



MARKET DATA LICENSE AGREEMENT

MARKET DATA LICENSE AGREEMENT

THIS MARKET DATA LICENSE AGREEMENT ("AGREEMENT") IS MADE BY AND BETWEEN ONECHICAGO, LLC ("ONECHICAGO," "ONE," OR THE "EXCHANGE"), A DELAWARE LIMITED LIABILITY COMPANY WITH ITS PRINCIPAL PLACE OF BUSINESS AT 311 SOUTH WACKER DRIVE, SUITE 1700, CHICAGO, ILLINOIS 60606, U.S.A., AND

Company

WITH ITS PRINCIPAL PLACE OF BUSINESS AT:

Address

City, State

Zip Code

1. DEFINITIONS AND INTERPRETATIONS

- (a) "Agreement" shall mean this Market Data License Agreement, together with the Schedules attached hereto, as they may be amended from time to time in accordance with this Agreement.
(b) "Delayed Market Data" shall mean Market Data other than Real Time Market Data.
(c) "Distributor" shall mean a Company that receives Market Data and distributes such Market Data to third parties.
(d) "Company's Group" shall mean Company, Company's affiliates, as identified by Company to the Exchange, and Company's Service Facilitators.
(e) "Effective Date" shall mean the date this Agreement is executed by OneChicago.
(f) "Extranet Service Provider" or "ESP" shall mean a Company that provides network access to OneChicago Market Data. An ESP may transmit Market Data to a Market Data Licensed Firm, but may not itself use, store, alter, distribute or maintain the Market Data in any way for any purpose other than to ensure the quality of its transmission to its customers such as by conducting gap detection and latency monitoring.
(g) "Fees" shall mean the fees for Market Data that are set forth in the Market Data Fee Schedule and amended by OneChicago from time to time in accordance with this Agreement.
(h) "Historical Market Data" shall mean the compilation of Market Data, related to a period of time (days, months, or years), from delayed or real-time Market Data.
(i) "Market Data" shall mean information relating to OneChicago Contracts, which may include, but is not limited to, opening and closing prices, high-low prices, settlement prices, bid and ask prices, last sale prices, and contract volume.
(j) "Market Data Policies" shall mean the policies of OneChicago applicable to Market Data as described on OneChicago's public website and amended by OneChicago in accordance with this Agreement. A current copy of the Market Data Policies is attached hereto. In the event of a conflict between a provision of this Agreement and any provision of the Market Data Policies, the Market Data Policies shall control.
(k) "Real Time Market Data" shall mean Market Data that is received or displayed less than 10 minutes after the initial transmission by OneChicago or as otherwise described in the Market Data Policies.
(l) "Rules" shall mean the Rules of the Exchange and any interpretation, stated policy, or instrument corresponding thereto, in each case as adopted or amended from time to time by the Exchange. Any term capitalized but not defined in this Agreement shall have the meaning ascribed to it in the OneChicago Rulebook.

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- (m) “Service” shall mean any service provided by a member of Company’s Group that includes Market Data in any form, if Company is distributing Market Data.
- (n) “Service Facilitator” shall mean a third party authorized by OneChicago to receive Market Data from a Company for the sole purpose of facilitating dissemination of Market Data in Company’s Service in accordance with this Agreement.
- (o) “Subscriber” shall mean any party, other than a Service Facilitator, receiving Market Data from Distributor or Company’s Group, under the terms of a Subscriber Agreement.
- (p) “Subscriber Agreement” shall mean a written agreement between Subscriber and Distributor for receipt and use of Market Data by Subscriber in accordance with this Agreement.
- (q) “User” shall mean an individual person authorized to access Market Data from an Access Firm.

2. GRANT OF RIGHTS TO DISTRIBUTOR

Subject to the terms and conditions of this Agreement, OneChicago hereby grants to Company a limited, non-exclusive, and non-transferable license to receive Market Data, use Market Data for its own internal purposes, and, if Company is a Distributor, to distribute Market Data to Subscribers. Company agrees that it accepts the terms and conditions of this Agreement on behalf of all members of Company’s Group. Company hereby accepts full responsibility for performance by all members of Company’s Group of obligations arising under this Agreement. Furthermore, Company shall cause all members of Company’s Group to comply with the terms and conditions contained in this Agreement.

