendor's agreement, this Agreement may be terminated by Subscriber on 30 days written notice to Vendor and by Nasdaq on 30 days written notice either to Vendor or Subscriber. Nasdaq may also alter any term of this Agreement on 60 days written notice either to Vendor or Subscriber, and any use after such date is deemed acceptance of the new terms. In the event of Subscriber breach, discovery of the untruth of any representation of Subscriber, or where directed by FINRA in its regulatory authority, Nasdaq may terminate this Agreement on not less than three (3) days written notice to Subscriber provided either by Nasdaq or Vendor.

18. Nasdaq does not endorse or approve any equipment, Vendor, or Vendor's Service.

19. Natural persons executing this Agreement warrant and represent that they are at least eighteen (18) years of age. Subscriber and the Person executing this Agreement on behalf of Subscriber which is a proprietorship, corporation, partnership or other entity, represent that such Person is duly authorized by all necessary and appropriate corporate or other action to execute the Agreement on behalf of Subscriber.

20. All notices, invoices, and other communications required to be given in writing under this Agreement shall be directed to: The Nasdaq Stock Market, Inc., 1735 K Street, NW, Washington, DC 20006, Attn.: Manager: Market Data Distribution, or to Subscriber at the last address known to the Vendor, and shall be deemed to have been duly given upon actual receipt by the parties, or upon constructive receipt if sent by certified mail, postage pre-paid, return receipt requested, at such address or to such other address as any party hereto shall hereafter specify by written notice to the other party or parties hereto.

21. Except as otherwise provided herein, no provision of this Agreement may be amended, modified, or waived, unless by an instrument in writing executed by a duly authorized signatory of the party against whom enforcement of such amendment, modification, or waiver is sought. No failure on the part of Nasdaq or Subscriber to exercise, no delay in exercising, and no course of dealing with respect to any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under this Agreement. If any of the provisions of this Agreement, or application thereof to any Person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to Persons or circumstances other than those as to which they are held invalid or unenforceable, shall not be affected thereby and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

22. The terms of this Agreement apply to those obligations that survive any cancellation, termination, or rescission, namely, obligations relating to intellectual property, indemnification, limitation of liability, warranties, disclaimer of warranties, and Exchange Act related provisions.

23. This Agreement shall be deemed to have been made in the United States in the State of Maryland and shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of Maryland, without reference to principles of conflicts of laws thereof. Subscriber hereby consents to submit to the jurisdiction of the courts of or for the State of Maryland in connection with any action or proceeding instituted relating to this Agreement.

#### **DISCLOSURE - PLEASE READ**

Subscribers must sign a contract entitled The Nasdaq Stock Market, Inc. ("Nasdaq") Subscriber Agreement ("Agreement") in order to receive Information [see definition in Paragraph [1] of the Agreement] from Nasdaq. While all terms are important, please particularly note the following. For more information regarding each term, the paragraph number at the end of each term refers to the paragraph in the Agreement where more information can be located.

**RESTRICTIONS ON USES & TRANSFER:** Subscribers may not provide access to Information or transfer the

Agreement to others. The Information is only for personal non-professional use or, if you are a Professional Subscriber (see definition in Paragraph [1] of the Agreement) for internal business use and/or personal use. [Paragraph 3]

**MOST TYPES OF DAMAGES ARE EXCLUDED AND REMAINING DAMAGES ARE LIMITED:** Nasdaq is not liable for trading losses, lost profits or incidental, consequential or other indirect damages, even if the Information is untimely or incorrect. Other damages (if any), are strictly limited (in contract, tort, or otherwise) to a capped amount. [Paragraphs 9 and 10]

**NO IMPLIED OR STATUTORY WARRANTIES OR DUTIES:** All warranties and duties (if any) are eliminated. There are no express warranties except for a Limited Warranty regarding efforts only. STOCK QUOTES MIGHT NOT BE CURRENT OR ACCURATE. [Paragraph 9]

**SUBSCRIBERS PROVIDE AN INDEMNITY:** Subscriber indemnifies and holds harmless Nasdaq for any Claims or Losses (see definition in Paragraph [1] of the Agreement) resulting from Subscriber's breach of the Agreement, for Subscriber's infringement of a third party's intellectual property rights, or from any third party suit related to Subscriber's use or receipt of the Information. [Paragraph 13 and 14] **MARYLAND LAWS AND COURTS APPLY:** Everything relating to the Agreement is governed by the laws of the United States and the State of Maryland and any disputes can only be heard in Maryland. [Paragraph 23]

**NO ORAL AMENDMENTS & ONLY NASDAQ MAY AMEND:** The Agreement may not be altered orally and may be altered by Nasdaq pursuant to an Agreement procedure which includes notice either to Subscriber or to Vendor. Failure to terminate the Agreement before, or use of Information after, an amendment will be Subscriber's consent (or confirmation of an earlier consent) to the amendment. [Paragraph 17 and 21]

**VENDORS CAN IMPACT SUBSCRIBER'S RIGHTS BUT NOT NASDAQ'S RIGHTS:** Vendor does not have authority to change the Agreement. Vendors are obligated to provide notice of Nasdaq changes to Subscriber, but if they do not, Nasdaq's notice to Vendor is still effective, as to Subscriber including notice of cancellation. [Above Paragraph 1 and Paragraph 17]

The Agreement appears below. If you are at least 18 years old, sign it as either a Professional or a Non- Professional Subscriber by signing your name or other symbol of your signature on the "Signature" line in the appropriate signature part(s) below.

