

## TXSE Market Data Agreement

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This TXSE Market Data Agreement (this “**Agreement**”), with an effective date as of the date executed on the signature page hereof, is made by and between TXSE LLC and Data Recipient. This Agreement is supplemented by the Market Data Policies, applicable Regulatory Requirements, Fee Schedules, TXSE Specifications and other documents incorporated by reference, available on TXSE’s website (<https://www.txse.com>) or successor website (the “**Website**”), and any Additional Agreements executed by the parties, as may be amended, modified or supplemented from time to time, that together form the entire agreement between the parties hereto. Capitalized terms used but not defined in this Agreement are defined in the Market Data Policies, Regulatory Requirements or Fee Schedules.

**1. Definitions.** The following terms, when used in this Agreement, shall have the meanings set forth below:

“**Additional Agreements**” means any additional terms and conditions or agreements entered into in writing by Data Recipient with TXSE or affiliates relating to the subject matter hereof.

“**Authorized User**” means an individual user (an individual natural Person) uniquely identified (by user ID and confidential password or other unambiguous method reasonably acceptable to TXSE) and authorized (by Data Recipient or an External Subscriber or Internal Subscriber) to access Exchange Data supplied to Data Recipient.

“**Claims and Losses**” means any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, proceedings, 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) reasonable administrative costs, investigatory costs, litigation costs and auditors’ and attorneys’ fees and expenses (including in-house personnel).

“**Connectivity Fees**” means fees charged specifically for connecting to TXSE, directly or indirectly, in order to receive Exchange Data.

“**Controls**” means any of Data Recipient’s systems, rules, procedures, authorizations and policies that, when taken together and to the satisfaction of TXSE: (a) record and identify all authorized access to Exchange Data, and (b) prevent any unauthorized access to Exchange Data, or identify and record unauthorized access and facilitate proper action.

**“Data Fees”** means fees other than Connectivity Fees charged pursuant to this Agreement in connection with the use or redistribution of Exchange Data.

**“Data Recipient”** means the party that has executed this Agreement with TXSE referenced below, and its affiliates as identified in writing to TXSE, that (a) receive and use Exchange Data for internal purposes, and/or (b) receive and distribute Exchange Data, in each case pursuant to and in accordance with the terms and conditions of this Agreement and Regulatory Requirements.

**“Data Recipient Indemnified Parties”** means, collectively, Data Recipient and its affiliates, and its and their respective owners, officers, directors, employees, contractors and agents.

**“Data Recipient Invoiced Subscribers”** means any Data Users for which Data Recipient is required to pay Data Fees to TXSE pursuant to this Agreement.

**“Data User”** means any Person that receives Exchange Data from Data Recipient, including, without limitation, an Authorized User.

**“Device”** means any computer, workstation, server or other item of equipment, fixed or portable, that receives, accesses, processes and/or displays Exchange Data in visual, audible or other form. A Device is deemed to receive Exchange Data if the Device is entitled by Controls operated by Data Recipient or an Internal Subscriber or External Subscriber.

**“Exchange Data”** means certain data and other information: (a) disseminated by a System relating to securities or other financial instruments, products, vehicles or other means; or (b) related to Persons regulated by TXSE or to activities of TXSE; or (c) gathered by TXSE from other sources.

**“External Subscriber”** means any Data User not affiliated with Data Recipient that receives Exchange Data where Data Recipient can substantially control Exchange Data for the purpose of reporting usage or qualification.

**“Fee Schedule”** means an applicable TXSE Fee Schedule, as in effect from time to time.

**“Internal Subscriber”** means any Data User affiliated with Data Recipient that receives Exchange Data where Data Recipient can substantially control Exchange Data for the purpose of reporting usage or qualification.

**“Market Data Policies”** means such policies with respect to use and/or distribution of Exchange Data as TXSE or its affiliates may adopt and make publicly available from time to time.

**“Member”** means, collectively, any Member, participant or user of TXSE, as applicable.

**“TXSE”** means Texas Stock Exchange (“TXSE”) LLC, a Delaware limited liability company, with its principal offices at 4550 Travis Street, Suite 650, Dallas, Texas 75205.

**“TXSE Indemnified Parties”** means, collectively, TXSE, its affiliates and third-party information providers, and its and their respective owners, officers, directors, employees, contractors and agents.

**“TXSE Specifications”** means the written specifications, as may be amended, modified or supplemented from time to time, with which Data Recipient’s system must comply.

**“Person”** means any individual natural person, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization or other entity.

**“Redistributor”** means an entity other than TXSE from which Data Recipient or any other Data User receives Exchange Data, which entity cannot substantially control the Exchange Data received by Data Recipient for purposes of reporting usage and qualification.