3. INTELLECTUAL PROPERTY RIGHTS IN MARKET DATA

Intellectual Property Rights means patents, trademarks, service marks, trade and service names, copyrights, topography rights, database rights and design rights, trade secrets and other intellectual property rights, whether or not they are registered, anywhere in the world.

Company hereby acknowledges and agrees that OneChicago holds all right, title, and interest in and to Market Data. Company further agrees that no Intellectual Property Rights of OneChicago or its licensors are transferred or assigned as a result of this Agreement.

In the case of Company creating and/or distributing new original works, including the creation of indices or any financial product or instrument, provided that such works represent or recreate any item of Market Data (or any item from which Market Data may be reverse-engineered), Company must enter into a separate agreement with OneChicago.

4. COMPANY’S RECEIPT OF MARKET DATA

A. COMPANY EXPENSES

Company shall be responsible at its own expense for the installation, operation, and maintenance of any equipment or software necessary to enable it to receive and use Market Data in accordance with this Agreement.

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B. ADDITIONS AND DELETIONS TO AND FROM MARKET DATA

OneChicago may amend the substance and format of the Market Data depending on the operations or requirements of the Exchange. OneChicago will use commercially reasonable efforts to give Company thirty (30) days' prior notice before making any non-material changes to the Market Data, and at least ninety (90) days' notice of any material modification, unless a malfunction, emergency or regulatory requirement precludes such notice. Examples of material modifications may include, but are not limited to changes to the speed, signal, or operational requirements described in technical notices issued by OneChicago. Company shall bear the sole responsibility and expense of making any resultant change to the Service. OneChicago retains sole discretion to determine whether a change to the Market Data shall be considered material or non-material.

5. COMPANY'S USE OF MARKET DATA

A. COMPLIANCE WITH MARKET DATA POLICIES REQUIRED

Company's use and distribution of Market data shall comply with the Market Data Policies attached to this Agreement.

B. MISREPRESENTATION OF MARKET DATA

Company shall ensure that it does not misrepresent Market Data or display or distribute Market Data in a way that may create a false or misleading impression as to the origin or value of any aspect of Market Data. With respect to the distribution of Market Data pursuant to this Agreement, a Distributor shall: (i) if possible, credit OneChicago as the source of the Market Data, using the following legend or such other legend as OneChicago may provide: "The market data is the property of OneChicago, LLC. All rights reserved," (ii) not deface or remove any trademarks transmitted with the Market Data; and (iii) ensure that Delayed Market Data is clearly labeled as such and the period of delay noted in all Services incorporating Delayed Market Data.

C. COMPLIANCE WITH APPLICABLE LAW

Company shall not use Market Data for any illegal purpose. OneChicago reserves the right to suspend or terminate receipt or display of Market Data by Company if OneChicago has reason to believe that Company (or, if Company is a Distributor, any of Distributor's Subscribers) is breaching or failing to comply with this provision of the Agreement or any applicable law, regulation, or rule.

D. COMPANY'S COOPERATION REQUIRED

Company shall use all reasonable efforts to cooperate and assist OneChicago in preventing, identifying, and ending any unauthorized receipt or redistribution of Market Data by any person from Company's Group. Company shall promptly notify OneChicago of any such unauthorized receipt or redistribution of Market Data known to Company.

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6. SUBSCRIBER'S USE OF MARKET DATA

A. SUBSCRIBER AGREEMENT REQUIREMENTS

If Company is a Distributor, Company is required to enter into a Subscriber Agreement with each Subscriber receiving Market Data from Company. Company shall ensure that Subscriber Agreements provide that Subscriber's use of Market Data complies with the terms and conditions of this Agreement and the Market Data Policies, which are attached to this Agreement. Company shall further ensure Subscriber shall be responsible for the use of Market Data by Subscriber. Company shall ensure that terms and conditions relating to the use of Market Data by Subscriber comply with all applicable laws and regulations.

