

**TSX INC.**  
**MARKET DATA SERVICES AGREEMENT**

This agreement dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

between the TSX Inc.  
(hereinafter called the "TSX")  
and

\_\_\_\_\_ (hereinafter called the "Customer").

Customer Name: \_\_\_\_\_

Customer Address: \_\_\_\_\_

Street

Suite

\_\_\_\_\_

City

\_\_\_\_\_

State/Province

\_\_\_\_\_

Country

\_\_\_\_\_

Zip/Postal Code

Name and Title of Individual Signing: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

Address to which invoices and notices will be sent if different from above:

Billing Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Street

Suite

\_\_\_\_\_

City

\_\_\_\_\_

State/Province

\_\_\_\_\_

Country

\_\_\_\_\_

Zip/Postal Code

Name and Title of Billing Contact: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

WHEREAS TSX Inc. (the “TSX”) owns and maintains a series of databases (the “Trading Databases”) containing information with respect to the trading of securities listed on TSX and other information concerning financial instruments obtained from third parties (collectively, the “Historical Market Data”).

AND WHEREAS subject to the terms and the conditions hereof, TSX is prepared to: licence access to the Trading Databases through systems developed and maintained by TSX and to license the use of the Historical Market Data furnished by TSX to one or more Authorized Users appointed by Customer.

In consideration of the premises and agreement herein contained, TSX and Customer agree as follows:

**1. DATA AND TRADING DATABASES COPYRIGHTED**

Customer understands and acknowledges that TSX has a proprietary interest in the Trading Databases and the Historical Market Data and that the same is not within the public domain. TSX also asserts *sui generis* rights in the Trading Databases. Any Historical Market Data provided directly or indirectly to the Customer by TSX pursuant to this agreement, has been derived from the Trading Databases which are copyrighted by TSX and as such, Customer’s use of the Historical Market Data is subject to the limitations set out in this agreement.

**2. FEES**

- a) Customer shall pay to TSX the respective fees set forth as attached. TSX reserves the right to change or alter any pricing structures at any time upon thirty (30) days notice to the Customer and the Customer agrees to pay such other amount as may be specified.
- b) Fees are due and payable within thirty (30) days of the date of invoice. After thirty (30) days, the amount of the invoice shall be subject to interest at the rate of one and one half percent (1.5%) per month on any portion thereof from the date of the invoice until payment is received in full.

**3. DATA NOT GUARANTEED**

- a) No Warranties – With the exception of TSX's WARRANTY of ownership and its respective obligation of indemnification in section 4(c), infra, the Customer agrees that TSX makes no representations, warranties or conditions, express or implied, with respect to the content of the Trading Databases, or the Historical Market Data furnished to Customer, including, but not limited to, implied warranties or conditions of 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.
- b) No Guaranty – TSX does not guarantee the timeliness, sequence, accuracy or completeness of the Historical Market Data contained in the Trading Databases or other market information or messages disseminated by TSX to Customer. TSX will not be liable in any way to Customer or to any other person for;
  - i) any inaccuracy, error or delay in, or omission of, (A) any such Historical Market Data, information or message or (B) the transmission or delivery of any such Historical Market Data, information or message, or
  - ii) any loss or damage arising from or occasioned by (A) any such inaccuracy, error, delay or omission (B) non-performance, or (C) interruption in any such Historical Market Data, information or message, due either to any negligent act or omission by TSX or “force majeure” (i.e. flood, extraordinary weather conditions, earthquake or other act of God, fire, war, insurrection, riot, labour dispute, accident, action of government, communication or power failure, equipment or software malfunction) or any other cause beyond reasonable control of TSX.

**4. TSX WARRANTY**

- a) TSX represents, warrants and covenants that it is either the exclusive owner of Historical Market Data and of all intellectual and proprietary rights in Historical Market Data or that it has obtained by grant of license or otherwise the right to furnish receipt of the Historical Market Data to third parties, and has full power and authority to grant the rights granted in this Agreement without the consent of any other party. TSX shall indemnify and hold Customer, its officers, directors, employees and agents harmless from and against any loss, costs, liability and expense including reasonable legal fees, arising out of any breach or claimed breach of this representation, warranty and covenant.

- b) TSX represents, warrants and covenants that Historical Market Data and the use of Historical Market Data as permitted by this Agreement does not and will not infringe upon or violate the proprietary rights of any third party which proprietary rights include, without limitation, patents, copyright, trademarks and trade secrets.
- c) TSX shall indemnify, and hold harmless and defend Customer, its officers, directors, employees and agents, against any loss, costs, liability and expense, including reasonable legal fees, for infringement of any proprietary rights of any third party. TSX shall, at its own expense, defend or settle any claim or proceeding brought against Customer by any third party alleging that Historical Market Data or the use of Historical Market Data as permitted by this Agreement constitutes an infringement of any proprietary right, provided that TSX is notified promptly in writing of such claim and is given the opportunity to have sole control for the defence of any action on such claim and all negotiation for its settlement. TSX shall pay all damages and costs awarded against Customer in such action or proceedings, and shall pay reasonable legal fees of Customer, but shall not be responsible for any costs, expenses, or compromises incurred or made by Customer without TSX's prior written consent.