**“Regulatory Requirements”** means (a) the rules, regulations, interpretations, decisions, opinions, orders and other requirements of the Securities and Exchange Commission or other regulatory authorities, as may be applicable; (b) the rules and regulations, disciplinary decisions and rule interpretations of TXSE; (c) TXSE’s decisions, Market Data Policies, interpretations, user guides, operating procedures, specifications (including without limitation the TXSE Specifications), requirements and other documentation that is regulatory or technical in nature published on the Website; and (d) all other applicable laws, statutes, rules, regulations, orders, decisions, interpretations, opinions and other legal or regulatory requirements.

**“Subscriber Agreement”** means any agreement that TXSE or its affiliates may require Data Recipient to obtain from an External Subscriber prior to Data Recipient providing such External Subscriber with Exchange Data.

**“System”** means any system TXSE or its affiliates have developed for creation and/or dissemination of Exchange Data.

**“System Description”** means any written description of Data Recipient’s system for receiving, storing, processing, using, entitling, transmitting and disseminating Exchange Data that is provided to and approved by TXSE.

**“User Agreement”** means an agreement (either via a written contract or via Exchange rules applicable to Members) by and between Data Recipient and TXSE, pursuant to which Data Recipient has the right to access TXSE to, among other things, enter orders on TXSE, receive status updates on orders, cancel

orders and execute trades against orders on TXSE, as such agreement may be amended, modified or supplemented from time to time.

**2. Exchange Users.** All rights under this Agreement granted to any Data Recipient that is also party to a User Agreement are granted subject to the terms and conditions of this Agreement and are in addition to the rights granted to Data Recipient under the User Agreement.

If Data Recipient is a Member, then Data Recipient expressly acknowledges and agrees that: (a) this Agreement does not limit or reduce in any way Data Recipient's obligations and responsibilities as a Member; (b) this Agreement does not in any way alter the procedures or standards generally applicable to disciplinary or other actions taken by TXSE to enforce compliance with, or impose sanctions for violations of, applicable Regulatory Requirements; and (c) the nonpayment of amounts due under this Agreement could result in the suspension or cancellation of Data Recipient's membership on TXSE in accordance with applicable Regulatory Requirements.

**3. Other Recipients.** If Data Recipient has not entered into a User Agreement with TXSE, by signing this Agreement, Data Recipient has the right to access TXSE to receive data feeds from TXSE for internal purposes and for the distribution of, or otherwise enabling access (directly or indirectly) to, Exchange Data, as described in Data Recipient's System Description and approved by TXSE and not for any purpose inconsistent with the terms of this Agreement.

**4. License.** TXSE hereby grants to Data Recipient a limited, worldwide, non-exclusive, non-transferable (except as provided in Section 20), revocable license permitting Data Recipient and its affiliates, during the term of this Agreement, to: (a) receive, store, process, commingle and use for their own internal purposes any Exchange Data received (i) directly from TXSE; or (ii) from another authorized Exchange Data provider that has entered into a TXSE Market Data Agreement with TXSE, such as an extranet service provider or other Redistributor, and (b) distribute such Exchange Data to any Person that is (i) an External Subscriber that has entered into a Subscriber Agreement, (ii) another authorized Person that has entered into a TXSE Market Data Agreement with TXSE and an agreement with Data Recipient, or (iii) otherwise authorized in writing by TXSE, either individually or as a member of a category, to receive access to Exchange Data, in each case in accordance with the terms of this Agreement and Regulatory Requirements, as may be amended, modified or supplemented from time to time. Data Recipient shall not use, or permit any third party to use, Exchange Data for the creation or calculation of any index or similar work or in connection with the creation of any financial instrument or investment product, except as otherwise set forth in the Market Data Policies or otherwise authorized in writing by TXSE or a TXSE affiliate or, with respect to any Exchange Data owned by a third party, the applicable provider of such Exchange Data.

Furthermore, Data Recipient represents and warrants that the detailed description of its system for receiving, storing, processing, using, entitling, transmitting and disseminating Exchange Data, as described in its System Description, including, but not limited to, the data processing equipment, software and communications facilities related thereto, is true, complete and not misleading, and that Data Recipient and its Data Users are authorized to receive and use the Exchange Data only for the purposes set forth in this Agreement and applicable Regulatory Requirements. Any use or distribution of the Exchange Data by Data Recipient and its Data Users, including, but not limited to, reprocessing or creating derived data or services, unless expressly described in Data Recipient's System Description and approved by TXSE, is prohibited. Data Recipient acknowledges and represents that it shall not use or distribute the Exchange Data at any time in contravention of Regulatory Requirements, including, and without limitation, the restrictions on the display or other distribution of information as set forth in Section 603(c) of Regulation NMS if applicable.