**SIGNATURE SECTION:** This section incorporates all terms of The NASDAQ Subscriber Agreement by this reference.

Do you qualify as a non-professional as defined in paragraph [1] of the Agreement?

**(Yes)**

**(No)**

#### **A. MANDATORY FOR ALL SUBSCRIBERS**

Type in your name or other symbol of your signature below:  
Signature:

B. AGENT USE ONLY (complete only if you signed on behalf of the Subscriber)

**(Print\_Name)**"Enter Name of person signing for Subscriber"

**(Title)**

"Click Other and Enter Title only if you have the same contracting authority as the listed titles but your title is different"

If you signed the Agreement, make a copy for your records (electronically or otherwise). If you did not intend to sign, or signed electronically in error, click on "Cancel." To confirm your signature and the accuracy of the information above click on "Signature Confirmed" which will submit the Agreement and legally bind Subscriber to the Agreement.

**(Signature\_Confirmed)**

**(Cancel)**

## Options Price Reporting Authority Agreement

(Options Last Sale and Quotation Information)

IMPORTANT NOTICE: THIS IS AN AGREEMENT BETWEEN YOU AND TRADEKING SECURITIES, LLC FOR YOU TO RECEIVE INFORMATION PUBLISHED BY THE OPTIONS PRICE REPORTING AUTHORITY ("OPRA"). PLEASE READ THIS AGREEMENT CAREFULLY. AFTER YOU HAVE READ THIS AGREEMENT, PLEASE INDICATE YOUR AGREEMENT TO BE BOUND BY ITS TERMS AND CONDITIONS BY CLICKING ON THE "I AGREE" BUTTON AT THE END. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU WILL BE UNABLE TO RECEIVE THE INFORMATION.

By completing and submitting this Agreement, you are applying to receive from TradeKing ("Vendor") a dial-up computer or Internet-based market data service (the "Service") providing access to current options last sale information, current options quotation information and related information ("Options Information") published by the Options Price Reporting Authority ("OPRA") pursuant to a Plan declared effective by the Securities and Exchange Commission. The "OPRA Participants" are those national securities exchanges who, from time to time, are parties to this Plan. Those persons who act from time to time as data processors on behalf of OPRA are referred to herein as "OPRA's Processor."

For the purpose of this Agreement, you hereby represent and agree as follows: (type in the answers as indicated)

**(Name)**  
**(Address)**

2. You shall receive the Service and the Options Information included therein solely for your own use, and you shall not retransmit or otherwise furnish the Options Information to any other person.
3. You acknowledge that the Options Information is and shall remain the property of the respective exchange or other market on which a reported transaction took place or a reported quotation was entered.
4. **DISCLAIMER OF LIABILITY - NEITHER TRADEKING SECURITIES, LLC , OPRA, OPRA'S PROCESSOR NOR ANY OPRA PARTICIPANT GUARANTEES THE TIMELINESS, SEQUENCE, ACCURACY OR COMPLETENESS OF ANY OF THE OPTIONS INFORMATION SUPPLIED TO YOU HEREUNDER AND NEITHER TRADEKING SECURITIES, LLC , OPRA, OPRA'S PROCESSOR NOR ANY OPRA PARTICIPANT SHALL BE LIABLE IN ANY WAY TO YOU OR TO ANY OTHER PERSON, FOR ANY LOSS, DAMAGES, COST OR EXPENSE WHICH MAY ARISE FROM ANY FAILURE OF PERFORMANCE BY TRADEKING SECURITIES, LLC , OPRA, OPRA'S PROCESSOR OR ANY OPRA PARTICIPANT, OR FROM ANY DELAYS, INACCURACIES, ERRORS IN OR OMISSIONS OF, ANY OF THE OPTIONS INFORMATION OR IN THE TRANSMISSION OR DELIVERY THEREOF, WHETHER OR NOT DUE TO ANY NEGLIGENT ACT OR OMISSION ON THE PART OF TRADEKING SECURITIES, LLC , OPRA, OPRA'S PROCESSOR OR ANY OPRA PARTICIPANT. IN NO EVENT SHALL TRADEKING SECURITIES, LLC , OPRA, OPRA'S PROCESSOR OR ANY PARTICIPANT BE LIABLE FOR DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, TRADING LOSSES, OR DAMAGES RESULTING FROM INCONVENIENCE OR LOSS OF USE OF THE SERVICE.**
5. The terms and conditions of this Agreement may be modified at any time upon notice to you. If you do not assent to the terms of any such modified Agreement at or prior to the time you next attempt to access the Service, this Agreement shall automatically be terminated.
6. Your privilege of receiving the Options Information hereunder may be terminated by you or by Vendor upon 30 days written notice from the terminating party to the other party, and may be terminated immediately upon a determination by Vendor or OPRA that you are not in compliance with this Agreement.
7. Nothing herein shall be deemed to prevent or restrict OPRA, OPRA's Processor or any OPRA Participant from discontinuing to furnish Options Information for dissemination or from making such changes in the speed of transmission, the characteristics of the electrical signals representing the Options Information or the manner of disseminating the same, as OPRA shall from time to time determine to be appropriate, with or without notice to you. You shall not hold OPRA, OPRA's Processor, or any OPRA Participant liable for any resulting liability, loss or damage that may arise there from.
8. You agree to inform Vendor promptly in writing at its address set forth above of any changes in the information



provided herein and to furnish Vendor any additional information requested by it in connection with your receipt of the Options Information.

