

ATTACHMENT B-1

OPTIONS PRICE REPORTING AUTHORITY

ELECTRONIC FORM OF
SUBSCRIBER AGREEMENT

IMPORTANT NOTICE: THIS SUBSCRIBER AGREEMENT (THIS “AGREEMENT”) IS AN AGREEMENT BETWEEN YOU AND MORGAN STANLEY SMITH BARNEY LLC FOR YOU TO RECEIVE INFORMATION PUBLISHED BY THE OPTIONS PRICE REPORTING AUTHORITY, LLC (“OPRA”). PLEASE READ THIS AGREEMENT CAREFULLY. AFTER YOU HAVE READ THIS AGREEMENT, PLEASE INDICATE YOUR AGREEMENT TO BE BOUND BY ITS TERMS AND CONDITIONS BY CLICKING ON THE “I AGREE” BUTTON AT THE END. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU WILL BE UNABLE TO RECEIVE THE INFORMATION.

By completing and submitting this Agreement, you are applying to receive from Morgan Stanley Smith Barney LLC (“Vendor”) a market data service (the “Service”) providing access to current options last sale and quotation information and related information (“OPRA Data”) published by OPRA pursuant to a Plan declared effective by the Securities and Exchange Commission. The parties to this Plan (each, an “OPRA Participant”) are those national securities exchanges that are from time to time approved by the Securities and Exchange Commission for the trading of securities options. In reviewing and approving this Agreement, Vendor is authorized to act on behalf of OPRA. The person who acts from time to time as data processor on behalf of OPRA is referred to herein as “OPRA’s Processor.”

By completing and submitting this Agreement and clicking on the “I agree” button at the end of this Agreement, you are consenting to enter into this Agreement in electronic form. You have the right to withdraw your consent by terminating this Agreement and your receipt of the OPRA Data. Your right to terminate this Agreement and your receipt of the OPRA Data, and the procedure you must follow to do so, are described in paragraph 6 below. If any information needed to contact you electronically changes, the procedure for notifying Vendor is described in paragraph 11 below. If you wish to have a copy of this Agreement in paper form and you are unable to print a copy on your own computer system, Vendor will provide you with a paper copy at no charge upon its receipt of your request transmitted as described in paragraph 11. You may access a copy of this Agreement electronically at no charge, if your access to OPRA Data is from a device capable of receiving text, by visiting www.etrade.com.

This Agreement includes an “Addendum for Nonprofessionals.” The term “Nonprofessional” is defined in the Addendum. The purpose of the Addendum is to determine whether you are a Nonprofessional under this definition. If you are a Nonprofessional under this definition, OPRA’s charges to Vendor for your use of the OPRA Data are subject to a cap, and you may be entitled to pay lower fees to Vendor. You do not need to complete the Addendum, but if you do not do so, or if you cannot agree with all of the statements in the Addendum, OPRA will not consider you to be a Nonprofessional.

You hereby represent and agree as follows:

1. Your full name and address are: *[Vendor must provide a means for Subscriber to furnish this information]*

2. You shall receive the Service and the OPRA Data included therein solely for your own business or personal use, and you shall not retransmit or otherwise furnish the OPRA Data to any person, other than your own employees on devices that are subject to the control of Vendor. If you are a Nonprofessional and have completed the Addendum for Nonprofessionals, you are only permitted under this Agreement to use the OPRA Data for the investment activities described in the Addendum for Nonprofessionals.

3. You acknowledge that OPRA Data is and shall remain the property of the OPRA Participant on which a reported transaction took place or a reported quotation was entered.

4. **DISCLAIMER OF LIABILITY -- NEITHER VENDOR, OPRA, OPRA'S PROCESSOR NOR ANY OPRA PARTICIPANT GUARANTEES THE TIMELINESS, SEQUENCE, ACCURACY OR COMPLETENESS OF ANY OF THE OPRA DATA SUPPLIED TO YOU HEREUNDER AND NEITHER VENDOR, OPRA, OPRA'S PROCESSOR NOR ANY OPRA PARTICIPANT SHALL BE LIABLE IN ANY WAY, TO YOU OR TO ANY OTHER PERSON, FOR ANY LOSS, DAMAGES, COST OR EXPENSE WHICH MAY ARISE FROM ANY FAILURE OF PERFORMANCE BY VENDOR, OPRA, OPRA'S PROCESSOR OR ANY OPRA PARTICIPANT, OR FROM ANY DELAYS, INACCURACIES, ERRORS IN OR OMISSIONS OF, ANY OF THE OPRA DATA OR IN THE TRANSMISSION OR DELIVERY THEREOF, WHETHER OR NOT DUE TO ANY NEGLIGENT ACT OR OMISSION ON THE PART OF VENDOR, OPRA, OPRA'S PROCESSOR OR ANY OPRA PARTICIPANT. IN NO EVENT SHALL VENDOR, OPRA, OPRA'S PROCESSOR OR ANY PARTICIPANT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, TRADING LOSSES, OR DAMAGES RESULTING FROM INCONVENIENCE OR LOSS OF USE OF THE SERVICE.**

5. The terms of this Agreement may be modified at any time upon notice to you. If you do not assent to this Agreement as modified at or prior to the time you next attempt to access the Service, this Agreement shall automatically be terminated. This Agreement as modified shall apply to your use of the Service from and after the date of the modification.

6. Your receipt of the OPRA Data hereunder may be terminated at any time by you or by Vendor upon 30 days notice from the terminating party to the other party, and may be terminated immediately upon a determination by Vendor or OPRA that you are not in compliance with this Agreement.

7. Nothing herein shall be deemed to prevent or restrict OPRA, OPRA's Processor or any OPRA Participant from discontinuing to furnish OPRA Data for dissemination or from making such changes in the speed of transmission, the characteristics of the electrical signals representing the OPRA Data or the manner of disseminating the same, as OPRA shall from time to time determine to be appropriate, with or without notice to you. You shall not hold OPRA, OPRA's Processor, or any OPRA Participant liable for any resulting liability, loss or damage that may arise therefrom.
8. You agree to notify Vendor promptly of any changes in the information provided herein and to furnish Vendor any additional information requested by it in connection with your receipt of the OPRA Data.
9. The parties acknowledge and agree that this Agreement is for the express benefit of OPRA, OPRA's Processor and each OPRA Participant.
10. The provisions of Sections 3, 4 and 9 will survive any termination of this Agreement and will remain in full force and effect.
11. All notices under this Agreement may be provided either in writing or electronically. All written notices to Vendor shall be sent to the Vendor's street address set forth above and all such notices to you shall be sent to the street address that you provide in paragraph 1. All electronic notices to Vendor shall be sent to Vendor's email address set forth above and all such notices to you shall be provided to you where you access the OPRA Data electronically.

IF YOU AGREE TO THE TERMS AND CONDITIONS SET FORTH ABOVE, PLEASE TYPE IN YOUR NAME AND ADDRESS IN THE SPACES PROVIDED ABOVE AND CLICK ON THE "I AGREE" BUTTON BELOW. By clicking on the "I AGREE" button below and typing in your name as indicated above, you agree that:

- i) you have read and you understand all of the terms and conditions set forth above; and
- ii) you intend to form a legally binding and valid contract under which you will be bound by all of the terms and conditions set forth above.

"I AGREE"

ADDENDUM FOR NONPROFESSIONALS

[\(To be completed by Nonprofessional Subscribers only\)](#)

The purpose of this Addendum is to determine whether you are a "Nonprofessional" for OPRA's purposes. OPRA defines a "Nonprofessional" as a legal person for whom the statements set out in Section 1 of this Addendum are true.

1. You represent and agree that the following statements are and will continue to be true for so long as you receive OPRA Data as a Nonprofessional:

(a) You are either a “natural person” (an individual human being) or a “qualifying trust.”* You are not a corporation, partnership, limited liability company, or other form of entity (including any form of trust that does not qualify as a qualifying trust). If you agree, click on “I AGREE”:

“I AGREE”

(b) If you are a natural person, you shall use the OPRA Data solely in connection with your personal investment activities and the personal investment activities of your immediate family members** and qualifying trusts of which you are the trustee or custodian. If you are a qualifying trust, you shall use the OPRA Data solely in connection with your personal investment activities. In any case, you shall not use the OPRA Data in connection with any trade, business, professional or other commercial activities. If you agree, click on “I AGREE”:

“I AGREE”

(c) You are not a “Professional.” For a natural person who works in the United States, a “Professional” is a natural person who is: (i) registered or qualified with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange/association, or any commodities/futures contract market/association, (ii) engaged as an “investment adviser,” as that term is defined in the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under Federal and/or state securities laws to perform functions that would require you to be so registered or qualified if you were to perform such functions for an organization not so exempt. For a natural person who works outside of the United States, a “Professional” is a natural person who performs the same functions as someone who would be considered a “Professional” in the United States. If you agree that you are not a “Professional”, click on “I AGREE”:

“I AGREE”

2. You agree to notify Vendor promptly if your circumstances change such that any of the statements in Section 1 of this Addendum would no longer be true for you.

“I AGREE”

*The term “qualifying trust” means (a) any irrevocable or revocable trust (1) which has only one trustee, who is a natural person and is not receiving any compensation for acting as trustee and (2) of which the only current beneficiaries are any one or more of the trustee and the immediate family members of the trustee, and (b) any custodial account established under a Uniform Transfers to Minors Act or similar state statute (1) which has only one custodian, who is a natural person and is not receiving any compensation for acting as custodian, and (2) of which the beneficiary is a lineal descendant (a child, grandchild, etc.) of the custodian. A “current beneficiary” is a beneficiary to whom the current income or principal of the trust may or must then be distributed, ignoring the possible exercise of any then unexercised power of appointment. The term “immediate family members” is defined in the footnote to paragraph 1(b) of this Addendum.

**The term “immediate family members” means, with reference to a particular natural person, the spouse of that person, that person’s lineal ancestors (that is, parents, grandparents, etc.) and lineal descendants (that is, children, grandchildren, etc.), and the spouses (including surviving spouses) of that person’s lineal ancestors and lineal descendants. The term includes step and adoptive relationships.

12/2014

DATA PROTECTION ADDENDUM

This Data Protection Addendum (“**Addendum**”) effective as of November 1, 2018 (the “**Effective Date**”) sets forth terms implemented by Options Price Reporting Authority, LLC (“**OPRA**”) regarding the transfer of personal data covered by the EU General Data Protection Regulation 2016/679 (“**GDPR**” as further defined below). The terms of this Addendum are incorporated into each agreement directly between OPRA and its subscribers and vendors, including into each Vendor Agreement and Professional Subscriber Agreement (each a “**Customer Agreement**”). “**Customer**” means any individual or entity (including any OPRA vendor, vendor affiliate or subscriber) that provides personal data to OPRA in the course of OPRA’s business activities.

ARTICLE 1

DEFINITIONS

Terms not defined in this Addendum but defined in a Customer Agreement shall have the applicable meaning set forth in the Customer Agreement. In addition, as used in this Addendum:

“**EEA**” means the European Economic Area.

“**GDPR**” means the EU General Data Protection Regulation 2016/679, or any successor legislation thereto, and includes any national implementations of the GDPR in an EU member state.

“**OPRA Data**” means market data disseminated by OPRA.

“**Personal data**” (regardless of capitalization) has the meaning given to such term in the GDPR.

“**Standard Contractual Clauses**” means the Standard Contractual Clauses for the Transfer of personal data from the European Community to Third Countries (Controller-to-Controller Transfers – Set II) as approved by the European Commission Decision C(2004)5271 (found in the Annex to the European Commission Decision of December 27, 2004) or any model clauses that are approved by the European Commission to amend or replace such clauses.

“**Third Country**” means a country outside the EEA, including the United States of America, other than a country which is deemed by the European Union Commission to have an adequate level of protection by reason of its domestic law or of the international commitments it has entered into.

“**Controller**”, “**process(ing)**” and “**data subject**” (regardless of capitalization) each have the meaning given to such terms in the GDPR and Standard Contractual Clauses.

ARTICLE 2

APPLICATION AND EFFECT

This Addendum amends and supplements any provisions contained in a Customer Agreement that relate to the transfer of personal data governed by the GDPR, and shall be effective for the term of the Customer Agreement unless modified or terminated earlier as provided herein. This Addendum applies only to personal data governed by the GDPR. If Customer objects to this Addendum, it may terminate its Customer Agreement by giving written notice to OPRA within

thirty (30) days of the Effective Date. Unless Customer gives such written termination notice to OPRA, Customer shall be deemed to have agreed to this Addendum.

OPRA may from time to time amend or modify this Addendum by giving Customer at least thirty (30) days written notice prior to the effective date of the modification (the “**Change Effective Date**”). Such notice may be given electronically via email or online posting. Customer may terminate its Customer Agreement upon written notice to OPRA given on or before the Change Effective Date specified in OPRA’s notice. Unless Customer gives such written termination notice to OPRA on or before the Change Effective Date, Customer shall be deemed to have consented and agreed to the modification.

ARTICLE 3

DATA TRANSFER

In order for OPRA to perform its obligations and exercise its rights in accordance with its Customer Agreement(s) with Customer, Customer may be required to provide OPRA with personal data that is governed by the GDPR. OPRA and Customer agree to be bound by the terms and conditions of this Addendum with respect to such personal data, and in the event of conflict with any other terms of the Customer Agreement, the terms in this Addendum shall prevail.

3.1 EXPORT OF PERSONAL DATA

3.1.1 To the extent that OPRA stores or otherwise processes personal data provided by Customer in a Third Country, the parties agree that the provisions in the Standard Contractual Clauses shall apply and are incorporated herein by reference. When a party processes personal data for its own purposes, it acts as a data controller. Pursuant to the Standard Contractual Clauses, Customer as a data controller is a “data exporter” when it transfers personal data from inside the EEA to OPRA (as a data controller) outside of the EEA; and in this circumstance OPRA is a “data importer.”

3.1.2 As a data importer, OPRA will process personal data (a) in accordance with the data processing principles set forth in Annex A of the Standard Contractual Clauses, and (b) for the purposes described below (which shall also apply as Annex B of the Standard Contractual Clauses):

(a) **Data subjects:** The personal data transferred concern the following categories of data subjects:

End users, subscribers, and recipients (and their respective designees or representatives) of OPRA Data (either directly or through a vendor or other Customer).

(b) **Purposes of the transfer(s):** The transfer is made for the following purposes:

(i) To fulfill Customer’s reporting obligations, (ii) to enable OPRA to process and administer Customer’s Customer Agreement(s), including by verifying compliance with the Customer Agreement(s) and exercising audit, review and other rights pursuant to the Customer Agreement(s) and (iii) to comply with regulatory requirements.

- (c) **Categories of personal data:** The personal data transferred may concern data in one or more of the following categories of data:

For data subjects not employed by Customer or a subsidiary of Customer: name, employer, title, employer address, employment status, email address, phone number, entitlements information, start and end dates related to the access or provisioning of OPRA Data, and records relating to actual usage of OPRA Data.

For data subjects employed by Customer or a subsidiary of Customer: name, user id, title, entitlements information, email address, phone number, other information used to identify internal subscribers' access to OPRA Data, start and end dates related to the access or provisioning of OPRA Data, and records relating to actual usage of OPRA Data.

For all data subjects, publicly available records (including social media) pertaining to professional licenses and/or certifications for purposes of determining whether a data subject is a Professional Subscriber or a Nonprofessional Subscriber.

- (d) **Recipients:** The personal data transferred may be disclosed only to the following recipients or categories of recipients:

The personnel of OPRA and its authorized service providers and administrators.

- (e) **Sensitive data** (if appropriate): The personal data transferred concern the following categories of sensitive data: N/A

- (f) **Data protection registration information of data exporter** (where applicable): N/A

- (g) **Additional useful information** (storage limits and other relevant information): N/A

3.1.3 For the purposes of the Standard Contractual Clauses, the following additional provisions shall apply:

- (a) Customer and OPRA agree to observe the terms of the Standard Contractual Clauses without modification;
- (b) the names and addresses of Customer and OPRA shall be considered to be incorporated into the Standard Contractual Clauses;
- (c) the parties' agreement to this Addendum shall constitute agreement to the Standard Contractual Clauses; and
- (d) If so required by the laws or regulatory procedures of any jurisdiction, the parties shall execute or re-execute the Standard Contractual Clauses as separate document(s) setting out the proposed transfers of personal data in such manner as may be required.

3.1.4 In the event that the Standard Contractual Clauses are amended or replaced by the European Commission or under applicable data protection laws, OPRA may

modify this Addendum to incorporate such amended or replacement clauses in this Addendum in accordance with ARTICLE 2. If the Standard Contractual Clauses are invalidated by the European Commission or data protection law, the parties shall work together in good faith to negotiate a solution to enable a transfer of the personal data to meet the requirements of the GDPR.

- 3.1.5 The terms of the Standard Contractual Clauses shall supersede any conflicting terms in any Customer Agreement and this Addendum. The Standard Contractual Clauses in respect of a Customer Agreement shall terminate if and when the Customer Agreement expires or is terminated, or OPRA offers an alternative transfer mechanism for data transfers.
- 3.1.6 With respect to requests for audits by Customer pursuant to the Standard Contractual Clauses, Customer is permitted to make one such request in any rolling twelve-month period. To the extent Customer makes additional requests for audits in the same twelve-month period, Customer shall reimburse OPRA for any reasonable costs that are incurred by OPRA in connection with such additional audits.