## **5. TSX INDEMNITY**

The Customer shall indemnify and hold harmless and defend TSX, its members, governors, managers, officers, employees and agents from and against any and all suits, proceeding at law or in equity, and any or all liability, loss or damage, including reasonable solicitor's fees, arising out of or in connection with any claim made by any person, firm or corporation in respect of delays in providing, errors in, or omissions from any Historical Market Data obtained from TSX, or the transmission or delivery thereof, or the failure to supply any of the said data to the Customer.

## **6. LICENSE**

- a) Subject to the terms and conditions of this Agreement, TSX grants to the Authorized User(s) appointed by Customer in accordance with Schedule "A" attached, a personal, non-exclusive, non-transferable license (the "License") for the term of this Agreement to use the Historical Market Data, solely for Customer's own internal business purposes.
- b) Without limiting the generality of the foregoing and provided the applicable license fees have been paid by Customer, Authorized User may:
  - i) Store the Historical Market Data in one or more Customer databases accessible by Customer employees and contractors only;
  - ii) Use and reproduce the Historical Market Data for internal business purposes consistent with this Agreement, including interrogation, retrieval, analysis, manipulation, recompilation, and report preparation;
  - iii) Use and reproduce the Historical Market Data for Customer's own business applications, information, reports, presentations, analytics, formulae, graphs, algorithms and other uses and publications which incorporate, utilize or display Historical Market Data;
  - iv) Subject to the use of proper TSX copyright and other notices specified in subsection 6(d), provide excerpts from the Historical Market Data, in any medium or format (including orally, in writing, electronically or otherwise) to Customer's own clients as part of a report.
- c) Except as specifically permitted by this Agreement, neither Authorized User nor Customer may:
  - i) Reproduce or redistribute unprocessed/raw data portions of the Historical Market Data to any third party, or otherwise engage in the systematic retransmission or commercialization of the Historical Market Data;
  - ii) Distribute the Historical Market Data in any form of service for which end users pay periodic or usage based fees for access to the Historical Market Data;
  - iii) Authorize end users to do anything that Customer is not permitted to do under this Agreement; or
  - iv) Use the Historical Market Data in any manner other than as expressly permitted by this Agreement.
- d) In using the Historical Market Data in its reports, Customer shall cause each screen display (if the report is in electronic form) and each copy transferred to an end user to bear TSX's proprietary and copyright notice, with the appropriate year, as set forth below:

Source: TSX © Copyright [Year] TSX Inc. All Rights Reserved.

- e) For the purposes of this Agreement: "Authorized User" means the Customer employee(s) or contractor(s) licensed to use the Historical Market Data as provided in Section 6 hereof, and as described in Schedule "A" attached, which sets out Customer's subscription level.

**7. EFFECTIVE DATE AND TERMINATION**

Upon its execution by each party, this Agreement becomes effective as of the date first above written. This agreement continues in effect until terminated as provided in this Section 7:

- a) Either Customer or TSX may terminate this Agreement upon not less than ninety (90) days written notice to the other; or
- b) Either Customer or TSX may terminate this Agreement upon thirty (30) days written notice to the other in the event that either party is in breach of any material provision of this agreement and that such breach has not been cured by the party in default within the thirty (30) day notice period.

**8. ENTIRE AGREEMENT**

This agreement and all schedules attached hereto constitutes the entire agreement between TSX and the Customer with respect to licence for access to the Trading Databases and the licenced use of the Historical Market Data and is subject to any permitted changes or alterations of which TSX gives the Customer due notice in accordance with the provisions thereof.

**9. ASSIGNMENTS**

Rights under this agreement may not be assigned by either party without the other party's express written consent.

**10. AMENDMENTS**

This Agreement may only be amended by the parties in writing, by an amendment signed by duly authorized representatives of each of the parties.

**11. NOTICES, etc.**

Any notices or other communication required to be given by the Customer, shall be given by sending the same by prepaid mail or delivery service or delivering said notice to TSX at the address set forth on the reverse side hereof. Either party may, by notice, change its address for notice and any such notice or communication sent by prepaid mail shall be deemed to have been received five (5) business days after mailing.

**12. GOVERNING LAW**

This agreement shall be governed by and construed in accordance with the laws of The Province of Ontario.

*Accepted By:*

CUSTOMER

TSX INC.  
Exchange Tower  
130 King Street West  
Toronto, ON M5X 1J2

By: \_\_\_\_\_  
(Authorized signing officer)

By: \_\_\_\_\_  
(Authorized signing officer)

Name: \_\_\_\_\_  
(Please print)

Name: \_\_\_\_\_  
(Please print)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**This agreement is not binding until accepted by TSX Inc.**