9. The parties acknowledge and agree that this Agreement is for the express benefit of OPRA, OPRA's Processor and each OPRA Participant.

10. The provisions of Sections 3, 4 and 9 survive any termination of this Agreement and remain in full force and effect.

IF YOU AGREE TO THE TERMS AND CONDITIONS SET FORTH ABOVE, PLEASE TYPE IN YOUR NAME AND ADDRESS IN THE SPACES PROVIDED ABOVE AND CLICK ON THE "I AGREE" BUTTON BELOW. By clicking on the "I AGREE" button below and typing in your name as indicated above, you agree that: i) you have read and you understand all of the terms and conditions set forth above; and ii) you intend to form a legally binding and valid contract under which you will be bound by all of the terms and conditions set forth above.

## **BATS Global Markets, Inc. Subscriber Agreement**

Vendor may not modify or waive any term of this Agreement. Any attempt to modify this Agreement, except by BATS Global Markets, Inc. or its affiliates (collectively, "BATS"), is void.

This BATS Global Markets, Inc. Subscriber Agreement (this "Agreement"), with an effective date as of the last date executed on the signature page hereof, is made by and between the vendor referenced below ("Vendor") and the subscriber referenced below ("Subscriber").

1. Definitions. Capitalized terms used herein shall have the meanings set forth in this Section 1.

"Claims or Losses" shall mean any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, judgments, settlements and expenses of any nature, whether incurred by or issued against an indemnified party or a third-party, including, without limitation, (a) indirect, special, punitive, consequential or incidental loss or damage, and (b) administrative costs, investigatory costs, litigation costs and auditors' and attorneys' fees and expenses (including inhouse personnel).

"Exchange Data" shall mean certain data and other information relating to securities or other financial instruments, products, vehicles or devices; or relating to Persons regulated by BATS or to activities of BATS; or gathered by BATS from other sources.

"Non-Professional Subscriber" shall mean any natural person who is not: (a) registered or qualified in any capacity with the SEC, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (b) engaged as an "investment advisor" as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (c) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

"Person" shall mean any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, or other entity.

"Professional Subscriber" shall mean all other Persons who do not meet the definition of Non-Professional Subscriber.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Subscriber" shall mean, collectively, all Non-Professional Subscribers and Professional Subscribers.

"Vendor" shall mean "TradeKing Securities, LLC," as that term is defined in the BATS Global Markets, Inc. Data Agreement, as may be modified from time to time.

“Vendor’s Service” shall mean the service from a Vendor, including the data processing equipment, software, and communications facilities related thereto, for receiving, processing, transmitting, using, and disseminating Exchange Data to or by Subscriber.

2. Use of Data. Subscriber may not sell, lease, furnish or otherwise permit or provide access to Exchange Data to any other Person or to any other office or place. Subscriber will not engage in the operation of any illegal business use or permit anyone else to use Exchange Data, or any part thereof, for any illegal purpose or violation of any BATS or SEC rule or regulation. Subscriber may not present Exchange Data rendered in any unfair, misleading, or discriminatory format. Subscriber shall take reasonable security precautions to prevent unauthorized Persons from gaining access to Exchange Data.

Use by Non-Professional Subscribers. Exchange Data is licensed only for personal use by a Non-Professional Subscriber. By representing to Vendor that Subscriber is a Non-Professional Subscriber, or by continuing to receive Exchange Data at a Non-Professional Subscriber rate, Subscriber is affirming to Vendor and BATS that Subscriber meets the definition of Non-Professional Subscriber as set forth herein. A Non-Professional Subscriber shall comply promptly Updated October 20, 2014 Page 2 of 5 with any reasonable request from BATS, or its designee, for information regarding the Non-Professional Subscriber’s receipt, processing, display, use, and redistribution of Exchange Data.

Use by Professional Subscribers. Exchange Data is licensed for internal business use and/or personal use by a Professional Subscriber. Professional Subscriber may, on a non-continuous basis, furnish limited amounts of Exchange Data to customers in written advertisements, correspondence, or other literature during voice telephonic conversations not entailing computerized voice, automated information inquiry systems, or similar technologies. Professional Subscriber shall make its premises available to BATS, or its designee, for physical inspection of Vendor’s Service and of Professional Subscriber’s use of Exchange Data (including review of any records regarding use of or access to Exchange Data and the number and locations of all devices that receive Exchange Data), all at reasonable times and upon reasonable notice, to ensure compliance with this Agreement.

3. Proprietary Data. BATS grants to Subscriber a non-exclusive, non-transferable license during the term of the Agreement to receive Exchange Data distributed to it by Vendor and, thereafter, to use such Exchange Data as permitted under the terms of this Agreement and all applicable laws, statutes, rules, and regulations of BATS and the SEC, including but not limited to, BATS’ rule filings, BATS’ decisions and interpretations and any specifications or successors of such laws, statutes, rules, and regulations. Subscriber acknowledges and agrees that BATS and its affiliates have proprietary rights to Exchange Data that originates on or is derived from markets regulated or operated by BATS and compilation or other rights to Exchange Data gathered from other sources. Subscriber further acknowledges and agrees that BATS’ third-party information providers have exclusive proprietary rights to their respective information. In the event of any misappropriation or misuse by Subscriber or anyone who accesses Exchange Data through Subscriber, BATS or its third-party information providers shall have the right to obtain injunctive relief for its respective materials. Subscriber shall attribute the source of Exchange Data as appropriate under all circumstances.