Should Data Recipient intend to make any material change to its service and/or systems for use and/or distribution of the Exchange Data (including, but not limited to, redistribution and reproduction) not then described in Data Recipient's System Description, Data Recipient may only do so with TXSE's prior written approval of Data Recipient's revised System Description and subject to payment of applicable fees. TXSE shall promptly and in good faith approve or disapprove proposed modifications to Data Recipient's System Description. Data Recipient acknowledges and agrees that it acts at its own risk in developing any modification to its service and/or systems prior to receiving approval from TXSE in accordance with this Section 4. Data Recipient is not required to notify TXSE of non-material changes to its System Description.

**5. Record Retention by Data Recipient.** Data Recipient shall maintain complete and accurate records relating to the use and distribution of Exchange Data in accordance with Regulatory Requirements and other such information as TXSE from time to time may reasonably request in writing.

**6. Reporting.** Data Recipient shall comply with Regulatory Requirements relating to usage reporting, such as reporting Data Users, Devices and other units of count as specified in the Market Data Policies.

**7. Proprietary Nature of Exchange Data.** TXSE represents that Exchange Data and the System constitute valuable property of TXSE. Data Recipient expressly acknowledges and agrees that, as between TXSE and Data Recipient, TXSE has the exclusive proprietary rights in and to the System and Exchange Data that (a) originates on or relates to trading on TXSE; (b) relates to activities that are regulated or operated by TXSE; (c) TXSE derives from Exchange Data that originates on or relates to TXSE; and (d) is a compilation of information and data that TXSE gathers from other sources pursuant to separate agreements with those sources. The System and all Exchange Data, including without limitation any and all intellectual property rights inherent therein or appurtenant thereto, shall, as

between TXSE and Data Recipient, be and remain the sole and exclusive property of TXSE. Data Recipient shall not, by act or omission, diminish or impair in any manner the acquisition, maintenance and full enjoyment by TXSE, its licensors, licensees, transferees and assignees, of their proprietary or other rights in Exchange Data and the System. Data Recipient acknowledges and agrees that third party information providers that provide information, goods and services to TXSE in connection with the creation of Exchange Data may impose certain requirements on the use and distribution of their respective information and data or information derived from their information and data, and accordingly Data Recipient rights under this Agreement with respect to Exchange Data including or based on such third party information and data is subject to requirements imposed by the subject provider from time to time, notwithstanding terms and conditions of this Agreement to the contrary. TXSE makes no proprietary claim to information or data permitted to be derived from Exchange Data by Data Recipient pursuant to this Agreement that do not display, represent or recreate any Exchange Data, or readily allow Exchange Data to be recalculated.

**8. Protection of Exchange Data.** Data Recipient agrees to use commercially reasonable efforts to prevent any Person from obtaining Exchange Data through its equipment or facilities, except as authorized hereunder or in an Additional Agreement. In the event Data Recipient has reason to believe any Exchange Data is being obtained by an unauthorized Person from Data Recipient, or its affiliates or Data Users, Data Recipient agrees to use commercially reasonable efforts to ascertain the source from which, and the manner in which, the same is being obtained and to promptly inform and cooperate with TXSE fully with respect thereto. During the term of this Agreement, Data Recipient shall maintain effective Controls for any part of Data Recipient's service for which Data Recipient controls access to Exchange Data.

**9. Right to Deny Use or Distribution.** TXSE retains the right to direct Data Recipient to terminate any use or distribution of Exchange Data for any reason or no reason, in which event TXSE shall notify Data Recipient and Data Recipient shall cease using and/or distributing Exchange Data as directed by TXSE as soon as commercially practicable.

**10. Use of Name.** TXSE shall not: (a) advertise or publicly announce that it is providing services to Data Recipient or its affiliates or (b) use the name of Data Recipient or any affiliate thereof in any advertising or promotional materials, including but not limited to, any published list of data recipients or other clients in its Website displays, without the prior written consent of Data Recipient.

**11. Right to Audit.** During the term of this Agreement and for a period of twelve (12) months thereafter, Data Recipient shall allow TXSE or its appointed agent to inspect Data Recipient's records and systems to verify that internal use and/or distribution of Exchange Data (including review of any records regarding the use of, or redistribution of, the Exchange Data and locations where the Exchange Data



is being received) has been in accordance with this Agreement, the Market Data Policies and Regulatory Requirements.

