

## **FINRA HISTORIC DATA AGREEMENT v. 1.2**

**THIS HISTORIC DATA AGREEMENT** together with all Attachments attached hereto (*Agreement*), is made by and between the Financial Industry Regulatory Authority, Inc. (*FINRA*), a Delaware nonprofit corporation that is a securities self-regulatory organization registered with the United States Securities and Exchange Commission (*SEC*) and subject to the Securities Exchange Act of 1934 (*Act*), whose principal place of business is located at 1735 K Street NW, Washington, D.C. and the Vendor.

**WHEREAS**, Vendor wants to receive and FINRA is willing to make available to Vendor the Enhanced Historic Information and Data via a password protected CD or as otherwise expressly provided for by the parties in writing, subject to the terms and conditions of this Agreement as it may be amended from time to time.

**NOW, THEREFORE**, in consideration of the recitals and the terms and conditions contained in this Agreement, Vendor and FINRA hereby agree as follows:

### **DEFINITIONS**

***Affiliates and Subsidiaries:*** Affiliates and Subsidiaries of Vendor are those entities that are controlled by or under common control with Vendor or are otherwise agreed to in writing by FINRA. For the purposes of this definition, “control”, along with any derivative thereof, means legal, beneficial, or equitable ownership, directly or indirectly, of 50 percent (50%) or more of the capital stock (or other ownership interest, if not a corporation) of any entity ordinarily having voting rights.

***Audit Period:*** The Term of this Agreement plus five (5) years after the termination or expiration of this Agreement.

***Authorized Use:*** Shall have the meaning set forth in Section 1 of this Agreement.

***Business Days:*** Those days in which the TRACE System is operating and accepting TRACE transactions.

***Claims or Losses:*** Any and all liabilities, obligations, losses, damages, penalties, claims, costs, judgments, and expenses of whatever nature, whether incurred by or issued against an indemnified party, including (i) indirect, special, punitive, consequential, or incidental losses or damage and (ii) administrative costs, litigation costs, and auditors’ and in-house and outside attorneys’ fees and expenses, and related disbursements.

***Clients:*** Those individuals or entities, excluding Internal Users, to whom a Vendor provides (or provides access to) Enhanced Historic Information and Data in accordance with the terms and conditions of this Agreement).

***Client Bulk Distribution Agreement:*** an agreement between Vendor and Vendor’s Client which sets forth the terms and conditions upon which Vendor’s Client may receive the Enhanced Historic Information and Data from Vendor.

**Client Bulk Distribution Report:** a report filed with FINRA by Vendor on a monthly basis which lists of the number of the Clients receiving Enhanced Historic Information and Data from Vendor.

**Confidential Information:** Data, information or techniques from a disclosing party which the receiving party knows, should know, or which is marked as such, is confidential information.

**Device:** Any equipment which uses processes or receives Enhanced Historic Information and Data.

**Enhanced Historic Information and Data:** Certain data and other information, including derivative works thereof that have been collected, consolidated, validated, processed, or recorded by FINRA and which may be generated or gathered from other sources by FINRA, relating to securities or other financial instruments, products, vehicles or devices eligible for or reported to TRACE and persons regulated by FINRA.

**External Distribution:** Distribution of the Enhanced Historic Information and Data outside of Vendor or its Affiliates and Subsidiaries.

**Fee Liabile Data:** All Enhanced Historic Information and Data that is within the definition contained in FINRA Rule 7730.

**FINRA's Audit Costs:** All reasonable and necessary in-house and outside audit, legal or administrative costs and expenses incurred in good faith by FINRA to detect and rectify erroneous reporting.

**FINRA Group:** FINRA, its representatives and auditors.

**FINRA Rules:** All applicable laws (including intellectual property, communications, and securities laws), statutes and regulations, the rules and regulations of the SEC, the rules, regulations and guidelines of FINRA (formerly NASD) regarding the display and dissemination of data, including those requirements established by FINRA's rule filings (with such SEC approval as may be required), FINRA's decisions and interpretations, or other guidelines (including but not limited to, Market Data Policy and policies on the use and display of data), or successors of the components of FINRA Rules, as they may exist at the time.