4. Payment. Subscriber shall assume full and complete responsibility for the payment of any taxes, charges, or assessments imposed on Subscriber or BATS (except for U.S. federal, state, or local incomes taxes, if any, imposed on BATS) by any foreign or domestic national, state, provincial, or local governmental bodies, or subdivisions thereof, and any penalties or interest relating to the provision of Exchange Data to Subscriber. Interest shall be due from the date of the invoice to the time that the amounts that are due have been paid. To the extent permitted by applicable law, Subscriber acknowledges and agrees that the termination of Vendor’s Services for failure to make payments shall not be considered an improper limitation of access by BATS. For Professional Subscribers, if any payment is due directly to BATS under this Agreement, payment in full is due BATS in immediately available funds within 30 days of the date of an invoice, whether or not use is made of, or access it made to, Exchange Data. Subscriber agrees to pay BATS a late charge in the amount of 1% per month on all past due amounts that are not the subject of a legitimate and bona fide dispute.

5. System. Subscriber acknowledges that BATS, in its sole discretion, may from time to time make modifications to its system or Exchange Data. Such modifications may require corresponding changes to be made to Vendor’s Service.

Changes or the failure to make timely changes by Vendor may sever, delay, or otherwise affect Subscriber's access to or use of Exchange Data. BATS shall not be responsible for any such effects. BATS does not endorse or approve any Vendor, Vendor's Service or equipment utilized by Vendor or Subscriber.

6. Limitation of Liability. BATS, its officers, directors, shareholders, employees, agents and consultants shall not be liable to Subscriber or to any other Person for any inaccurate or incomplete Exchange Data received from BATS or from Vendor, any delays, interruptions, errors, or omissions in the furnishing thereof, or any direct, indirect or consequential damages arising from or occasioned by said inaccuracies, delays, interruptions, errors or omissions. This Section shall not relieve BATS, Vendor, Subscriber, or any other Person from liability for damages that result from their own gross negligence or willful tortious misconduct or from personal injury or wrongful death claims. BATS, Vendor, and Subscriber understand and agree that the terms of this Section reflect a reasonable allocation of risk and limitation of liability.

7. Disclaimer of Warranties. SUBSCRIBER EXPRESSLY ACKNOWLEDGES THAT BATS AND ITS THIRDPARTY INFORMATION PROVIDERS DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR ANY WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Third-Party Information Providers' Limitation of Liability. BATS' third-party information providers shall have no liability for any damages, whether direct or indirect, whether lost profits, indirect, special, or consequential damages of Subscriber or any other Person seeking relief through Subscriber relating to the accuracy of or delays or omissions in any Exchange Data provided by BATS' third-party information providers, even if the third-party information providers have been advised of the possibility of such damages. In no event will the liability of the third-party information providers or their affiliates to Subscriber or any other Person seeking relief through Subscriber pursuant to any cause of action, whether in contract, tort, or otherwise, exceed the fee paid by Subscriber or any other Person seeking relief through Subscriber, as applicable.

9. Claims and Losses. Subscriber agrees to indemnify and hold harmless BATS, its owners, subsidiaries, affiliates, officers, directors, employees, agents, and any related Persons from any and all Claims or Losses imposed on, incurred by, or asserted as a result of or relating to: (a) any noncompliance by Subscriber with the terms and conditions hereof; and (b) any third-party actions related to Subscriber's receipt and use of Exchange Data, whether authorized or unauthorized under this Agreement. Each party agrees to indemnify and hold harmless (and in every case, BATS shall be permitted to solely defend and settle) another party (including BATS) and their owners, subsidiaries, affiliates, officers, directors, employees, agents, and any related Persons, against any Claims or Losses arising from, involving, or relating to a claim of infringement or other violation of an intellectual property right by the indemnifying party provided that: (a) the indemnified party promptly notifies the indemnifying party in writing of the Claims or Losses; and (b) the indemnified party reasonably cooperates in the defense of the Claims or Losses.

10. Termination. Subscriber acknowledges that BATS, when required to do so in fulfillment of statutory obligations or otherwise, may by notice to Vendor unilaterally limit or terminate the right of any or all Persons to receive or use Exchange Data, or any part thereof, and that Vendor shall immediately comply with any such notice and terminate or limit the furnishing of Exchange Data and confirm such compliance by written notice to BATS. Any affected Person will have available to it such procedural protections as are provided by the Securities Exchange Act of 1934 (the "Act") and applicable rules and regulations thereunder. In addition to the termination rights permitted under any agreement Subscriber may have with Vendor, this Agreement may be terminated by Subscriber upon 30 days' written notice to Vendor and by BATS upon 30 days' written notice either to Vendor or Subscriber. In the event of Subscriber's breach, the discovery of the untruth of any representation or warranty of Subscriber, or where directed by the SEC in its regulatory authority, BATS may terminate this Agreement upon not less than 3 days' written notice to Subscriber provided either by BATS or Vendor.

11. Notices. All communications required to be given in writing to BATS under this Agreement shall be directed to:

BATS Global Markets, Inc.  
8050 Marshall Drive, Suite 120  
Lenexa, KS 66214

Attn: Legal Department

Direct communication to Subscriber at the last address known to Vendor shall be considered given (a) upon actual receipt if delivered by email, or (b) upon posting the notice or other communication on [www.bats.com](http://www.bats.com) or a successor site. Subscriber promptly shall give written notice to Vendor of any change in the name or place of residence or business at which Exchange Data is received.

