

MARKET DATA AGREEMENT FOR LISTED ISSUERS

Date: _____ (“Effective Date”)

Subscriber Name: _____

Distributor: _____

1. DEFINITIONS

- (a) “Confidential Information” of a party means any and all material and/or information of a party or any of its affiliates (in this definition called the “Disclosing Party”) which has or will come into the possession or knowledge of the other party or any of its affiliates, sub-contractors or agents (in this definition called the “Receiving Party”) in connection with or as a result of entering into this Agreement, including information concerning the Disclosing Party’s past, present or future customers, suppliers, technology, or business. For the purposes of this definition, “information” and “material” includes know-how, data, patents, copyrights, trade secrets, processes, techniques, programs, designs, formulae, marketing, advertising, financial, commercial, sales or programming materials, equipment configurations, system access codes and passwords, written materials, feed specifications, compositions, drawings, diagrams, computer programs, studies, works in progress, visual demonstrations, ideas, concepts, and other data, in oral, written, graphic, electronic, or any other form or medium whatsoever. Notwithstanding the foregoing, “Confidential Information” does not include information or material:
- (i) which is in the public domain when it is received by or becomes known to the Receiving Party or which subsequently enters the public domain through no fault of the Receiving Party (but only after it enters the public domain);
 - (ii) which is already known to the Receiving Party at the time of its disclosure to the Receiving Party and is not known by the Receiving Party to be the subject of an obligation of confidence of any kind;
 - (iii) which is independently developed by the Receiving Party without any use of or reference to the Confidential Information of the Disclosing Party and which such

independent development can be established by evidence that would be acceptable to a court of competent jurisdiction; or

- (iv) which is received by the Receiving Party in good faith without an obligation of confidence of any kind from a third party who the Receiving Party had no reason to believe was not lawfully in possession of such information free of any obligation of confidence of any kind, but only until the Receiving Party subsequently comes to have reason to believe that such information was subject to an obligation of confidence of any kind when originally received.
- (b) “Distributor” means those Persons who distribute Market Data including, without limitation, the Listed Issuer Data, by any means to Subscriber and who have executed an MDDA.
- (c) “Intellectual Property Rights” means any and all proprietary rights provided under: (i) patent law, copyright law (including moral rights), trade-mark law, design patent or industrial design law, semi-conductor chip or mask work law, or any other statutory provision or common law principle applicable to this Agreement, including trade secret law, which may provide a right in either hardware, software, content, documentation, Confidential Information, ideas, formulae, algorithms, concepts, inventions, processes or know-how generally, or the expression or use of such hardware, software, content, documentation, Confidential Information, ideas, formulae, algorithms, concepts, inventions, processes or know-how; and (ii) any and all applications, registrations, licences, sub-licences, franchises, agreements or any other evidence of a right in any of the foregoing.
- (d) “Listed Issuer” means a corporation or income trust whose shares or units, as applicable, are listed for trading on the Toronto Stock Exchange or TSX Venture Exchange.
- (e) “Listed Issuer Data” means level 1 Real-Time Market Data for Subscriber’s Symbol made

available by Subscriber on the Subscriber's Website pursuant to this Agreement.

- (f) "MDDA" means the market data distribution agreement entered into by Distributor with TSX for the distribution of Market Data, together with applicable exhibits thereto, which has not been terminated in accordance with its terms.
- (g) "Market Data" means any information provided hereunder through the facilities of TSX or a third party directly or indirectly, relating to securities or other financial instruments, markets, products or indices including, without limitation, the Listed Issuer Data.
- (h) "Person" includes any natural person or proprietorship or any corporation, partnership or other organization.

"Real-Time Market Data" means Market Data for the first fifteen (15) minutes following its dissemination by TSX.

- (i) "Receipt of Market Data" means the physical capability, whether used or not, of receiving or retrieving Market Data.
- (j) "Subscriber" means the Person identified above, which Person is in Receipt of Market Data through facilities furnished by the Distributor, who has executed a Subscriber Agreement and who has accepted the terms and conditions of this Agreement.
- (k) "Subscriber Agreement" means either: (i) the applicable subscriber agreement for receipt of Market Data (including in the form of an electronic "click-through" agreement) with TSX, which has been approved by TSX and which has not been terminated in accordance with its terms; or (ii) as authorized by TSX, the applicable subscriber agreement for receipt of Market Data directly with a Distributor which has not been terminated in accordance with its terms and which protects the TSX Indemnitees to the same extent as if the Subscriber had signed the applicable TSX subscriber agreement.
- (l) "Subscriber's Website" means the website owned and operated by Subscriber which website will display the Listed Issuer Data in accordance with this Agreement.

- (m) "Symbol" means the unique series of letters assigned to the Listed Issuer's security for the purposes of trading on the Toronto Stock Exchange or TSX Venture Exchange.
- (n) "Third Party Contributor" means any Person, including an affiliate of TSX, who provides information to TSX including, without limitation, the Listed Issuer Data, for dissemination by TSX.
- (o) "TSX" means TSX Inc.
- (p) "TSX Indemnitees" means TSX, its affiliates and Third Party Contributors and their respective directors, officers, employees, agents, and representatives.
- (q) "TSXV" means TSX Venture Exchange Inc.