**Internal Use:** Use of the Enhanced Historic Information and Data by an Internal User within Vendor or its' Affiliates and Subsidiaries' organization.

**Internal Users:** Employees or subcontractors of Vendor or its Affiliates and Subsidiaries.

**Modify:** "Modify" and any derivative thereof shall mean changes, additions, or deletions to the Enhanced Historic Information and Data the delivery specifications and requirements.

**Non-Fee Liabile Enhanced Historic Information and Data:** Any Other Enhanced Historic Information and Data other than defined in FINRA Rule 7730.

**Term:** Shall have the meaning set forth in Section 13 of this Agreement.

**Vendor:** The person or entity executing this Agreement.

**Vendor's Service:** A service developed by or licensed by Vendor that includes communications facilities for accessing, receiving, storing, processing, using, transmitting and disseminating the Enhanced Historic Information and Data.

**Website:** The Internet site found at [www.finra.org/licensing/trace](http://www.finra.org/licensing/trace) or such other URL to which FINRA may automatically forward [www.finra.org/licensing/trace](http://www.finra.org/licensing/trace) from time to time.

## TERMS

### *Section 1. License Grant*

(a) Except as otherwise provided in this Agreement, Vendor is granted a world-wide, non-transferable, non-exclusive, non-assignable, limited right and license to use and sublicense the Enhanced Historic Information and Data in accordance with this Agreement and Attachment B hereto, for the Term of this Agreement (**Authorized Use**). Any use of the Enhanced Historic Information and Data, by a Vendor, unless expressly described in a FINRA approved Attachment B, is prohibited. Authorized Use shall be limited to accessing, receiving, using, processing, manipulating, storing, transmitting and disseminating the Enhanced Historic Information and Data through Vendor's Service. Affiliates and Subsidiaries of Vendor listed on Attachment A are authorized to use the Enhanced Historic Information and Data in accordance with the terms and conditions hereunder. Vendor hereby warrants that those entities listed in Attachment A fall within the definition of Affiliates and Subsidiaries set out herein. Vendor remains liable to FINRA for (i) any breach of this Agreement resulting from the actions/inaction of Clients to whom it provides Bulk Distribution of the Enhanced Historic Information and Data and (ii) Internal Users for Internal Use.

(b) Vendor that provides Enhanced Historic Information and Data to Bulk Distribution Clients shall use commercially reasonable measures to ensure that the terms and conditions of this Agreement which apply to a Bulk Distribution Clients are followed. Notwithstanding anything in this Agreement to the contrary, Vendor remains liable to and agrees to indemnify FINRA against any unauthorized use of the Enhanced Historic Information and Data by or through Vendor or as a result of Vendor's action/inaction.

(c) If Vendor learns of any unauthorized use of the Enhanced Historic Information and Data, it shall immediately provide FINRA with written notice of the unauthorized use and shall assist FINRA, in investigating, halting and prosecuting, if necessary, any such unauthorized use. If FINRA so elects, Vendor shall assign and shall ensure that all of its, agents assign, all right, title and interest in and to any suit, including its subject matter, of or concerning the Enhanced Historic Information and Data or which otherwise arises out of or is related to this Agreement, to FINRA. In the event that such an election is made Vendor shall have the right to participate in any cause of action at its sole cost and expense.

(d) FINRA reserves the right to monitor and review the activities of Vendors to ensure that no unauthorized use of the Enhanced Historic Information and Data occurs. Vendor agrees to cooperate and use reasonable efforts to obtain the cooperation of those Clients for which it serves as a Vendor with FINRA at Vendor's cost in any such review. In the event that FINRA identifies

any unauthorized use, Vendor shall, upon five (5) Business Days' notice from FINRA, immediately cease all such use and confirm to FINRA in ten (10) Business Days that such use has been terminated. At such time when the unauthorized use in the sole and reasonable judgment of FINRA has been cured, Vendor may resume providing the Enhanced Historic Information and Data. This remedy is in addition to and not in place of any other remedy FINRA may have as a matter of law or equity.