12. Assignment. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns. Neither Vendor nor Subscriber shall assign this Agreement (including by operation of law) without the prior written consent of BATS, provided, however, that BATS shall not unreasonably withhold such consent. Notwithstanding the foregoing, Vendor or Subscriber may assign this Agreement to an affiliate or subsidiary without the prior written consent of BATS, provided that the assigning party is not currently in breach of this Agreement or delinquent in any fees owed to BATS. BATS may, as permitted by the Act, assign or transfer this Agreement or any of its rights or obligations hereunder to a related or unrelated party upon notice to Vendor and Subscriber.

13. Severability. Each provision of this Agreement will be deemed to be effective and valid under applicable law, but if any provision of this Agreement is determined to be invalid, void, or unenforceable under any law, rule, administrative order or judicial decision, that determination will not affect the validity of the remaining provisions of this Agreement.

14. Entire Agreement; Amendment; Waiver. This Agreement constitutes the complete and entire agreement of the parties to this Agreement with respect to its subject matter and supersedes all prior writings or understandings. If there is any conflict and/or inconsistency between this Agreement and Vendor's agreement with Subscriber, the terms of this Agreement shall prevail as between BATS and Subscriber. BATS may modify any term of this Agreement upon 60 days' written notice either to Vendor or Subscriber, and any use of Exchange Data after such date shall be deemed acceptance of the new term or condition. No failure on the part of BATS or Subscriber to exercise, no delay in exercising, and no course of dealing with respect to any right, power, or privilege under the Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under this Agreement.

15. Governing Law; Venue. This Agreement will be governed by and interpreted in accordance with the internal laws of the State of New York, USA. Subscriber hereby submits to the jurisdiction of the state and federal courts in and for the State of New York, USA for the resolution of any dispute arising under this Agreement. 16. Headings. Section headings are included for convenience only and are not to be used to construe or interpret this Agreement. All references contained herein to sections or subsections shall refer to the sections or subsections of this Agreement, unless specific reference is made to the sections or subsections of another document.

17. Third-Party Beneficiary. Vendor and Subscriber hereby designate BATS as a third-party beneficiary of this Agreement, having the right to enforce any provision herein.

18. Cumulative Remedies. Except as otherwise limited herein, all rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, equity, by statute, in any other agreement between the parties (including without limitation the Additional Agreements) or otherwise.

19. Counterparts. This Agreement may be executed in one or more counterparts, which shall each be considered an original but all of which shall constitute one and the same Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their duly authorized officers. To execute this Agreement, you must be 18 years of age and you must designate yourself as either a Non-Professional Subscriber or Professional Subscriber (see Section 2 above).

# OTC Market Data Distribution Agreement

## APPENDIX A-1 SUBSCRIBER AGREEMENT

THIS AGREEMENT, dated as of the date indicated below, by and among the Vendor and the Subscriber, each as identified below.

PLEASE NOTE THAT OTC MARKETS GROUP IS A THIRD PARTY BENEFICIARY OF THIS AGREEMENT. THIS AGREEMENT MAY NOT BE MODIFIED BY THE VENDOR, BUT MAY BE AMENDED BY OTC MARKETS GROUP PURSUANT TO A PROCEDURE THAT PROVIDES FOR NOTICE TO THE VENDOR. FAILURE TO TERMINATE THE AGREEMENT BEFORE, OR USE OF THE INFORMATION AFTER, SUCH AN AMENDMENT CONSTITUTES CONSENT TO THE AMENDMENT BY THE SUBSCRIBER. THE VENDOR IS OBLIGATED TO PROVIDE NOTICE TO THE SUBSCRIBER OF ANY SUCH AMENDMENT, BUT THE AMENDMENT WILL NONETHELESS BE EFFECTIVE WHETHER OR NOT THE VENDOR PROVIDES OR FAILS TO PROVIDE SUCH NOTICE.

### 1. Definitions.

- a. "Claims and Losses" shall mean any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, judgments, settlements, and expenses of whatever nature, whether incurred by or issued against an indemnified party or a third party, including, without limitation, (1) indirect, special, punitive, consequential or incidental loss or damage, (including, but not limited to, trading losses, loss of anticipated profits, loss by reason of shutdown in operation or increased expenses of operation, or other indirect loss or damage) and (2) administrative costs, investigatory costs, litigation costs, and auditors' and attorneys' fees and disbursements (including in-house personnel).
- b. "Historical Information" shall mean the Information after 12:00 a.m. Eastern Standard Time subsequent to the date on which such Information was first provided to Vendor by OTC Markets Group.
- c. "Historical Information Recipient" shall mean any natural person or entity that receives Historical Information.
- d. "Information" shall mean the information and data, including information, goods and services provided by Third Party Information Providers, (i) contained in OTC Markets Group's proprietary electronic quotation service data feed ("OTC Feed"), (ii) contained in OTC Markets Group's proprietary RSS feed or (iii) made available on a secured FTP interface or secured website interface, each as provided to Subscriber by Vendor.
- e. "Investment Accounting" shall mean use of the Information for portfolio valuation, preparation of client investment statements, preparation of financial statements pursuant to U.S. GAAP, IASB/IFRS or National Accounting Standards, or preparation of regulatory and other reports for Net Capital and FINRA FOCUS reports, Fund Valuation (Net Asset Value) reports, and other similar reports.
- f. "Non-Professional Subscriber" shall mean any natural person using the Information that is not (a) registered or qualified in any capacity with the SEC, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, (b) an "investment adviser" as defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified thereunder), without taking account of the exclusions to such definition contained in such section, (c) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for or by an organization except for such exemption or (d) using, or planning to use, to reproduce, duplicate, copy, sell, trade, resell or exploit or make any other use of, any part of, or the use of, or access to, the Information for any commercial purpose.
- g. "OTC Markets Group" shall mean OTC Markets Group Inc., a Delaware corporation and its affiliates.
- h. "Professional Subscriber" shall mean any Subscriber that is not a Non-Professional Subscriber.
- i. "Subscriber" shall mean Professional and Non-Professional Subscribers collectively.
- j. "Third Party Information Providers" shall mean those individuals and entities that provide information, goods and services to OTC Markets Group contained in the OTC Feed.
- k. "Vendor's Service" shall mean the service provided by the Vendor, including the data processing equipment, software, and communications facilities related thereto, for transmitting and disseminating the Information to, for use by, Subscriber.
- l. "Vendor" shall mean the person transmitting and disseminating the Information to Subscriber.