2. PROVISION OF LISTED ISSUER DATA

- (A) Subscriber, as a Listed Issuer, may display Listed Issuer Data on Subscriber's Website, without charge, subject to the following conditions:
 - a. The Listed Issuer Data must be supplied by the Distributor identified in this Agreement.
 - b. Subscriber must clearly indicate on Subscriber's Website:
 - i. that the Listed Issuer Data is TSX or TSXV proprietary data and subject to copyright.
 - ii. the time of the last sale price of the Listed Issuer Data;
 - iii. that the Listed Issuer Data is listed in Canadian dollars; and
 - iv. that Distributor is the source of the Listed Issuer Data.
 - c. Subscriber hereby accepts and must include the following disclaimer on Subscriber's Website:

Without limiting any terms in the Subscriber Agreement, TSX, TSXV and their affiliates do not represent, warrant or guarantee the timeliness, sequence, accuracy or completeness of the Listed Issuer Data and disclaim all express or implied warranties, including without limitation warranties or conditions or merchantability, quality and fitness for a

particular purpose and those arising by statute or otherwise in law or from the course of dealing or usage of trade. In addition to, and without limiting the foregoing, TSX, TSXV and their affiliates will not be liable in any way to any Person for:

- i. any inaccuracy, error or delay in, or omission of (A) any Listed Issuer Data, or other information or messages, or (B) the transmission or delivery of any such Listed Issuer Data or other messages, or
 - ii. any loss or damage arising from or occasioned by (A) any such inaccuracy, error, delay or omission, or (B) non-performance, or (C) interruption in any Listed Issuer Data, or other messages, due either to any negligent act or omission by TSX or TSXV, “force majeure” or any other cause.
- d. Without limiting any rights TSX may have under a Subscriber Agreement, TSX may review Subscriber’s Website at any time to confirm Subscriber’s compliance with this Agreement.

3. PROPRIETARY INTEREST IN LISTED ISSUER SYMBOL

Subscriber understands and acknowledges that TSX and/or TSXV have a proprietary interest in the Listed Issuer Data and that the same is not within the public domain. Any Listed Issuer Data that is provided directly or indirectly to Subscriber by TSX pursuant to this Agreement has been derived from databases owned by TSX and/or TSXV, is copyrighted by TSX and/or TSXV, and as such Subscriber’s use of such Listed Issuer Data is subject to the limitations set out in this Agreement or in the Subscriber Agreement, as applicable.

4. LIMITATION OF LIABILITY

Without limiting any terms in the Subscriber Agreement:

- (a) TSX and TSX Indemnitees 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 this Agreement or any use or inability to use the Listed Issuer Data, howsoever caused, including by TSX or TSX Indemnitees’ negligence or reckless or wilful acts or omissions, even if TSX is advised of such possibilities.

- (b) If TSX or TSX Indemnitees are for any reason held liable to the Subscriber or to any other Person, whether in tort or contract, the cumulative liability of TSX and TSX Indemnitees to the Subscriber and any other Person claiming through or on behalf of the Subscriber is limited to the fees paid, if any, by the Subscriber during the one (1) month period immediately preceding the date that the cause of action arose.

5. TERM, DISSEMINATION DISCONTINUANCE OR MODIFICATION

- (A) This Agreement will commence on the Effective Date and continue until terminated as provided herein.
- (B) TSX may, for any reason and at any time: (i) discontinue disseminating Listed Issuer Data; (ii) change or eliminate any transmission method; change transmission speed or signal characteristics; and/or instruct the Distributor to terminate Subscriber’s access to the Listed Issuer Data.
- (C) TSX may terminate this Agreement at any time upon notice to Subscriber.
- (D) Upon termination of this Agreement, Subscriber shall immediately cease any and all use of Listed Issuer Data, remove Listed Issuer Data from Subscriber’s Website and will destroy all Listed Issuer Data and any and all copies or extracts thereof within ten (10) days of termination of this Agreement.

6. INDEMNIFICATION

Without limiting the terms of the Subscriber Agreement, (a) the Subscriber shall indemnify and hold harmless and defend TSX Indemnitees from and against any and all suits, claims, proceedings at law or in equity, and any and all liability, loss, costs

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; (ii) any claim made by any Person arising out of or related to the Subscriber's receipt, reproduction, modification and use of the Listed Issuer 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 Listed Issuer Data, or the transmission and delivery thereof, or the termination of, or the failure to supply the Listed Issuer Data to a Distributor; or any assertion of claims made or losses made by any Person relating to the subject matter or existence of this Agreement against the TSX Indemnitees.

The indemnifications provided by this Section 6 shall include, without limitation, the TSX Indemnitees' investigative and administrative costs which result in the detection of any material non-compliance by Subscriber referred to in clause (a) above.