(e) If any Client fails to comply with any of the conditions, terms or provisions of its Client Bulk Distribution Agreement or any agreement it has with its Vendor, or has made any representation in any such agreement which was or has become false, then Vendor shall, within five (5) Business Days after receipt of notice from FINRA of such failure or falsity, or after Vendor knows or should have known of such failure or falsity, cease providing the Enhanced Historic Information and Data to such Client and shall, within ten (10) Business Days following the receipt of such notice, confirm such cessation by notice to FINRA.

(f) Vendor agrees not to alter the Enhanced Historic Information and Data in any manner that adversely affects its accuracy or integrity or that renders it misleading or discriminatory.

**Section 2. Proprietary Rights in Enhanced Historic Information and Data.** Vendor acknowledges and agrees that FINRA has ownership of the Enhanced Historic Information and Data that originates on, derives from or relates to all markets, individuals or entities, and activities that are regulated, operated or administered by FINRA and compilation or other proprietary rights in Enhanced Historic Information and Data gathered from other sources. All Enhanced Historic Information and Data, including without limitation any and all intellectual property rights inherent therein or appurtenant thereto, shall, as between the parties, be and remain the sole and exclusive property of FINRA. Vendor shall not, by act or omission, diminish or impair the acquisition, maintenance, and full enjoyment by FINRA, its licensees, transferees and assignees, of the property rights of FINRA in the Enhanced Historic Information and Data and the System. FINRA reserves any right to the System and the Enhanced Historic Information and Data not explicitly granted herein.

**Section 3. Modifications.** Vendor acknowledges and agrees that nothing in this Agreement shall be deemed to constitute an undertaking by FINRA to continue to disseminate the Enhanced Historic Information and Data in the present form or configuration or to continue to use existing delivery methods. FINRA, in its sole discretion, and without Vendor's consent, may from time to time, modify the delivery method and/or Enhanced Historic Information and Data. FINRA may make such Modifications irrespective of whether such Modifications would require changes to be made by Vendor to Vendor's Service or any Device. Vendor will make, and bear the cost of making, any changes necessary to maintain the proper working order of Vendor's Service, Devices or other equipment in light of the Modifications within ninety (90) days of any Modification.

**Section 4. CUSIP Numbers.**

(a) Vendor agrees and acknowledges that the CUSIP Database and the information contained therein is and shall remain valuable intellectual property owned by, or licensed to, CUSIP Global Services (*CGS*) and the American Bankers Association (*ABA*), and that no

proprietary rights are being transferred to Vendor in such materials or in any of the information contained therein. Any use by Vendor outside of the clearing and settlement of transactions requires a license from CGS, along with an associated fee based on usage. Vendor agrees that misappropriation or misuse of such materials will cause serious damage to CGS and ABA, and that in such event money damages may not constitute sufficient compensation to CGS and ABA; consequently, Vendor agrees that in the event of any misappropriation or misuse, CGS and ABA shall have the right to obtain injunctive relief in addition to any other legal or financial remedies to which CGS and ABA may be entitled.

(b) Vendor agrees that Vendor shall not publish or distribute in any medium the CUSIP Database or any information contained therein or summaries or subsets thereof to any person or entity except in connection with the normal clearing and settlement of security transactions. Vendor further agrees that the use of CUSIP numbers and descriptions is not intended to create or maintain, and does not serve the purpose of the creation or maintenance of, a master file or database of CUSIP descriptions or numbers for itself or any third party recipient of such service and is not intended to create and does not serve in any way as a substitute for the CUSIP MASTER TAPE, PRINT, DB, INTERNET, ELECTRONIC, CD-ROM Services and/or any other future services developed by the CGS.