2. Right to Receive Information; Payments by a Professional Subscriber. Subscriber is granted the right to receive from OTC Markets Group the Information subject to the terms and conditions herein. In the event that a Professional Subscriber is required to make any payment directly to OTC Markets Group under this Agreement, payment in full is due in immediately available U.S. funds within 30 days of the date of an invoice, whether or not use is made of, or access is made available to, the Information. Interest shall be due from the date of the invoice to the time that the

amount(s) that are due have been paid. Subscriber shall assume full and complete responsibility for the payment of any taxes, charges or assessments imposed on Subscriber or OTC Markets Group (except for U.S. federal, state, or local income taxes, if any, imposed on OTC Markets Group) by any foreign or domestic national, state, provincial or local governmental bodies, or subdivisions thereof, and any penalties or interest, relating to the provision of the Information to Subscriber.

### 3. Use of Information.

a. OTC Markets Group hereby provides to Subscriber a non-exclusive, non-assignable, non-transferable license to receive and use the Information only for the personal, non-commercial use of the Non-Professional Subscriber and the internal business use or personal, non-commercial use of the Professional Subscriber. By representing to Vendor that Subscriber is a Non-Professional Subscriber, or by continuing to receive the Information at a Non-Professional Subscriber rate, Subscriber is affirming to Vendor and OTC Markets Group that Subscriber meets the definition of Non-Professional Subscriber as set forth in paragraph 1 above. Subscriber will give prompt written notice to Vendor of any change in the name or place of residence or place of business at which the Information is received. Except to the extent that a Professional Subscriber is permitted to distribute (i) Historical Information pursuant to Section 3(b) herein or (ii) data derived from the Information pursuant to an external derived data license authorized by OTC Markets Group, Subscriber may not sell, lease, furnish or otherwise permit or provide access to the Information to any other person or to any other office, or place; provided, however, that Professional Subscribers may furnish Information to customers, on a non-continuous basis, using only the following limited methods: (a) In written advertisements, correspondence, or other literature, or (b) during voice telephonic conversations not entailing computerized voice, automated information inquiry systems, or similar technologies. Subscriber will not engage in the operation of any illegal business or use or permit anyone else to use the Information, or any part thereof, for any illegal purpose. Subscriber shall not use the Information for Investment Accounting, valuation, or settlement, clearing and custody except in connection with the End-of-Day Pricing Service or the End-of-Day Pricing Service for Professional Information Services. Subscriber may not present the Information in any unfair, misleading, or deceptive format. Subscriber shall take reasonable security precautions to prevent unauthorized persons from gaining access to the Information.

b. Notwithstanding anything to the contrary in Section 3(a) of this Agreement, Subscriber may sell, lease, furnish or otherwise permit or provide access to Historical Information to any Historical Information Recipient, provided, that, Subscriber shall prominently display or provide, as applicable, in any medium containing Historical Information, including, but not limited to, wall boards, tickers, mobile devices, audio announcements on voice response services, or Subscriber branded Internet properties, a message that (i) specifies that the Information is Historical Information, (ii) identifies OTC Markets Group as the owner of the Historical Information, and (iii) requires that each Historical Information Recipient agree not to sell, lease, furnish or otherwise permit or provide access to Historical Information to any other person or entity, unless such Historical Information Recipient retransmits or redistributes the Historical Information in accordance with items (i) through (iii) of this subsection.

4. Modifications to OTC Markets Group's System. Subscriber acknowledges that OTC Markets Group may, in its sole, absolute and unfettered discretion, make modifications to its system or the Information from time to time and at any time. Such modifications may require corresponding changes to be made in Vendor's Service. Such changes, or the failure to make timely changes, by Vendor or Subscriber may sever or otherwise adversely affect Subscriber's access to or use of the Information. Subscriber agrees that OTC Markets Group shall have no responsibility or liability whatsoever for any such adverse effects.

5. Intellectual Property Rights. Subscriber agrees not to use the Information for any purpose that is inconsistent with the terms of this Agreement. Subscriber acknowledges and agrees that OTC Markets Group has exclusive proprietary rights in the Information. Subscriber further acknowledges and agrees that OTC Markets Group's Third Party Information Providers have exclusive proprietary rights in their respective Information. In the event of any misappropriation or misuse, Subscriber agrees that the legal remedies available to OTC Markets Group or its Third Party Information Providers will not be adequate to prevent harm to each of their proprietary rights, and OTC Markets Group and such Third Party Information Providers shall each have the right to obtain injunctive relief or other equitable remedies, individually or collectively, to protect each of their proprietary rights in such Information. Subscriber will attribute source as appropriate under all the circumstances.