- (b) Upon request and to the extent permitted by applicable law, Subscriber shall have the right to defend, settle, or compromise any such suit or proceeding, at its own expense, provided that:
- (i) Subscriber demonstrates to the satisfaction of the TSX Indemnitees that it is financially able to defend such action and to pay any settlement or judgement; and (ii) counsel retained by Subscriber is reasonably satisfactory to the TSX Indemnitees. The TSX Indemnitees agree to cooperate with Subscriber in the defence of any such suit or proceeding, and Subscriber agrees to reimburse the TSX Indemnitees for their expenses with respect thereto. No settlement shall be made by Subscriber without TSX's prior written consent. The TSX Indemnitees shall have the right to participate in the defence of the claim with counsel of its choice, at its own cost.

7. CONFIDENTIALITY

(a) Obligations of the Parties Respecting Confidential Information

- (i) The Receiving Party will at all times, both during the term of this Agreement and thereafter, keep and hold all Confidential Information of the Disclosing Party in the strictest confidence, and will not use or disclose such Confidential

Information for any purpose, other than as may be reasonably necessary for the performance of its duties pursuant to this Agreement, without the Disclosing Party's prior consent.

- (ii) The Receiving Party agrees that it will not disclose to any Person or use any Confidential Information of the Disclosing Party disclosed to, collected by or received by it except as expressly permitted in this Agreement; and that it will take all reasonable measures to maintain the confidentiality of all Confidential Information of the Disclosing Party in its possession or control, which will in no event be less than the measures it uses to maintain the confidentiality of its own information of similar importance.
- (iii) Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information:
- (A) to the Receiving Party's employees, independent contractors, advisors, agents or representatives solely on a "need to know" basis and only to the extent necessary or reasonably appropriate to permit the Receiving Party to exercise its rights or perform its obligations under this Agreement, provided that the applicable independent contractor, advisor, agent or representative is under confidentiality obligations that are at least as stringent as the confidentiality obligations set out in this Section 7; or
- (B) to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by law (provided that the Receiving Party gives the Disclosing Party an opportunity to oppose the disclosure or to seek a protective order protecting such Confidential Information prior to any such disclosure, and provided that such disclosure complies with the terms of any such protective order obtained).

(b) Obligations Respecting Ownership of Intellectual Property

Without limiting the terms of the Subscriber Agreement, Subscriber acknowledges and agrees that, as between the parties, TSX (and/or TSXV) has, and will retain throughout the term of this Agreement and thereafter, all Intellectual Property Rights in and to the Listed Issuer Data and the related specifications or documentation. Except as expressly set out in this Agreement, Subscriber will acquire no Intellectual Property Rights in or to the Listed Issuer Data and will have no right to use, disclose or redistribute such Listed Issuer Data.

8. TSX’S NAME AND TRADE-MARKS

Subscriber shall not use TSX’s, or any of its affiliates’, name, trade-marks or logos without TSX’s prior written consent.

9. NOTICES; NOTIFICATION OF CHANGES

Subscriber shall send communications relating to this Agreement to the Distributor with a copy to: TSX Inc. at the following address or to such other address as notified by TSX:

300-100 Adelaide Street West
Toronto, ON M5H 1S3, Canada
marketdata@tmx.com

Attention: TMX Datalinx - Business Operations

TSX shall send communications relating to this agreement to Subscriber to the address on record with TSX.

10. ENTIRE AGREEMENT; MODIFICATIONS

This Agreement, together with the Subscriber Agreement, contains the entire agreement between the parties in respect of its subject matter. In the event of any conflict between this Agreement and the Subscriber Agreement, the terms of the Subscriber Agreement, shall prevail. The parties may only modify this Agreement in writing signed by or on behalf of each of them.

11. ASSIGNMENTS

Subscriber may not assign all or part of this Agreement without the written consent of TSX.

12. GOVERNING LAW; CONSTRUCTION

This Agreement shall be governed and interpreted by the laws of the Province of Ontario, Canada. In prohibiting Subscribers in doing any act, this Agreement also prohibits Subscriber from doing the

act indirectly (e.g., by causing or permitting any other Person to do the act).

13. SEVERABILITY; SURVIVAL

If any of the provisions of this Agreement, or the application thereof to any Person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to Persons or circumstances other than those which are invalid or unenforceable, shall not be effected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Any provisions which by the nature are intended to survive termination of this Agreement shall survive.

14. LANGUAGE

The parties hereto confirm that it is their wish that this Agreement as well as other documents relating hereto, including notices, have been and shall be drawn up in English only. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents afférents, y compris tous avis s’y rattachant, soient rédigés en anglais seulement.

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SUBSCRIBER ACCEPTS THE AGREEMENT

SUBSCRIBER DOES NOT ACCEPT THE AGREEMENT

By clicking the "SUBSCRIBER ACCEPTS THE AGREEMENT" button you (a) accept this Agreement and agree that Subscriber is legally bound by its terms; and (b) represent and warrant that you have the right, power, and authority to enter into this Agreement on behalf of Subscriber and bind Subscriber to its terms.