

Professional Agreement for Receipt of Canadian Market Data

This Agreement is between The Toronto Stock Exchange Inc. and the Subscriber, as defined below, to permit the undersigned Subscriber to receive Market Data on the terms and conditions set out in this Agreement.

Subscriber Name

Subscriber Address

StreetSuite

City

State/Province

Country

Zip/Postal Code

Email Address

**Name and Title of Individual
Contact**

NameTitle

Telephone Number

Fax Number

Supplier (Person delivering Market
Data to The Subscriber)

Billing Details (if different from
above)

StreetSuite

City

State/Province

Country

Zip/Postal Code

Billing contact

NameTitle

Telephone Number

Fax Number

Email Address

1. Definitions

The following terms when used in this Agreement shall have the meanings set out below:

“Agreement” means this agreement together with any Schedule executed by the Subscriber made in connection with this agreement, such Schedule forming an integral part of this agreement.

“CEG” means the Canadian Exchange Group, an agency operated by the TSE on behalf of itself, the Montreal Exchange and the Canadian Venture Exchange together with such other Persons as may become members of the Canadian Exchange Group from time to time, for whom the TSE acts as agent. For the purposes of this Agreement, CEG shall refer to the members comprising the Canadian Exchange Group jointly and severally.

“Interrogation Device” means any device or equipment (i.e., computer, data processing equipment, communications equipment, monitor, terminal) that the TSE has authorized to be in Receipt of Market Data from a Supplier and which, at any time, either (i) displays, transmits or communicates Market Data to any Person in visible, audible, or other comprehensible form or (ii) uses or processes Market Data for any purpose or in any manner which is different than described herein.

“Market Data” means any information provided through the facilities of the TSE and/or the CEG, directly or indirectly, relating to (i) securities or other financial instruments, markets, products or indices; (ii) information, data and services from Third Party Contributors; or (iii) other information and data including without limitation, order data provided from the TSE, the CEG and Third Party Contributors.

“Person” means a natural person, proprietorship, or any corporation, partnership or organization.

“Receipt of Market Data” means the physical capability, whether used or not, of receiving Market Data through an Interrogation Device.

“Schedule” means a schedule executed by the Subscriber pursuant to this Agreement.

“Subscriber” means the Person who has executed this Agreement.

“Supplier” means a Person who has executed a distribution agreement with the TSE and from whom the Subscriber is in Receipt of Market Data.

“Third Party Contributor” means any Person, other than the members of the CEG, who provides any information to the TSE for dissemination by the TSE pursuant to the terms of this Agreement.

“TSE” means The Toronto Stock Exchange Inc., a corporation continued pursuant to the laws of the Province of Ontario, Canada.

2. License for Use of and Proprietary Interest in Market Data

- (a) During the term of this Agreement, the TSE grants to the Subscriber a non-exclusive, non-transferable license to receive and use the Market Data transmitted to it and thereafter to use such Market Data in accordance with the terms of this Agreement.
- (b) The Subscriber acknowledges and agrees that the TSE and/or the CEG: (i) have copyright, *sui generis* and other proprietary rights in the Market Data that originates on or derives from markets regulated or operated by the TSE and/or CEG and that such Market Data has been derived from databases owned by the TSE and/or CEG; and (ii) compilation or other rights in Market Data gathered from other sources. As such the Subscriber's use of such Market Data is subject to the limitations set out herein. The Subscriber further acknowledges and agrees that the Third Party Contributors have proprietary rights in their respective Market Data. In the event of any misappropriation or misuse, the TSE, the CEG or the Third Party Contributors shall have the right to obtain injunctive relief for its respective materials.