6. Restriction on Use by Certain Persons. Subscriber acknowledges that OTC Markets Group may by notice to Vendor unilaterally limit or terminate the right of any or all persons, including Subscriber, to receive or use the Information, and that Vendor will immediately comply with any such notice and will terminate or limit the furnishing of the Information and confirm such compliance by notice to OTC Markets Group.

7. Inspection. Professional Subscriber shall make its premises available to OTC Markets Group for physical inspection of Vendor's Service and of Professional Subscriber's use of the Information (including review of any records regarding use of, or access to, the Information and the number and locations of all devices that receive

Information), all at reasonable times, upon reasonable notice, to ensure compliance with this Agreement. Non-professional Subscriber shall comply promptly with any reasonable request from OTC Markets Group for information regarding the Non-Professional Subscriber's receipt, processing, display, redistribution or other use of the Information.

8. LIMITED WARRANTIES; DISCLAIMER. OTC MARKETS GROUP WILL MAKE COMMERCIALY REASONABLE EFFORTS TO PROVIDE THE INFORMATION AS PROMPTLY AND AS ACCURATELY AS IS REASONABLY PRACTICABLE. NOTWITHSTANDING THE FOREGOING, SUBSCRIBER ACKNOWLEDGES AND AGREES THAT NO WARRANTY IS GIVEN THAT THE INFORMATION IS ERROR-FREE OR ACCURATE. THE INFORMATION, ANY AND ALL MATERIAL RELATED TO THE INFORMATION, AND ANY OTHER PRODUCT THAT OTC MARKETS GROUP DIRECTLY OR INDIRECTLY PROVIDES ARE PROVIDED "AS IS." EXCEPT AS SPECIFICALLY SET FORTH HEREIN, NEITHER OTC MARKETS NOR ANY OF ITS LICENSORS, THIRD PARTY INFORMATION PROVIDERS AND SUPPLIERS MAKE ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. SUBSCRIBER EXPRESSLY ASSUMES ALL RISKS FROM USING THE INFORMATION, AND/OR RELATED PRODUCTS THAT OTC MARKETS GROUP OR ITS LICENSORS, THIRD PARTY INFORMATION PROVIDERS AND SUPPLIERS DIRECTLY OR INDIRECTLY PROVIDE. This Section applies to all claims irrespective of the cause of action underlying the claim, including, but not limited to breach of contract (even if in the nature of a breach of condition or a fundamental term or a fundamental breach) and tort (including but not limited to negligence or misrepresentation).

9. LIMITATION OF LIABILITY. IN NO EVENT SHALL ANY OF OTC MARKETS GROUP, ITS LICENSORS, THIRD PARTY INFORMATION PROVIDERS OR SUPPLIERS BE LIABLE TO SUBSCRIBER, ITS VENDOR OR ANY OTHER PERSON FOR INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL LOSS OR DAMAGE (INCLUDING, BUT NOT LIMITED TO, TRADING LOSSES, LOSS OF ANTICIPATED PROFITS, LOSS BY REASON OF SHUTDOWN IN OPERATION OR INCREASED EXPENSES OF OPERATION, COST OF COVER, OR OTHER INDIRECT LOSS OR DAMAGE) OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF ONE OR MORE OF THEM HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE OR ACCURATE AS A RESULT OF A FAILURE BY OTC MARKETS GROUP TO PERFORM ITS OBLIGATIONS UNDER THE AGREEMENT, OTC MARKETS GROUP WILL ENDEAVOR, GIVING DUE REGARD FOR THE COST, TIME, AND EFFECT ON OTHER PERSONS, TO CORRECT ANY SUCH FAILURE. IN THE EVENT THAT THE INFORMATION IS NOT AVAILABLE OR ACCURATE FOR A CONTINUOUS PERIOD OF FOUR (4) HOURS OR MORE DURING THE TIME THAT OTC MARKETS GROUP REGULARLY TRANSMITS THE INFORMATION DUE TO THE INTENTIONAL FAULT OR GROSS NEGLIGENCE OF OTC MARKETS GROUP (EXCEPT FOR A REASON PERMITTED IN THE AGREEMENT), SUBSCRIBER'S OR ANY OTHER INDIVIDUAL'S OR ENTITY'S EXCLUSIVE REMEDY AGAINST OTC MARKETS SHALL BE, AT OTC MARKETS GROUP'S OPTION, EITHER A PRORATED CREDIT OR A PRORATED REFUND OF ANY MONIES DUE TO OTC MARKETS GROUP FROM SUBSCRIBER FOR THE INFORMATION AT ISSUE FOR THE PERIOD AT ISSUE. SUBSCRIBER AND OTC MARKETS GROUP UNDERSTAND AND AGREE THAT THE TERMS OF THIS SECTION REFLECT A REASONABLE ALLOCATION OF RISK AND LIMITATION OF LIABILITY.

10. Force Majeure. None of OTC Markets Group, Vendor or Subscriber shall be liable for any delays or failures to perform any of its obligations hereunder to the extent that such delays or failures are due to circumstances beyond its reasonable control, including act of God, strikes, riots, acts of war (whether declared or undeclared), acts of terror or governmental regulations imposed after the date of this Agreement.