7. FEES, REPORTING, AND BILLING

A. FEES

- (i) By virtue of signing this agreement, Company shall be considered a Market Data Licensed Firm. A Market Data Licensed Firm may be a Distributor, ISV Distributor, Access Firm, or Extranet Service Provider, depending upon which classification Company falls under based on the activity undertaken by Company in relation to its use of Market Data.
- (ii) Company shall pay to OneChicago the applicable Fees detailed in the attached Market Data Fee Schedule. Fees for Market Data must be calculated in accordance with the Market Data Policies. Company shall pay any taxes and any governmental charges related to the execution or performance of this Agreement, other than taxes on OneChicago's net income.
- (iii) OneChicago may change the fee amounts specified in the Market Data Fee Schedule upon ninety (90) days' notice to Company.
- (iv) If Company terminates this Agreement for any reason any pre-paid fees or charges will be retained by OneChicago.
- (v) Company may be classified as one or more of the following, depending on the type of activity Company undertakes in relation to the Market Data:
 - (a) **Distributor:** A Market Data Licensed Firm is a Distributor if it receives Market Data and distributes such Market Data to third parties. A Distributor is required to report as a Unit of Count any entity to which it distributes Market Data.
 - (b) **Access Firm:** A Market Data Licensed Firm is an Access Firm if it receives Market Data via programmatic access to real time or delayed, streaming or subscription-based Market Data, either directly from OneChicago's market data feeds or from a Distributor.
 - (c) **ISV Distributor:** A Market Data Licensed Firm is an ISV Distributor if it receives Market Data from the Exchange or another Distributor and develops and sells or leases an electronic order entry platform to be used by Company's customers for the entry of orders into the OneChicago System. If Company is an ISV Distributor, it will not be liable for the standard Distribution Fee, provided that Company's distribution of Market Data outside of an order entry platform does not exceed ten (10) percent of its reported Units of Count per three (3) month period.
 - (d) **Extranet Service Provider:** A Market Data Licensed Firm is an ESP if it provides network access to OneChicago. An ESP may transmit Market Data to a Market Data Licensed Firm, but may not itself use, store, alter, distribute or maintain the Market Data in any way for any purpose other than to ensure the quality of its transmission to its customers such as by conducting gap detection and latency monitoring.

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B. REPORTING

Within thirty (30) days following the end of each calendar month, any Company that is a Distributor shall report to OneChicago on the use and distribution of Market Data during such calendar month and its calculations of the amounts due to OneChicago in accordance with the Market Data Policies. OneChicago shall keep all information in such reports provided by Distributor confidential, in accordance with Section 9 of this Agreement. If applicable laws or regulations (including without limitation any privacy laws or regulations) prevent Distributor from complying with the reporting requirements of this Section, then Distributor must either obtain a waiver of such laws or regulations from the affected Subscriber or must terminate such Subscriber's access to Market Data.

C. BILLING

Company shall pay all Fees due to OneChicago within thirty (30) days after the date of invoice issued by OneChicago, which may be sent in either electronic or paper format.

8. REQUIREMENT TO MAINTAIN RECORDS; AUDIT

A. REQUIREMENT TO MAINTAIN RECORDS

Company and all members of Company's Group are required to keep accurate records relating to the use and distribution of the Market Data for a period of five (5) years after which they relate.