**12. Qualification Requirements; Data Recipient Indemnification.** Except as otherwise set forth in this Agreement, Data Recipient shall only furnish, or cause or permit to be furnished, all or any part of Exchange Data to Data Users that, at the time of receipt thereof, are of a type qualified (as set forth in applicable Regulatory Requirements) to receive Exchange Data from Data Recipient. Data Recipient agrees that TXSE may have different qualification requirements for different Data Users. Data Recipient shall defend, indemnify and hold harmless the TXSE Indemnified Parties and any third parties that provide information, goods and services to TXSE in connection with the creation of Exchange Data from Claims and Losses based on or related to Exchange Data received by Data Recipient (including, without limitation, any Exchange Data received, used and/or distributed by Data Recipient) arising from Data Recipient's election to distribute Exchange Data to such Data User or Person without an executed Subscriber Agreement with such Data User or Person.

If any Data User fails to comply with any of the terms or conditions of this Agreement applicable to Data Users, its agreement with Data Recipient for Exchange Data, or any other agreement between Data User and TXSE (including the Additional Agreements), or has made any representation in any such agreement which was or has become untrue, then Data Recipient shall, within five (5) business days after receipt of notice from TXSE of such failure or untruth, cease providing Exchange Data to such Data User and shall, within ten (10) business days following the receipt of such notice, confirm such cessation by notice to TXSE. Data Recipient shall be solely responsible for the acts and omissions of Internal Subscribers. If a Data User is to be terminated under this provision, then TXSE will request all Data Recipients to cease providing Exchange Data to such Data User.

**13. Warranty; Disclaimers; Modifications.** TXSE represents and warrants that it has the right to grant the rights herein granted to Data Recipient. TXSE represents and warrants that the Exchange Data that it makes available to Data Recipient hereunder will be equivalent to the Exchange Data it makes available to other Persons entering into a TXSE Market Data Agreement that are subscribing to the same Exchange Data through the same Exchange Data service. Notwithstanding the foregoing, Data Recipient acknowledges and agrees that nothing in this Agreement constitutes an undertaking by TXSE to continue: (a) to make Exchange Data, the System or any aspect of either, available in the present form or configuration or under the current TXSE Specifications; or (b) to use existing communications facilities. In addition, TXSE, in its sole discretion, may make modifications, additions and/or deletions to Exchange Data, the System or any aspect of either, including its communications facilities. TXSE will use commercially reasonable efforts to provide Data Recipient with at least sixty (60) days' notice of any material modification, addition or deletion to such items, except to the extent a shorter period is: (A) required due to any situation that necessitates

modifications, additions or deletions on an accelerated basis or otherwise precludes such advance notice, or (B) required pursuant to an order of a court or an arbitrator or by a regulatory agency.

**14. Fees.** Data Recipient agrees to make timely payment of Connectivity Fees and Data Fees, as well as any applicable late fees for the failure to make payment within the required time period, in accordance with the applicable Fee Schedules. Connectivity Fees and Data Fees are payable within thirty (30) days of the invoice date. Data Recipient will be solely responsible for any and all telecommunications costs and all other expenses incurred in connecting to and maintaining its connection to, TXSE. Failure to make payments within thirty (30) days from the invoice date may result in suspension or termination of distribution of Exchange Data by TXSE to Data Recipient. Subject to Regulatory Requirements, TXSE reserves the right to change fees stated in a Fee Schedule, including Connectivity Fees and Data Fees, applicable to Data Recipient. TXSE will use commercially reasonable efforts to provide advance notice to Data Recipient (delivered via email and posted to the Website) of any changes to Connectivity Fees. TXSE will use commercially reasonable efforts to provide at least sixty (60) days advance notice to Data Recipient (delivered via email and posted to the Website) of any changes to Data Fees; provided, however, that such notice shall be not less than thirty (30) days prior to the effectiveness of the change. **Receipt or use of Exchange Data after the applicable notice period for any change of Connectivity Fees or Data Fees shall constitute acceptance of such changes by Data Recipient.**

Data Recipient is not required to actually invoice Data Recipient Invoiced Subscribers, but, in any event, Data Recipient shall be responsible for the charges associated with the Data Recipient Invoiced Subscribers. Data Recipient shall bear all risk of non-payment by Data Recipient Invoiced Subscribers or by Data Users for which Data Recipient is responsible for the charges. Data Recipient may choose to pay TXSE any charges due on behalf of any Data User. Upon Data Recipient's payment to TXSE on behalf of any Data User of any charges due hereunder, Data Recipient shall be subrogated to any and all rights of TXSE to recover such charges. Data Recipient shall pay any taxes, charges or assessments (other than taxes imposed on the net income of TXSE) by any foreign or domestic national, state, provincial or local government bodies or subdivisions thereof relating to the provision, use or distribution of Exchange Data pursuant to this Agreement, and any related penalties or interest. In addition, if Data Recipient or any Data Recipient Invoiced Subscriber is required by applicable law to deduct or withhold any such tax, charge or assessment from the fees due TXSE, then such fees due from Data Recipient to TXSE shall be increased so that the net amount actually received by TXSE after the deduction or withholding of any such tax, charge or assessment, will equal one hundred percent (100%) of the fees that are owed.

