

## MARKET DATA DISTRIBUTION AGREEMENT 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 except in connection with the End-of-Day Pricing Service. 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: Enter Name  
Title: Enter Title

**Subscriber Enter Subscriber Name**  
(Name on Account)

By: \_\_\_\_\_  
Name: Enter Name  
Position: Enter Position

**Date of Agreement: Enter Date**