(c) NEITHER CGS, ABA NOR ANY OF THEIR AFFILIATES MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY OF THE INFORMATION CONTAINED IN THE CUSIP DATABASE. ALL SUCH MATERIALS ARE PROVIDED TO VENDOR ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE NOR WITH RESPECT TO THE RESULTS WHICH MAY BE OBTAINED FROM THE USE OF SUCH MATERIALS. NEITHER CGS, ABA NOR THEIR AFFILIATES SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY ERRORS OR OMISSIONS NOR SHALL THEY BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF CGS, ABA OR ANY OF THEIR AFFILIATES PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEE PAID BY VENDOR FOR ACCESS TO SUCH MATERIALS IN THE MONTH IN WHICH SUCH CAUSE OF ACTION IS ALLEGED TO HAVE ARISEN. FURTHERMORE, CGS AND ABA SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DELAYS OR FAILURES DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL.

(d) Vendor agrees that the foregoing terms and conditions shall survive any termination of its right of access to the materials identified above.

***Section 5. Transmission to Clients.*** Vendor shall only provide the Enhanced Historic Information and Data in bulk to Clients that are a party to an effective Client Bulk Distribution Agreement. Vendor shall not provide the Enhanced Historic Information and Data to any individual or entity for retransmission or redistribution by such individual or entity. Vendor, on a monthly basis, shall file with FINRA a Client Bulk Distribution Report within fifteen days (15) of receipt of the Enhanced Historic Information and Data. Any Report submitted by Vendor to FINRA shall become final and not subject to revision by Vendor thirty (30) days after such Report

is filed with FINRA. Vendor agrees to permit the FINRA Group to periodically inspect its premises to verify the veracity and accuracy of its systems and reporting.

**Section 6. Termination of Bulk Distribution Clients.** If Vendor's Bulk Distribution Client has their access to the Enhanced Historic Information and Data terminated, cancelled or it expires on its own, Vendor shall, within five (5) Business Days cease providing the Enhanced Historic Information and Data to Client and shall promptly inform FINRA of such cessation by written notice.

**Section 7. Fees; Interest; Taxes.** In consideration of the rights granted herein, Vendor agrees to pay to FINRA or FINRA's designee the then effective fees, charges and interest, late fees or penalties in accordance with FINRA Rules or other notice to Vendor, notwithstanding amounts actually invoiced by FINRA, within thirty (30) days of an invoice or other notice of amounts due from FINRA. Vendor's obligation to pay amounts due is not subject to set-off, offset or recoupment. Vendor shall assume full and complete responsibility for the payment of all taxes, charges or assessments imposed on Vendor, Client or FINRA (except for U.S. federal, state, or local income taxes, if any, imposed on FINRA). The current rates charged for Enhanced Historic Information and Data are based on the application of *Attachment B* hereto to FINRA Rule 7730. All payments under this *Section* shall be made on a monthly basis. FINRA reserves the right to change any charges or rates in accordance with FINRA Rules or other notice to Vendor. Vendor shall, in any notice or invoice for Vendor's Service in which FINRA fees and charges are included, accurately identify said fees and charges.

**Section 8. Audit by FINRA.** During the Audit Period, Vendor shall maintain copies of all Reports and records of payments to FINRA, and all authorizations and agreements with Vendor's Clients. During the Audit Period the FINRA Group or its subcontractors or Vendor (at FINRA's request) may, upon reasonable advance notice, review Vendor's (a) records, (b) reports and records of payments to FINRA; and (c) data processing equipment and communications facilities and provide a report thereon detailing amounts owed and payments made. Underreported amounts shall be remitted to FINRA; together with interest at one percent (1%) per month from the date such underreported amounts were due as well as a revised Report within fifteen (15) calendar days after notice from FINRA or when Vendor knows of such underreported amounts. If such erroneous reporting is equal to or greater than five percent (5%) of the amount actually reported for the period in question, Vendor shall also reimburse FINRA's Audit Costs, Unless underreported amounts are equal to or greater than five percent (5%) of the total amounts of fees and charges due for the period in question FINRA shall not re-audit records that were previously the subject of an FINRA audit All records, books and systems inspected during the course of such an Audit shall be considered Confidential Information and shall be subject to Section 14 of this Agreement.