B. AUDIT

- (i) OneChicago or its authorized representatives may, on sixty (60) days' notice, and not more than once during each twelve (12) month period, inspect all equipment and records relating to the use, distribution, control, and billing of Market Data, in order to verify the accuracy of reports and compliance by Company and by members of Company's Group, and Company's Subscribers. If OneChicago suspects a material breach, OneChicago reserves the right to conduct an audit of Company, Company's Group, or Subscriber's Group without notice no more than once in any twelve (12) month period. OneChicago may conduct an audit pursuant to this section during normal business hours during the entire term of this Agreement and for a period of two (2) years afterwards. OneChicago and its authorized representatives agree to comply with Company's reasonable rules and regulations when visiting Company's premises.
- (ii) Company will pay any outstanding Fees revealed by an audit described in paragraph (i) within thirty (30) days of receipt of an invoice from OneChicago reflecting the Fees due as a result of the audit. If an audit reveals that Company has underpaid its Fees by more than 10% of the required Fees for the one (1) year period preceding the discovery of the error, Company shall bear the reasonable cost and expense of the audit.
- (iii) If an audit reveals to OneChicago that Company (1) has underpaid its Fees due under this Agreement, (2) no longer qualifies as the category such Company was initially registered as, or (3) has been distributing data to a recipient that should have been a Market Data Licensed Firm, but that was not so licensed, but the amount of the underpayment or the correct registration category cannot be established with reasonable certainty, then OneChicago may appoint a third-party auditor to determine the amount owed to OneChicago. OneChicago and Company hereby agree to accept the determination of such third-party auditor.
- (iv) If an audit reveals that any Company, by its use or distribution of Market Data, no longer qualifies as the category such Company was initially registered as (Distributor, ISV Distributor, Access Firm, or ESP) and instead qualifies as a separate category, OneChicago shall bill Company as such applicable category beginning from the date that OneChicago reasonably determines the Company began acting as such other category.

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- (v) If an audit reveals that Company has been distributing data to a recipient that should have been a Market Data Licensed Firm, but that was not so licensed, Company will be required to pay to OneChicago an amount that would have been due to OneChicago had the recipient receiving the Market Data been properly licensed, including all Units of Count that should have been reported by the unauthorized recipient.

9. CONFIDENTIALITY

A. RECEIPT OF CONFIDENTIAL INFORMATION

Any recipient of any information in connection with this Agreement that should reasonably have been understood by the recipient to be confidential shall use the same care and discretion to avoid disclosure of such confidential information as recipient uses with its own similar information that it does not wish to disclose (but in no event less than a reasonable degree of care). Recipient will use the confidential information only in connection with the performance of its obligations under this Agreement or the full enjoyment of its rights hereunder. Recipient will not disclose the confidential information except to its employees, agents, or contractors who have a need to know such confidential information in connection with the performance of its obligations or the full enjoyment of its rights under this Agreement. Recipient is liable for any unauthorized use or disclosure of confidential information by any of its employees, agents, or contractors. OneChicago may use Company information for marketing or business purposes.

B. REASONABLE DISCLOSURE OF CONFIDENTIAL INFORMATION

If required by any applicable law to disclose any confidential information in connection with any legal or regulatory proceeding, the recipient of such confidential information may disclose such information; provided, however, that recipient will notify the owner of the confidential information a reasonable time prior to disclosure, will allow owner a reasonable opportunity to seek appropriate protective measures prior to disclosure, and will not disclose any more than the minimum amount of such confidential information required by law.

C. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

Upon the termination of this Agreement, all confidential information will be promptly, at the direction of the owner of such confidential information, returned to the owner or destroyed.

10. TERM AND TERMINATION OF AGREEMENT

This Agreement shall be effective as of the Effective Date below and shall continue in effect until it is terminated pursuant to this Section 10.

A. TERMINATION FOR CONVENIENCE

This Agreement may be terminated by either party by giving the other party at least thirty (30) days' notice. Such notice shall be provided in accordance with Section 14 of this Agreement. If OneChicago exercises its right to terminate, OneChicago shall refund to Company a pro rata portion of any prepaid annual Fees, based on the number of months remaining in the annual period.

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B. IMMEDIATE TERMINATION OR SUSPENSION

- (i) If OneChicago or Company materially breaches any material provision of this Agreement and fails to completely cure the breach within thirty (30) calendar days after receiving written notice of such, the non-breaching party may terminate this Agreement upon the conclusion of the opportunity for the breaching party to cure such breach.
- (ii) OneChicago or Company may terminate or suspend this Agreement immediately if: (1) the other party ceases doing business as a going concern, or (2) the other party files any petition under any federal or state insolvency law, becomes insolvent, has an involuntary petition in bankruptcy filed against it or has a receiver appointed for it or its property.
- (iii) OneChicago or Company may terminate this Agreement immediately if necessary to comply with any applicable law, federal or state regulation, or any court order.