3. Fees

- (a) **Payment.** The Subscriber agrees to pay the TSE the then effective charges as set out by the TSE from time to time for the Receipt of Market Data, including all applicable interest, late fees or penalties. The Subscriber shall pay the charges invoiced for the Receipt of Market Data in the currency specified in the TSE invoice in accordance with the terms and conditions set out in such invoice. The Subscriber shall assume full and complete responsibility for the payment of any taxes, charges or assessments imposed on the Subscriber or the TSE in connection with the Receipt of Market Data, other than income taxes imposed on the TSE.
- (b) **Billing.** Unless otherwise notified by the TSE, the TSE will bill the Subscriber monthly for the Receipt of Market Data in accordance with the information provided to the TSE by the Supplier. The Subscriber shall ensure that it is being billed correctly and shall pay the invoice promptly. Errors or omissions in the invoice, any errors, delays, or failure in sending or receiving invoices do not exempt the Subscriber from its payment obligations.
- (c) **Changes.** The TSE may modify the fees charged in connection with the Receipt of Market Data. The TSE shall provide the Subscriber with ninety (90) days prior written notice of any change to the fees charged in connection with the Receipt of Market Data.

4. Equipment and Data Security

- (a) **Transmission Prohibited.** The Subscriber shall use the Market Data only for its individual and/or internal business use. The Subscriber shall not sell, lease, furnish, distribute or otherwise permit or provide access to the Market Data to any other Person without prior written approval from the TSE. The Subscriber shall not present the Market Data in any unfair, misleading or discriminatory format.

- (b) **Control of Equipment.** The Subscriber shall ensure that only the Subscriber, its partners, officers, and employees have access to any and all Interrogation Devices and that no other Person may access these Interrogation Devices. The Subscriber shall not access Market Data through any means other than such Interrogation Devices.
- (c) **Equipment Security.** The Subscriber shall take reasonable security precautions to prevent unauthorized Persons from gaining access to the Market Data and the Interrogation Devices, including without limitation carefully locating and protecting all Interrogation Devices to ensure compliance with this Agreement. The Subscriber must ensure that any Person installing or maintaining the Subscriber's Interrogation Devices complies with all such security requirements.
- (d) **Displays Accessible to the General Public.** Notwithstanding sections 4(a) and 4(b) of the Agreement, the Subscriber may permit the general public to access its Interrogation Devices provided that (i) the Subscriber controls the premises and accesses to them; and (ii) the Subscriber notifies the TSE in writing of such installation. The Subscriber may allow individuals passing by or visiting the premises to operate or view the Interrogation Devices occasionally and for limited periods of time.
- (e) **Inspection.** At any reasonable time on reasonable notice, the Subscriber shall allow authorized representatives of the TSE to access its premises for the purpose of examining any and all Interrogation Devices used by the Subscriber, its partners, officers and employees.

5. Data Not Guaranteed

- (a) **Warranties/Disclaimer of Warranties.** The TSE shall endeavour to offer the Market Data provided as promptly and accurately as reasonably practicable. In the event that the Market Data is not available as a result of a failure by the TSE to perform its obligations under the Agreement, the TSE will endeavour, giving due regard for the cost, time and effect on other users, to correct such failure. The TSE expressly disclaims, and the Subscriber hereby expressly waives, all warranties, representations, conditions, covenants or undertakings, express or implied, including without limitation warranties or conditions of merchantability and fitness for a particular purpose, timeliness, truthfulness, sequence, completeness, accuracy and freedom from interruption.
- (b) **Limitation of Liability.**
 - (i) The TSE shall not be liable to the Subscriber or any other Person for any loss, damage, cost, expense or other liability or claim (including without limitation, loss of business profits, trading losses, loss of anticipated profits, business interruption, loss of business information or for indirect, special, punitive, consequential or incidental loss or damage or other pecuniary loss) of any nature arising from any use or inability to use the Market Data, howsoever caused, including by the TSE's negligence or reckless or wilful acts or omissions, even if the TSE is advised of such possibilities.
 - (ii) The TSE shall not be liable to the Subscriber or any other Person for the unavailability, interruption, delay, incompleteness or inaccuracy of the Market Data.
 - (iii) If the TSE is for any reason held liable to the Subscriber or to any other Person, whether in tort or contract, the cumulative liability of the TSE to the Subscriber and any other Person claiming through or on behalf of the Subscriber is limited to the greater of:
 - (A) one (1) month fees paid by the Subscriber under this Agreement; and
 - (B) \$500.