**Section 9. Security.** Vendor agrees to use commercially reasonable efforts to ensure that Vendor's use of the Enhanced Historic Information and Data remains at all times secure from unauthorized access or interference and to prevent the Enhanced Historic Information and Data from being accessed or taken from or in any way communicated, divulged or published except through authorized channels of transmission or reception.

**Section 10. WARRANTIES; DISCLAIMERS OF WARRANTIES.** NEITHER FINRA, S&P, ABA, NOR ANY OF THEIR THIRD PARTY INFORMATION PROVIDERS,

AFFILIATES OR SUBCONTRACTORS MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, TIMELINESS, ADEQUACY OR COMPLETENESS OF ANY OF THE INFORMATION CONTAINED IN THE CUSIP DATABASE. ALL SUCH MATERIALS ARE PROVIDED TO VENDOR ON AN “AS IS” BASIS, WITHOUT ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS NEITHER FOR A PARTICULAR PURPOSE OR USE NOR WITH RESPECT TO THE RESULTS WHICH MAY BE OBTAINED FROM THE USE OF SUCH MATERIALS.

(a) NEITHER FINRA, S&P, ABA NOR THEIR THIRD PARTY INFORMATION PROVIDERS, AFFILIATES OR SUBCONTRACTORS SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY ERRORS OR OMISSIONS NOR SHALL THEY BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) HOWEVER, IN THE EVENT THAT FINRA, S&P, ABA OR ANY OF THEIR THIRD PARTY INFORMATION PROVIDERS, AFFILIATES OR SUBCONTRACTORS ARE FOUND LIABLE, THE LIABILITY OF FINRA, S&P, ABA OR ANY OF THEIR AFFILIATES, PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE FEE PAID BY VENDOR FOR ACCESS TO SUCH MATERIALS IN THE MONTH IN WHICH THE CAUSE OF ACTION IS ALLEGED TO HAVE RISEN.

(c) FURTHERMORE, FINRA, S&P AND ABA AND THEIR THIRD PARTY INFORMATION PROVIDERS, AFFILIATES AND SUBCONTRACTORS SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO VENDOR OR CLIENT FOR DELAYS OR FAILURES DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL.

**Section 11. Indemnification.** Subject to the indemnified party’s prompt notice to the indemnifying party:

(a) Vendor shall indemnify, defend and hold FINRA harmless from, any and all Claims or Losses imposed on, incurred by or asserted against FINRA to the extent that the Claims and Losses result from negligent (including gross and willful) acts or omissions, intentional misconduct of the Vendor or Client or breach of this Agreement by Vendor or the Client, access, receipt, processing, use, transmission or dissemination of the Enhanced Historic Information and Data by or through Vendor or Client or claims by third parties against FINRA that Vendor or Client’s service or use of the Enhanced Historic Information and Data infringes up the intellectual property rights of another.

(b) FINRA shall indemnify and defend Vendor against, and hold Vendor harmless from, any and all judgments or settlements done with FINRA’s prior notice and approval, imposed on Vendor as a result of a third party action alleging that the Enhanced Historic Information and Data infringes or misappropriates any third parties’ U.S. registered intellectual property rights, provided that the Enhanced Historic Information and Data have been used only in accordance with this Agreement, and excluding any infringement or misappropriation relating to or resulting from any modification or alteration to the Enhanced Historic Information and Data.