**15. Term and Termination.** This Agreement, subject to earlier termination in accordance with its terms, shall continue until it is terminated either by Data Recipient on not less than thirty (30) days' written notice to TXSE or by TXSE on



not less than sixty (60) days' written notice to Data Recipient. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice by TXSE in the event that (a) Data Recipient is not permitted or not able to receive or TXSE is prevented from disseminating Exchange Data, or any part thereof; (b) any representation, warranty or certification made by Data Recipient in this Agreement or in any other document furnished by Data Recipient is, as of the time made or furnished, materially false or misleading; (c) Data Recipient's actions or omissions result in a default of its obligations or covenants under this Agreement or in a breach of any representation, warranty, certification or other provision of this Agreement, which is material to TXSE for regulatory, commercial or other reasons, after TXSE has notified Data Recipient in writing that such action constitutes a default or breach hereunder and has not been cured within thirty (30) days of receipt of such notification by TXSE; or (d) TXSE, in its sole reasonable discretion, determines that any failure on the part of Data Recipient to comply with this Agreement has or is likely to have a materially adverse impact on the operation or performance of the System, Exchange Data or TXSE, or likely to cause disproportionate harm to TXSE's interests should termination be delayed. The following Sections will survive the termination or expiration of this Agreement for any reason: 1, 5-8, 10-19, 21, 22, 24-27 and 29. Any terms and conditions of the Additional Agreements incorporated herein by reference which by their terms are stated to survive the termination or expiration of such Additional Agreements shall survive the termination or expiration of this Agreement.

**16. Confidentiality.** Under this Agreement, TXSE (and any TXSE designee conducting an audit pursuant to this Agreement) shall keep confidential Data Recipient's System Description and Data Recipient's records, reports and payments that TXSE or its designee has reviewed or audited, and any other Data Recipient information or material reasonably considered to be of a confidential nature (whether or not designated as such), as well as any and all information received in connection with this Agreement, including but not limited to, business, financial, operational, product, service and other information. Data Recipient acknowledges that it may also obtain confidential information, data or techniques of TXSE or its affiliates (whether or not designated as such). All such confidential information, whether written or oral, shall be deemed confidential upon disclosure to the recipient. Except as otherwise set forth herein, the recipient shall use such confidential information solely for use consistent with the purposes of this Agreement; shall hold such confidential information in confidence; and shall not use, disclose, copy or publish any such confidential information without the prior written approval of the disclosing party. The recipient shall take reasonable security precautions, including at least as great as the precautions it takes to protect its own confidential information, but no less than reasonable care, to keep confidential the confidential information of the disclosing party. The recipient shall notify the disclosing party immediately upon discovery of any unauthorized use or disclosure of confidential information and will cooperate with the disclosing party in every reasonable way to help the disclosing party regain possession of the confidential information and prevent its further unauthorized use or disclosure. The parties acknowledge that monetary damages may not be a sufficient remedy for

unauthorized disclosure of confidential information, and that disclosing party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

Notwithstanding anything herein to the contrary, TXSE (or a TXSE affiliate) or Data Recipient may disclose confidential information to the extent: (a) demanded by a court, arbitrator or government agency with regulatory jurisdiction over TXSE or over Data Recipient or any judicial or government order; (b) necessary to fulfill any TXSE (or TXSE affiliate) or Data Recipient regulatory responsibility, including any responsibility over Members and associated Persons under the Act; or (c) necessary for TXSE (or TXSE affiliate) or Data Recipient and their respective employees, directors and other agents to use such confidential information consistent with the purposes of this Agreement. If a party is required to disclose information pursuant to clauses (a) and (b) immediately above, such party shall notify the disclosing party in writing, to the extent permitted by law or regulation, of such requirement prior to disclosing such information and provide the original disclosing party, at its expense, with an adequate opportunity to obtain a protective order or other reliable assurance that confidential treatment will be accorded to the confidential information. The duties in this Section 16 do not apply to data, information or techniques that: (i) were lawfully in a party's possession prior to the date of this Agreement, provided the source of that information was not known by recipient to be bound by a confidentiality agreement with or other continual, legal or fiduciary obligation of confidentiality to disclosing party; (ii) is now, or hereafter becomes, through no act or failure to act on the part of recipient, generally known to the public; (iii) is rightfully obtained by recipient from a third party so long as the party does not know that the third party has breached any obligation not to reveal such data, information or techniques; or (iv) can be demonstrated was independently developed by recipient without use or reference to the confidential information. All confidential information is and shall remain the property of the disclosing party. By disclosing confidential information to recipient, disclosing party does not grant any express or implied right to recipient to or under any patents, copyrights, trademarks or trade secret information.

TXSE shall not disclose its audit findings to any third parties (other than to its affiliates and to TXSE's and its affiliates' directors and independent consultants or subcontractors that are subject to confidentiality obligations or as otherwise set forth herein) and all information learned in connection with an audit shall constitute Data Recipient's confidential information. Notwithstanding the foregoing, nothing herein shall prevent TXSE from using the audit findings to the extent the findings are used in the aggregate with other information and such aggregation does not (a) specifically identify Data Recipient or (b) create a context where Data Recipient's identity may be reasonably inferred.

**17. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES.** Except to the extent of fraud or willful misconduct by TXSE, or a claim arising out of TXSE's indemnification or confidentiality obligations set forth herein, TXSE Indemnified Parties shall not be liable to Data Recipient or its affiliates, or to any other Person,

for Claims and Losses related to the Exchange Data, including for any inaccurate or incomplete Exchange Data received from TXSE or from a Redistributor, 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. DATA RECIPIENT EXPRESSLY ACKNOWLEDGES THAT EXCHANGE DATA AND ANY AND ALL MATERIAL RELATED TO EXCHANGE DATA, INCLUDING BUT NOT LIMITED TO THE SYSTEM AND TXSE SPECIFICATIONS, ARE BEING PROVIDED “AS IS.” EXCEPT AS EXPRESSLY SET FORTH IN SECTION 13, DATA RECIPIENT ACKNOWLEDGES THAT TXSE INDEMNIFIED PARTIES DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO EXCHANGE DATA, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR ANY WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT TO THE EXTENT OF FRAUD OR WILLFUL MISCONDUCT BY TXSE, TXSE INDEMNIFIED PARTIES SHALL NOT BE LIABLE TO DATA RECIPIENT, OR TO ANY OTHER PERSON, FOR INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO DATA, LOSS OF BUSINESS OR LOST PROFITS, ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF TXSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ABSENT FRAUD OR WILLFUL MISCONDUCT BY DATA RECIPIENT, OR A CLAIM ARISING OUT OF DATA RECIPIENT’S INDEMNIFICATION OR CONFIDENTIALITY OBLIGATIONS SET FORTH HEREIN, DATA RECIPIENT INDEMNIFIED PARTIES SHALL NOT BE LIABLE FOR INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY NATURE ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF DATA RECIPIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**18. Indemnification by Data Recipient.** Data Recipient and its affiliates agree to indemnify, defend and hold harmless TXSE Indemnified Parties from and against any and all Claims and Losses imposed on or asserted against TXSE Indemnified Parties by a third party resulting from, in connection with or arising out of (a) any failure of a Data User to comply with the terms and conditions of any TXSE required agreement for Exchange Data if Data Recipient has failed to notify TXSE in writing of such non-compliance within ten (10) days after Data Recipient knows of such non-compliance (unless such Data User is a party to a TXSE Market Data Agreement); (b) any assertion of Claims and Losses relating to this Agreement against any TXSE Indemnified Party made by any Data User (or any third party relying upon Exchange Data received by such Data User, unless such Data User is party to a TXSE Market Data Agreement); (c) the receipt, use or redistribution of Exchange Data in breach hereof by Data Recipient or its affiliates; (d) any failure by Data Recipient or its affiliates to comply with its obligations under this Agreement; and (e) any claim by any third party that the use of Data Recipient’s service (except the Exchange Data) infringes any U.S. copyright, patent, trademark, trade secret or other intellectual property right; provided that:

(i) TXSE promptly notifies Data Recipient in writing of any claim, action or allegation; however, failure to promptly notify Data Recipient of a claim shall not relieve Data Recipient of its indemnification obligations hereunder except to the extent that such failure prejudices the rights of Data Recipient; (ii) Data Recipient shall have sole control of the settlement and defense of any action to which this indemnity relates, but, upon TXSE's request, shall inform TXSE of the status of any proceedings or negotiations; and (iii) TXSE reasonably cooperates to facilitate such defense. Data Recipient, in defending any such claim, action or allegation, except with the written consent of TXSE Indemnified Parties, shall not consent to entry of any judgment or enter into any settlement which (A) does not include, as an unconditional term, the grant by the claimant to the TXSE Indemnified Parties of a release of all liabilities in respect to such claim, action or allegation and (B) subjects TXSE Indemnified Parties to any obligation in addition to those set forth herein. TXSE shall use all reasonable efforts to mitigate its loss, damage, costs and expense. Any costs recovered in a settlement will be for the account of Data Recipient.