6. CEG and Third Party Contributors Limitations of Liability

- (a) **Disclaimer of Warranties.** The CEG and the Third Party Contributors make no representations, conditions, warranties, covenants or undertakings, express or implied, including without limitation, warranties or conditions of merchantability and fitness for a particular purpose, timeliness, truthfulness, sequence, completeness, accuracy and freedom from interruption.
- (b) **Limitation of Liability.** The CEG and the Third Party Contributors shall not be liable to the Subscriber or any Person for any loss, damage, cost, expense or other liability or claim, (including without limitation, loss of business profits, trading losses, loss of anticipated profits, business interruption, loss of business information or for indirect, special, punitive, consequential or incidental loss or damage or other pecuniary loss) of any nature arising from any use or inability to use the Market Data, howsoever caused, including by the CEG's or the Third Party Contributors' negligence or reckless or wilful acts or omissions, even if the CEG or the Third Party Contributor advised of such possibilities.

7. Dissemination, Discontinuance or Modification

The TSE is not obligated to continue to provide any type of Market Data in the present form or configuration or under the current specifications or requirements or to continue to use existing communications facilities. The TSE, in its sole discretion, may from time to time make additions to, deletions from or modifications to the Market Data or manner of disseminating such Market Data.

8. Indemnification

The Subscriber shall indemnify and hold harmless and defend the TSE, the CEG and/or Third Party Contributors, their directors, officers, employees and agents from and against any and all suits, claims, proceedings at law or in equity, and any and all liability, loss or damage, including reasonable solicitor's fees, arising out of or in connection with (i) any claim made by any Person in respect of or as a result of any non-compliance by the Subscriber with the terms and conditions of this Agreement; or (ii) any claim made by any Person arising out of or related to the Subscriber's receipt and use of the Market Data, whether authorized or unauthorized under this Agreement, including without limitation any claim in respect of delays in providing, any errors in or omissions from the Market Data, or the transmission and delivery thereof, or the termination of, or the failure to supply any of the Market Data to a Supplier.

9. Term, Termination and Use of Market Data Following Termination

(a) Either party may terminate this Agreement on thirty (30) days prior written notice. In the event that the Subscriber terminates this Agreement, the termination shall be effective thirty (30) days following the date on which the TSE receives the later of:

- (i) the Subscriber's notice of termination; and
- (ii) confirmation from the Supplier that it has received a notice of termination from the Subscriber and has adjusted its records accordingly.

If any member of the CEG or any Third Party Contributor ceases to provide trading information to the TSE, this Agreement will immediately terminate in respect of such CEG Member or Third Party Contributor.

(b) Upon termination of this Agreement the Subscriber shall cease using all Market Data.

10. Entire Agreement; Modifications

This Agreement constitutes the entire agreement between the parties regarding this subject matter and supersedes each previous Agreement between the Subscriber and the TSE. The Subscriber needs to submit only one Agreement in respect of Market Data even if the Subscriber is receiving Market Data from multiple Suppliers. Either party may only modify this Agreement by a document in writing signed by both parties, other than a Schedule which may be executed by the Subscriber.

11. Assignments

The Subscriber shall not assign all or part of this Agreement without the TSE's prior written consent.

12. Governing Law; Construction

This Agreement shall be governed and interpreted by the laws of the Province of Ontario, Canada. In prohibiting the Subscriber in doing any act, this Agreement also prohibits the Subscriber from doing the act indirectly (e.g., by causing or permitting any other Person to do the act). Headings are provided for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

13. Notices; Notification of Changes

The Exchange Tower
130 King Street West
Toronto ON M5X 1J2
Attention: Real-Time Market Data Administration

Each party shall notify one another in writing of any address change. The Subscriber shall promptly send the TSE a written notice of any change in the information it provided pursuant to this Agreement and other information relating to the Receipt of Market Data.

14. TSE Authority

The TSE represents that it has the authority to furnish the Market Data on the terms and conditions set out in this Agreement.