(c) In the event of a claim, action or allegation of infringement or if, in FINRA's opinion, such a claim, action or allegation is likely to occur or if the use of the Enhanced Historic Information and Data is enjoined because of infringement, FINRA may, at its sole option and expense, procure for Vendor and Vendor's Clients the right to continue using the Enhanced Historic Information and Data, replace or modify the Enhanced Historic Information and Data so that it does not infringe, or discontinue providing the Enhanced Historic Information and Data.

**Section 12. Default.** In the event Vendor is in default of any obligation in this Agreement or has provided false information or applies for receivership or is placed into bankruptcy or makes a general assignment for the benefit of creditors, FINRA in its sole discretion and in the event a default is subject to cure, shall notice Vendor and Vendor shall have thirty (30) days to cure such default. In the event Vendor fails to cure such default within this time period, FINRA will have the immediate right, in its sole discretion, to take one or more of the following actions: (i) to terminate this Agreement and Vendor's right to receive the Enhanced Historic Information and Data hereunder; (ii) demand arbitration; or (iii) to pursue such other remedies as it may be entitled by virtue of or under this Agreement, before regulatory authorities, or at law or in equity.

**Section 13. Term and Termination; Survival.** The term of this Agreement will commence on the date of execution by FINRA and will continue perpetually unless terminated in accordance with this Agreement or by written notice by a party hereto given at least ninety (90) days prior to the proposed date of termination (**Term**). Those sections which, by their nature are intended to survive termination or expiration of this Agreement, shall survive any termination or expiration of this Agreement.

**Section 14. Confidentiality.** FINRA and Vendor acknowledge that in the course of their performance of this Agreement each may obtain Confidential Information of the other. The recipient shall use such Confidential Information only in fulfillment of its obligations under 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 other party. Notwithstanding the foregoing, FINRA or Vendor may disclose Confidential Information to the extent demanded by a court, or required to be revealed to a government agency with regulatory jurisdiction over FINRA or Vendor or in its regulatory responsibilities under the Exchange Act of 1934. The duties in this section do not apply to data, information or techniques that can be shown to be: (1) lawfully within recipient's possession prior to the date of this Agreement and not subject to a duty of confidentiality; (2) voluntarily disclosed by a third-party so long as that third-party does not breach any obligation of confidentiality with respect to such data, information or techniques; (3) is generally known or revealed to the public through no act or omission of the recipient; or (4) independently developed by the recipient without use of or reference to the Confidential Information of the other party. The obligations under this *Section 14* shall continue until such time as the Confidential Information is publicly known and made generally available through no action or inaction of the recipient of the Confidential Information.

**Section 15. Assignment; Third-Party Rights.** This Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns. Neither party shall assign this Agreement (including by operation of law) without the prior written consent of the non-assigning party. In the event that consent to assign is granted, Vendor unconditionally guarantees the payment and performance by such assignee entity of all obligations under this Agreement.



**Section 16. Arbitration.** Any claim, dispute, controversy or other matter in question with regard to the Agreement that cannot be resolved by negotiation between the parties shall be submitted to arbitration in accordance with the rules and regulations of the American Arbitration Association; *provided, however*, that (1) submission of any such claim, dispute, controversy or other matter in question to the American Arbitration Association shall not be required if the parties agree upon another arbitration forum, (2) the foregoing shall not preclude either party from pursuing all available administrative, judicial or other remedies for infringement of a registered patent, trademark, service mark or copyright, (3) the parties shall not submit claims for punitive damages, and do hereby waive any right to the same and (4) the arbitrators shall not be authorized to award punitive damages.

**Section 17. Amendment.** Except as may be otherwise set forth herein, FINRA may modify any part of this Agreement on 90 days prior notice. Vendor agrees to provide prompt notice to Vendor's Clients of any such modification. Vendor's failure to reject by notice the modification 30 days prior to the effective date of the modification or Vendor's use of the System or Enhanced Historic Information and Data following the effective date of such modification shall be deemed to be an acceptance of the modification. Any rejection by Vendor of any amendment made by FINRA may, at FINRA's sole discretion, result in immediate termination of this Agreement by FINRA. Except as otherwise provided herein, no provision of this Agreement, or the attachments which are a part hereof, may be amended, modified or waived unless by an instrument in writing executed on behalf of each of the parties by their respective duly-authorized officers.