11. COMPANY WARRANTY, LIMITATION OF LIABILITY, AND COMPANY INDEMNIFICATION

A. ONECHICAGO WARRANTY

OneChicago warrants that it has the right to supply the Market Data for the purposes specified in this Agreement. Neither OneChicago nor its affiliates, nor any of its or their officers, directors, members, employees, agents, consultants, or licensors shall be liable for any delay, inaccuracy, error, or omission of any kind in the Market Data or for any resulting loss or damage. In addition, neither OneChicago nor its affiliates, nor any of its or their officers, directors, members, employees, agents, consultants or licensors shall have any liability for losses arising from unauthorized access to Market Data or any other misuse of Market Data.

Company accepts full responsibility for the usefulness of Market Data as incorporated in the Service. Company expressly acknowledges that OneChicago makes no representations or warranties except those expressly provided in this Agreement, and hereby disclaims all other representations and warranties, express or implied, including without limitation with respect to the merchantability, quality, fitness for a particular purpose, or accuracy or completeness of Market Data.

B. COMPANY WARRANTY

Company warrants that it has the authority to bind and obligate all members of Company's Group to comply with the terms and conditions of this Agreement. Company further warrants that it shall comply with, and cause all members of Company's Group to comply with, all laws, regulations, and rules applicable to Company in relation to this Agreement.

C. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO CIRCUMSTANCES SHALL ONECHICAGO BE LIABLE TO COMPANY, ANY MEMBER OF COMPANY'S GROUP OR TO OTHERS DIRECTLY OR INDIRECTLY MAKING USE OF MARKET DATA, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING UNDER THIS AGREEMENT, EVEN IF DUE TO ONECHICAGO'S ERROR, OMISSION, OR NEGLIGENCE.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL ONECHICAGO'S AGGREGATE LIABILITY HEREUNDER FROM ANY AND ALL CAUSES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY, WARRANTY, INDEMNITY OR OTHERWISE, EXCEED THE LESSER OF EITHER (1) THE MAXIMUM AMOUNT PERMITTED UNDER ONECHICAGO RULE 422 (OR ANY SUCCESSOR RULE THERETO), OR (2) THE FEES PAID TO ONECHICAGO BY COMPANY HEREUNDER.

D. INDEMNIFICATION

OneChicago will indemnify and hold harmless Company, its officers, directors, employees and agents from and against any and all damages resulting from third party claims arising from any claims that OneChicago Market Data infringes on any third party

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intellectual property right (i) does not arise from any modification to the Market Data made by Company, and (ii) does not arise from the combination of Market Data with other products or technology not provided or supplied by OneChicago.

Company will indemnify, defend and hold harmless OneChicago and its affiliates, and its and their respective officers, directors, members, employees, agents, consultants, and licensors against all losses, claims, damages, expenses, or costs (including reasonable attorneys' fees) which any of them has or have incurred or paid to any third party arising from (a) access to or use of Market Data by Company or Company's Subscribers or any other recipient of Market Data from Company or any member of Company's Group, except where the losses or claims arise from willful misconduct on the part of OneChicago or its officers; or (b) a breach of any of the representations, warranties, agreements or covenants under this Agreement by Company or any member of Company's Group.

OneChicago shall promptly notify Company in writing of any such losses, claims, damages, expenses or costs and Company shall have sole control of the settlement and defense of any action to which this indemnity relates. OneChicago shall cooperate reasonably with Company to facilitate any such defense.

12. EQUITABLE REMEDIES

Company acknowledges and agrees that the violation of Company's obligations under this Agreement may cause irreparable harm to OneChicago and any OneChicago systems, which harm may not be compensable solely by monetary damages, and that, therefore, in the event of an actual or threatened breach by the Company of any section, OneChicago may be entitled to injunctive and other equitable relief. Any such equitable relief granted shall be without prejudice to any other rights and remedies as OneChicago may have under this Agreement.

13. GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Illinois, without giving effect to its conflict of laws principles, and the Federal laws of the United States of America. Company consents and agrees, and hereby submits, to the general and exclusive jurisdiction of the Federal and State courts in Chicago, Illinois, agrees to commence actions, suits, and proceedings only in such courts, and waives any objection to venue in any such jurisdiction in the event any action, suit, or proceeding is commenced in such courts under or with respect to any matters in connection with this Agreement.