**19. Indemnification by TXSE.** TXSE agrees to indemnify, defend and hold harmless Data Recipient Indemnified Parties from and against all Claims and Losses imposed on or asserted against a Data Recipient Indemnified Party by a third party resulting from, in connection with or arising out of a claim that Exchange Data, or Data Recipient's use thereof, or the System infringes any U.S. copyright, patent, trademark, trade secret or other intellectual property right; provided that: (a) Data Recipient promptly notifies TXSE in writing of any claim, action or allegation; however, failure to promptly notify TXSE of a claim shall not relieve TXSE of its indemnification obligations hereunder except to the extent that such failure prejudices the rights of TXSE; (b) TXSE shall have sole control of the settlement and defense of any action to which this indemnity relates, but, upon Data Recipient's request, shall inform Data Recipient of the status of any proceedings or negotiations; and (c) Data Recipient reasonably cooperates to facilitate such defense. TXSE, in defending any such claim, action or allegation, except with the written consent of Data Recipient Indemnified Parties, shall not consent to entry of any judgment or enter into any settlement which (A) does not include, as an unconditional term, the grant by the claimant to the Data Recipient Indemnified Parties of a release of all liabilities in respect to such claim, action or allegation and (B) subjects Data Recipient Indemnified Parties to any obligation in addition to those set forth herein. Data Recipient shall use all reasonable efforts to mitigate its loss, damage, costs and expense. Any costs recovered in a settlement will be for the account of TXSE.

TXSE shall not have the obligation to indemnify, defend and hold harmless Data Recipient Indemnified Parties for any and all Claims and Losses imposed on, incurred by or asserted against a Data Recipient Indemnified Party as a result of any allegation of infringement or misappropriation if the System, Exchange Data or any TXSE Specifications have not been used in accordance with this Agreement which resulted in such infringement or misappropriation, or if Data Recipient uses the System, Exchange Data or any TXSE Specifications after TXSE notifies Data

Recipient of a potential or actual infringement claim or to the extent it is based on use of a superseded version of the System, Exchange Data or any TXSE Specifications if such infringement or misappropriation would have been avoided by use of the current version of the System, Exchange Data or TXSE Specifications or if the infringement or misappropriation claim, action or allegation is the result of the combination, operation or use of the System furnished timely to Data Recipient by TXSE, Exchange Data or any TXSE Specifications with hardware, software or materials if such infringement or misappropriation would have been avoided by the use of the System, Exchange Data or any TXSE Specifications without such hardware, software or materials.

In the event of a claim, action or allegation of infringement or misappropriation or if, in TXSE's reasonable opinion, such a claim, action or allegation is likely to occur or if the use of the System, Exchange Data or any TXSE Specifications is enjoined because of infringement or misappropriation, TXSE may, at its sole option and expense, (i) procure for Data Recipient the right to continue using the System, Exchange Data or any TXSE Specifications; (ii) replace or modify the System, Exchange Data or any TXSE Specifications to be non-infringing, and require the return of the potentially infringing or misappropriating items, if applicable, without liability to Data Recipient or any other third party; or (iii) terminate this Agreement immediately without liability to Data Recipient (other than indemnification by TXSE in accordance with this Section) or any third party.

This Section sets forth the entire liability of TXSE and the exclusive remedy of Data Recipient for the infringement or misappropriation of intellectual property by TXSE.

**20. Assignment.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns. Data Recipient may not assign this Agreement in whole or in part without the prior written consent of TXSE; provided, however, that TXSE shall not unreasonably withhold such consent. Notwithstanding the foregoing, Data Recipient may assign this Agreement in its entirety to (a) an affiliate or subsidiary; (b) a successor of Data Recipient, by consolidation, merger or operation of law; or (c) a purchaser of all or substantially all of Data Recipient's assets, in each case without the prior written consent of TXSE, provided that Data Recipient (i) is not currently in breach of this Agreement or delinquent in any fees owed to TXSE hereunder and (ii) provides prior written notice to TXSE. TXSE may require the assignee to sign a new agreement with TXSE. TXSE may assign or transfer this Agreement or any of its rights or obligations hereunder to a related or an unrelated party pursuant to written notice to Data Recipient.

**21. Force Majeure.** Neither party to this Agreement will be liable for delay or failure to perform its obligations hereunder (other than a failure to pay fees when due) caused by an event that is beyond the party's control; provided, however, that such party shall use commercially reasonable efforts to remedy the situation and resume performance as specified in this Agreement.



**22. 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, and such provision shall be construed to be effective and valid to the fullest extent under applicable law.