**Section 18. Governing Law.** This Agreement shall be deemed to have been made in the State of New York and shall be construed and enforced in accordance with the laws of the State of New York, without reference to principles of conflicts of laws thereof. Each party irrevocably agrees that any legal or equitable action, suit or proceeding must be brought solely and exclusively in the United States District Court for the Southern District of New York or in the state courts of the State of New York in New York County and irrevocably accepts and submits to the sole and exclusive jurisdiction of each of the aforesaid courts in personam, Further each party irrevocably consents to the service of process from any of the aforesaid courts by mailing copies thereof by registered or certified mail, postage prepaid, to such party at its address designated pursuant to this Agreement, with such service of process to become effective thirty (30) days after such mailing. Each party hereby irrevocably waives their right to a jury trial.

**Section 19. Severability.** If any of the provisions of this Agreement, or the application thereof to any individual, entity or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to individuals or entities or circumstances other than those as to which they are invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**Section 20. Attorneys' Fees to the Prevailing Party.** The prevailing party in any arbitration, litigation or proceeding hereunder shall be entitled to attorneys' fees.

**Section 21. Entire Agreement.** This Agreement, including the attachments hereto which are an integral part hereof and materials referenced herein (collectively **Attachments**) FINRA Rules, and FINRA Policies, including but not limited to Market Data Policies, (available on the

Website), as any of these items may be added to, deleted from, or amended from time to time, constitute the entire Agreement between the parties with respect to the subject matter hereof, and supersede all prior negotiations, communications, writings and understandings with respect to the subject matter of this Agreement. If there is a conflict between the provisions of this Agreement, the Attachments or FINRA Rules, the order of preference shall be FINRA Rules, the Attachments and this Agreement.

**Section 22. Joint and Several Liability.** Vendor, its Affiliates and Subsidiaries and any other entity related to Vendor which benefits from or accesses the Enhanced Historic Information and Data through Vendor are hereby all jointly and severally liable for all Claims or Losses which FINRA incurs as a result of Vendor, its Affiliates and Subsidiaries or any other entity related to Vendor's breach, action or inaction under this Agreement and each of them hereby agrees to be held jointly and severally liable for indemnifying FINRA therefore. FINRA shall have no obligation to exhaust its remedies against any certain party under this Agreement prior to proceeding against another party who is liable under this Agreement.

**Section 23. Notices.** Unless set out otherwise herein all notice to be given under this Agreement shall be in writing, and shall be directed to the signatories or, in the alternative, to the individuals identified in subsections (a) and (b) below and shall be deemed to have been duly given upon actual receipt by the parties, or upon constructive receipt if sent by certified mail, return receipt requested, or any other delivery method that actually obtains a signed delivery receipt, to the following addresses or to such other address as any party hereto shall hereafter specify by prior notice to the other party or parties hereto:

(a) If to Vendor:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
E-Mail: \_\_\_\_\_  
Phone #: \_\_\_\_\_

(b) If to FINRA:

FINRA - TRACE Data Services  
One Liberty Plaza, 52nd Fl.  
New York, NY 10006  
Telephone: 888-507-3665  
E-Mail: TRACEDataServices@finra.org

With, in the event of notices of default or dispute or personal service of process, a required copy by U.S. certified mail, return receipt requested to:

Financial Industry Regulatory Authority, Inc.  
1735 K Street NW  
10th Floor  
Washington, DC 20006-1500  
Attn: Office of General Counsel - Commercial Transactions Group

**Section 24. Counterparts.** This Agreement may be executed in one or more counterparts, which shall each be considered an original, but all of which together shall constitute one and the same Agreement.