11. Indemnification. Subscriber shall defend, be liable to, indemnify against, and hold OTC Markets Group, its employees, directors, officers, Third Party Information Providers and other agents (collectively, "OTC Markets Group Indemnified Parties") harmless from, any and all Claims or Losses imposed on, incurred by or asserted against any of the OTC Markets Group Indemnified Parties, as such Claims and Losses are incurred, as a result of or relating to: (a) any noncompliance by Subscriber with the terms and conditions hereof; (b) any third-party actions related to Subscriber's receipt and use of the Information, whether authorized or unauthorized under the Agreement. Vendor, Subscriber and OTC Markets Group shall indemnify and hold harmless (and in every case, OTC Markets Group shall be permitted solely to defend and settle) each other and their respective officers, directors, employees, and other agents, against any Claims or Losses arising from, involving, or relating to a claim of infringement or other violation of an intellectual property right by the indemnifying party, its actions or omissions, equipment, or other property, provided, however, that in the event that such Claim or Loss relates to or results from Historical Information that was modified or altered in any way by a person or entity other than OTC Markets Group, then Vendor, Subscriber and OTC Markets Group shall not indemnify and hold harmless each other and their respective officers, directors, employees, and other agents, against any such Claim or Loss. This right is conditioned on the indemnified party giving prompt written notice to the indemnifying party (as does not prejudice the defense) of the Claims or

Losses and providing cooperation in the defense of the Claims or Losses (without waiver of attorney-client, work-product or other legal privilege, or disclosure of information legally required to be kept confidential).

12. Third-Party Agreement. Subscriber agrees that OTC Markets Group may enforce the terms of this Agreement against any person, whether or not Vendor or Subscriber is a party to any such action or against Subscriber itself. In any action there shall be available injunctive relief or damages, with the prevailing party being awarded costs and attorneys' fees.

13. Conflicts. In the event of any conflict between the terms of this Agreement and of the Vendor's agreement, the terms of this Agreement shall prevail as between OTC Markets Group and Subscriber.

14. Termination. In addition to terminations permitted under the Vendor's agreement, this Agreement may be terminated by Subscriber on 30 days written notice to Vendor and by OTC Markets Group on 30 days written notice either to Vendor or Subscriber. In the event of Subscriber breach or discovery of the untruth of any representation of Subscriber, OTC Markets Group may terminate this Agreement on not less than three (3) days written notice to Subscriber provided either by OTC Markets Group or Vendor.

15. No Endorsement. OTC Markets Group does not endorse or approve any equipment, Vendor, or Vendor's Service.

16. Authority. Natural persons executing this Agreement warrant and represent that they are at least eighteen (18) years of age. Subscriber and the person executing this Agreement on behalf of Subscriber that is a proprietorship, corporation, partnership or other entity, represent that such person is duly authorized by all necessary and appropriate corporate or other action to execute the Agreement on behalf of Subscriber.

17. Notices. All notices, invoices, and other communications required to be given in writing under this Agreement shall be directed to OTC Markets Group Inc., 304 Hudson Street, 2nd Floor, New York, New York 10013, or to Subscriber at the last address known to the Vendor, and shall be deemed to have been duly given upon actual receipt by the parties, or upon constructive receipt if sent by certified mail, postage pre-paid, return receipt requested, at such address or to such other address as any party hereto shall hereafter specify by written notice to the other party or parties hereto.

18. Modifications. Except as may otherwise be set forth in this Agreement, OTC Markets Group may alter any term or condition of this Agreement on 60 days notice either to Vendor or Subscriber, and any use after such date is deemed acceptance of the new term or condition. The means of notifying Vendor and Subscriber of such new term or condition may include, but shall not be limited to, emailing such term or condition either to Vendor or Subscriber. No failure on the part of OTC Markets Group, Vendor or Subscriber to exercise, no delay in exercising, and no course of dealing with respect to any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under this Agreement. If any of the provisions of this Agreement, or application thereof to any person, entity or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which they are held invalid or unenforceable, shall not be affected thereby and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

19. Survival. The terms of this Agreement that survive any cancellation, termination, or rescission of this Agreement shall include obligations to make payment for services rendered under this Agreement and those obligations relating to intellectual property, indemnification, limitation of liability, warranties and disclaimer of warranties.

20. Rules of Construction. The descriptive headings in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in the Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, if and where applicable. The word "or" includes the word "and". The use of the singular in the Agreement shall include the plural, and vice versa.

21. Applicable Law. This Agreement and its validity, construction and performance shall be governed in all respects by the laws of the State of New York without giving effect to conflicts of law principles thereof. The parties hereto, their successors and assigns, consent to the jurisdiction of the courts of the State of New York with respect to any legal proceedings that may result from a dispute as to the interpretation or breach of any of the terms and conditions of this Agreement. The Subscriber hereby warrants and represents that it qualifies as a Professional Subscriber, as defined in paragraph one of the Subscriber Agreement.

Yes No



The Subscriber hereby warrants and represents that it qualifies as a Non-Professional Subscriber, as defined in paragraph one of the Subscriber Agreement.

Yes No

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed by their duly authorized officers. Signature on this cover sheet is in lieu of and has the same effect as signature on each document noted herein.

Vendor Enter Vendor Name

By:

Name:

Title:

Subscriber Enter Subscriber Name  
(Name on Account)

By:

Name:

Position:

Date of Agreement: