

## **NEW YORK STOCK EXCHANGE SUBSCRIBER AGREEMENT FOR MARKET DATA DISPLAY SERVICES**

Morgan Stanley Smith Barney LLC ("Vendor") agrees to make "Market Data" available to you pursuant to the terms and conditions set forth in this Agreement. By checking "I Agree" next to this Agreement, 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:

- Last sale information and quotation information relating to securities that are listed on a national securities exchange. 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"
- All information that derives from any such information

**2. PROPRIETARY NATURE OF DATA** – Subscriber understands and acknowledges that each Authorizing SRO and each entity whose information is made available over the Authorizing SROs' facilities ("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:

- The Authorizing SROs are third-party beneficiaries under this Agreement
- 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 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:

- Any inaccuracy, error or delay in, or omission of any such data, information or message or the transmission or delivery of any such data, information or message, or

- Any loss or damage arising from or occasioned by (i) any such inaccuracy, error, delay or omission, (ii) non-performance 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 below, 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 as a result.

**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:

- 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
- Engaged as an "investment advisor" as that term is defined in Section 201(11) of the Investment Adviser's Act of 1940 (whether or not registered or qualified under that Act)
- 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.

**11. PERSONAL AND EMPLOYMENT DATA** – As a prerequisite to qualifying as a Nonprofessional Subscriber, you need to confirm the required information below.

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

**12. CERTIFICATION** – Click the checkbox above to certify that you fall within Paragraph 9's definition of Nonprofessional Subscriber and that the personal and employment information in Paragraph 11 is truthful and accurate.

If you do not fall within Paragraph 9's definition of Nonprofessional Subscriber leave the box unchecked and continue below.

**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 both Sections 1 and 2, that I understand them and that I hereby agree to comply with them by checking "I Agree".