\_\_\_\_\_  
("Vendor")

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Date: \_\_\_\_\_, 20\_\_\_\_

**Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for and on behalf of:**

Financial Industry Regulatory Authority, Inc.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

## **Attachment A**

List of Vendor's Authorized Affiliates and Subsidiaries:

## Attachment B

Please submit the completed form to:

FINRA - TRACE Data Services  
One Liberty Plaza, 52nd Fl.  
New York, NY 10006  
Telephone: 888-507-3665  
E-Mail: TRACEDataServices@finra.org

### 1. FIRM INFORMATION

(a) **Name of Your Firm (“Vendor”):**

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**Is Your Firm a Qualified Tax-Exempt Organization:**

Yes  No

(b) **Firm Address :**

Street Address:	
City:	State/Province:
Postal Code:	Country:

(c) **Billing Address (if different from above):**

Street Address:	
City:	State/Province:
Postal Code:	Country:

(d) **Primary Contact:**

Phone Number:

E-Mail Address:


**2. DATA USE**

**A. INTERNAL USE**

(a) Check all that apply

Application Display	<input type="checkbox"/>
Internal System, Non-Display Use	<input type="checkbox"/>
Derivative Products (for example indices)	<input type="checkbox"/>
Other (specify)	<input type="checkbox"/>

(b) Describe how you intend to use the data:

**B. EXTERNAL USE**

**I. PROFESSIONAL REDISTRIBUTION (IF APPLICABLE)**

(a) Redistribution / Delivery Methods: Check all that apply

Application Display	<input type="checkbox"/>
Internal System, Non-Display Use	<input type="checkbox"/>
Derivative Products (for example indices)	<input type="checkbox"/>
Other (specify)	<input type="checkbox"/>

(b) Name of the product(s)/service(s) your firm will provide to your customers which incorporates, is related to or which is based upon the Enhanced Historic Data:

(c) Describe your product(s)/service(s):

THIS ATTACHMENT B SHALL BE DEEMED TO BE ATTACHED TO AND INCORPORATED INTO THE HISTORIC DATA AGREEMENT EXECUTED BY THE UNDERSIGNED. ANY UNAUTHORIZED ALTERATION SHALL BE DEEMED A MATERIAL BREACH OF THE HISTORIC DATA AGREEMENT TO WHICH IT IS ATTACHED AND SHALL SUBJECT THE UNDERSIGNED TO ANY AND ALL REMEDIES SET OUT IN THEREIN FOR BREACH

I certify that the information provided on this Attachment B is accurate.

Signature: \_\_\_\_\_ Name: \_\_\_\_\_

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

## Attachment C

Please select the data sets that you wish to subscribe to:

BTDS\*       ATDS\*       SPDS\*       144A\*

**Data received will be aged as per FINRA Rule 7730.**

<input type="checkbox"/> 2002 & 2003	<input type="checkbox"/> 2012
<input type="checkbox"/> 2004	<input type="checkbox"/> 2013
<input type="checkbox"/> 2005	<input type="checkbox"/> 2014
<input type="checkbox"/> 2006	<input type="checkbox"/> 2015
<input type="checkbox"/> 2007	<input type="checkbox"/> 2016
<input type="checkbox"/> 2008	<input type="checkbox"/> 2017
<input type="checkbox"/> 2009	<input type="checkbox"/> 2018**
<input type="checkbox"/> 2010	<input type="checkbox"/> 2019**
<input type="checkbox"/> 2011	<input type="checkbox"/> Perpetual**

\* As per FINRA Rule 7730:

For BTDS and Corporate 144A, 2002 and 2003 Calendar Years are packaged together.

For ATDS, 2010 and 2011 Calendar Years are packaged together.

For SPDS, 2011 and 2012 Calendar Years are packaged together.

\*\* If future years or the Perpetual subscription are selected, the data will be provided in quarterly increments as it becomes available and Vendor will be billed at the beginning of each calendar year for the available calendar year's data. The Perpetual subscription will continue until the Vendor submits written notification of cancellation.