**23. Relationship of the Parties.** Nothing herein shall be construed to create a joint venture or partnership between the parties hereto. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement or undertaking with any third party.

**24. Entire Agreement; Priority Rules; Amendment; Waiver.** Notwithstanding anything in this Agreement to the contrary, the terms and conditions of any applicable Additional Agreements shall be incorporated herein by reference, and, together with this Agreement, shall constitute the complete and entire statement of all conditions and representations of the agreement between TXSE and Data Recipient with respect to its subject matter and supersedes all prior writings or understandings. If there is any conflict or inconsistency among this Agreement and the documents incorporated herein by reference with respect to the use or distribution of Exchange Data as contemplated herein, the following order of precedence shall apply, to the extent applicable to Data Recipient: (a) Regulatory Requirements; (b) applicable Fee Schedules; (c) this Agreement; (d) the applicable System Description; (e) the User Agreement; and (f) Additional Agreements, if any.

Except as may otherwise be set forth in this Agreement, TXSE or its affiliates may amend this Agreement, the Subscriber Agreement and the Market Data Policies on sixty (60) days' prior written notice to Data Recipient, and any receipt or use of Exchange Data after such date is deemed acceptance. The means of notifying Data Recipient of such amendment may include, but not be limited to, emailing such term or condition to Data Recipient or posting such alteration on the Website upon written notice to Data Recipient.

No failure on the part of TXSE or Data Recipient 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.

**25. Notices.** Any notice given pursuant to this Agreement shall be in writing. Notice to Data Recipient may be given by nationally recognized overnight courier service to the address for Data Recipient on file with TXSE or by email to the email address for Data Recipient on file with TXSE. Notice to TXSE may be given by the same means to the address or email address of TXSE set forth in the Market Data Policies. Either party may change its address or email address for receipt of



notices by providing notice of the change to the other party. Notice shall be deemed to have been given two (2) days after the date that a properly addressed document is delivered by overnight delivery service. Notice by email shall be deemed to have been given the next business day after delivery, which may be evidenced by an electronic delivery receipt.

**26. Governing Law; Venue.** This Agreement will be governed by and interpreted in accordance with the laws of the State of New York without giving effect to any choice or conflict of law provision or rule. Both parties agree that disputes relating to this Agreement shall be resolved solely in the state or federal courts located in the County of New York in the State of New York, and each party hereby submits to the jurisdiction of such courts.

**27. Affiliates.** Notwithstanding anything to the contrary in this Agreement, the Data Recipient may identify to TXSE any affiliate that is entitled to exercise the rights of Data Recipient set forth herein on behalf of itself, the Data Recipient or any other affiliate of the Data Recipient, including, but not limited to, rights to use and distribute Exchange Data to other parties, subject to the terms of this Agreement. If this Agreement will be applicable to an affiliate, Data Recipient must submit a list of any such affiliate(s) to TXSE. By submitting the names of its affiliate(s), Data Recipient agrees that the contact information set forth herein shall be deemed to be the contact information for each affiliate and that DATA RECIPIENT SHALL ASSUME ALL RESPONSIBILITY FOR AND WILL INDEMNIFY, DEFEND AND HOLD HARMLESS TXSE INDEMNIFIED PARTIES AGAINST ANY ACTION OR INACTION BY AN AFFILIATE AS IF SUCH ACTION OR INACTION WERE THAT OF DATA RECIPIENT, AND DATA RECIPIENT AND ITS AFFILIATE(S) SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL ACTIONS AND/OR INACTIONS OF THE OTHER(S). All of the rights and licenses granted to, and all obligations of, Data Recipient under this Agreement will apply to such affiliate(s) to the same extent as applicable to Data Recipient. For the avoidance of doubt, any affiliate of Data Recipient that is not identified by Data Recipient to TXSE under this provision shall not be entitled to exercise the rights of Data Recipient set forth herein, and Data Recipient shall ensure that no such affiliate receives any Exchange Data from Data Recipient under the terms hereof.

For purposes of this Agreement, an “affiliate” of Data Recipient shall include any entity that, from time to time, directly or indirectly controls, is controlled by or is under common control with Data Recipient, where control means the power to direct or cause the direction of the management or policies of another entity, whether through the ownership of voting securities, by contract or otherwise. The Data Recipient may delegate any of its responsibilities, obligations or duties under or in connection with this Agreement to any affiliate of the Data Recipient or an authorized third-party agent, which may discharge those responsibilities, obligations or duties on behalf of the Data Recipient in accordance with this Agreement.

**28. 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.

**29. 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.

**30. 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.

User: _____	Texas Stock Exchange LLC
Signature: _____	Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____