15. Provisions to survive termination

The Terms and sections 2(b), 3, 5, 6, 8, 9, 15 and 16 will survive the termination of this Agreement for any reason.

16. Third Party

The Subscriber acknowledges and agrees that the Third Party Contributors are an express third party beneficiary of this Agreement and the such Third Party Contributor may enforce any rights granted to it by this Agreement in its own name against the Subscriber.

17. Contract in English language

The parties agree that this Agreement be drawn up in English only but without prejudice to any such documents or instruments which may from time to time be drawn up in French only, or in both French and English. Les parties aux présent confirment leur volonté avec le présent contrat de même que tous autres documents s'y rapportant soient rédigés en anglais seulement, mais sans préjudice cependant à tous tels documents que pourront à l'occasion être rédigés en français ou à la fois en français et en anglais.

The parties have signed this Agreement effective as of: _____

[Subscriber]

The Toronto Stock Exchange Inc.

By _____

By _____

Name _____

Name _____

SCHEDULE A

RECEIPT AND USE OF PRIVATE CONTENT

This Schedule A is made pursuant to the Subscriber's Professional Agreement for receipt of Canadian Market Data (the "Agreement") and forms an integral part of the Agreement.

In addition to the terms and conditions set out in the Agreement, the Subscriber agrees to the following terms and conditions with respect to the receipt and use of Private Content:

1. Definitions

Capitalized terms used in this Schedule A not defined below shall have the meaning set out in the Agreement. The following terms when used in this Schedule shall have the meanings set out below:

"**Decryption Key**" means the mechanism to permit a Person to read the Private Content of the Subscriber encrypted to preserve the confidentiality of such Private Content.

"**Private Content**" means information exclusively provided by and to a TSE Member entering an order on the TSE, such as account type, order duration, price and user identification.

"**Regulatory Private Content**" means the Private Content of the Subscriber, together with confirmation and trade reports, together with such stock state and market state status which the Subscriber in its capacity as a TSE Member, is required to distribute solely for the purpose of supporting its clients and complying with the TSE Requirements or other securities legislation.

"**TSE Member**" means an entity authorized to trade through the facilities of the TSE pursuant to the TSE Requirements and subject to applicable securities laws and regulations.

"**TSE Requirements**" means the by-laws, rules, regulations, policies, rulings, decisions, rule book and company manual of the TSE and the instructions, decisions and directions of the TSE (including those of any TSE Committee so authorized) as amended, supplemented and in effect from time to time.

2. Distribution of Regulatory Private Content

Notwithstanding section 4(a) of the Agreement, the Subscriber may distribute the Regulatory Private Content received from the TSE to:

- (a) its clients directly or indirectly; and
- (b) its business suppliers;

as required in order to permit the Subscriber to discharge its obligations under the TSE Requirements, the *Securities Act* (Ontario) or similar legislation in other jurisdictions.

3. Use of Private Content – In the event that the Subscriber receives Private Content on any Interrogation Device

- (a) The Subscriber shall not use the Private Content in violation of any applicable securities laws, regulations, policies, directives or rules to which the Subscriber or the TSE are subject, or the TSE Requirements and shall obtain such consents as may be necessary for the Subscriber to comply with such laws, regulations, policies, directives, rules or the TSE Requirements.
- (b) The Subscriber hereby agrees to keep its Decryption Key confidential and agrees that it shall not permit any Person, other than a Supplier for the purposes of assisting the Subscriber, to have access to such Decryption Key. The Subscriber shall provide the TSE with notification, in a form satisfactory to the TSE, of its consent to permit the TSE to release the Decryption Key to the Supplier.
- (c) If the Subscriber obtains access to another Person's Private Content or any other information that it is not authorized to receive, it shall immediately notify the TSE and shall destroy any copies of such information in its possession.
- (d) The Subscriber agrees not to alter the Private Content in any manner that adversely affects its accuracy, integrity or performance or that renders it misleading.

The Subscriber has executed this Schedule A effective: _____

[Subscriber]

By

Name

Title

Date