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14. NOTICES

Any notice required or permitted to be given in connection with this Agreement will be deemed to be delivered and received (a) upon personal delivery to the party to be notified; (b) one business day after deposit with a nationally recognized overnight carrier, specifying next business day delivery, with written verification of receipt; (c) five days after being sent by certified or registered mail, postage prepaid with return receipt requested, or (d) on the next business day if sent by e-mail during normal business hours of recipient and, if to Company, addressed to Distributor at the following address:

Company E-mail: _____ Address: _____
 City, State: _____
 Zip Code: _____

or if to OneChicago at:

OneChicago, LLC
311 South Wacker Drive, Suite 1700
Chicago, Illinois 60606
Attention: Legal Department
legal@onechicago.com

Or to such other address OneChicago may specify in writing to Company from time to time.

15. ASSIGNMENT

Company shall not assign or transfer or purport to assign or transfer this Agreement or any part of it or the benefit or burden thereof. Any purported assignment in contravention of this section shall be void. OneChicago may, without prior written consent of the Company, assign or transfer this Agreement or its rights and obligations hereunder to any of its affiliates in connection with the merger or acquisition of OneChicago or the sale of all or substantially all of its assets. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, and permitted assigns.

16. NO THIRD PARTY BENEFICIARIES

No provision of this Agreement is intended, expressly, or by implication, to purport to confer a benefit or right of action upon a third party.

17. HEADINGS

The headings in this Agreement are provided for convenience and reference only and have no legal effect on the Agreement’s construction or interpretation and in no way define, limit, construe, or describe the scope or extent of such section.

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18. NO WAIVER

No failure on the part of OneChicago or Company to exercise, and no delay on either part in exercising, any right or remedy under this Agreement will operate as a waiver thereof or of any requirement, nor will any single or partial exercise of any right or remedy preclude any other or further or future exercise thereof or the exercise of any other right or remedy.

19. FORCE MAJEURE

Any delay in or failure of performance by either party under this Agreement will not be considered a breach and will be excused to the extent such delay in or failure of performance is caused by any event beyond the reasonable control of such breaching party, including, but not limited to, acts of God, acts of terrorism, acts of civil or military authorities, strikes or other labor disputes, fires, interruptions in telecommunications or Internet or network provider services, acts or omissions of a third party hardware or software supplier or a third party communications provider, power outages and governmental restrictions.

20. SEVERABILITY

If any part of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such part shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other parts hereof shall remain in full force and effect.

21. SURVIVAL

The provisions of Sections 3, 8, 9, and 11 shall survive termination of this Agreement.

22. ENTIRE AGREEMENT

This Agreement together with any Exhibit(s) contains the entire agreement between Company and OneChicago regarding the subject matter hereof and supersedes all prior agreements, understandings, and negotiations between Company and OneChicago. This Agreement may be amended only by a writing executed by both of the parties hereto.

23. AMENDMENTS

Except as may otherwise be provided in this Agreement, no modification of the terms and conditions of this Agreement shall be effective unless expressly agreed to in writing by both parties. Company may add to or change the list of Affiliated Companies or Service Facilitators in the Service Facilitators Form to reflect changes in Company's Group and its use of Market Data. OneChicago, in its sole and reasonable discretion may reject the addition of any Affiliated Companies by providing Distributor notice of such rejection within 15 days of receipt of Company's written notice proposing such addition.

OneChicago may amend the terms and conditions of the Market Data Policies from time to time in its own reasonable discretion. OneChicago shall notify Company in writing at least thirty (30) days in advance of any proposed change to Market Data Policies.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement, which is effective as of the date this Agreement is accepted and executed by OneChicago, as indicated below.



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COMPANY SIGNATURE

Name _____

Title _____

Signature _____

Date _____

ONECHICAGO SIGNATURE

Name _____

Title _____

Signature _____

Effective Date _____

Please return completed documentation to:

OneChicago, LLC Operations Department

311 S. Wacker Dr., Suite 1700

Chicago, IL 60606

Phone: (312) 883-3411

operations@onechicago.com