

## MEMX Subscriber Agreement

---

**Vendor may not modify or waive any term of this Agreement. Any attempt to modify this Agreement, except by MEMX LLC ("MEMX") or its affiliates, is void.**

This MEMX Subscriber Agreement (this "Agreement"), with an effective date as of the last date executed on the signature page hereof, is made by and between the vendor referenced below ("Vendor") and the subscriber referenced below ("Subscriber").

**1. Definitions.** Capitalized terms used herein shall have the meanings set forth in this Section 1.

**"Claims and Losses"** means any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, proceedings, costs, judgments, settlements and expenses of any nature, whether incurred by or issued against an indemnified party or a third party, including, without limitation, (a) indirect, special, punitive, consequential or incidental loss or damage; and (b) administrative costs, investigatory costs, litigation costs and auditors' and attorneys' fees and expenses (including in-house personnel).

**"Exchange Data"** means certain data and other information: (a) disseminated by a System relating to securities or other financial instruments, products, vehicles, or other means; or (b) related to Persons regulated by MEMX or to activities of MEMX; or (c) gathered by MEMX from other sources.

**"MEMX Indemnified Parties"** means, collectively, MEMX, its affiliates and third-party information providers, and its and their respective owners, officers, directors, employees, contractors and agents.

**"Non-Professional Subscriber"** means a natural person or qualifying trust that uses Exchange Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in Section 202(a)(11) of the Investment Advisors 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 or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

**"Person"** means any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organization, or other entity.

**"Professional Subscriber"** means all other Persons who do not meet the definition of Non-Professional Subscriber.

**"Regulatory Requirements"** means (a) the rules, regulations, interpretations, decisions, opinions, orders and other requirements of the Securities and Exchange Commission or other regulatory authorities, as may be applicable; (b) the rules and regulations, disciplinary decisions and rule interpretations of MEMX; (c) MEMX's decisions, policies, interpretations, user guides, operating procedures, specifications, requirements and other documentation that is regulatory or technical in nature published on MEMX's website or successor website; and (d) all other applicable laws, statutes, rules, regulations, orders, decisions, interpretations, opinions and other legal or regulatory requirements.

**"Subscriber"** means, collectively, all Non-Professional Subscribers and Professional Subscribers.

**"System"** means any system MEMX or its affiliates have developed for creation and/or dissemination of Exchange Data.

“Vendor” means “Data Recipient,” as that term is defined in the MEMX Market Data Agreement, as may be modified from time to time.

“Vendor’s Service” means the service from a Vendor, including the data processing equipment, software, and communications facilities related thereto, for receiving, processing, transmitting, using, and disseminating Exchange Data to or by Subscriber.

**2. Use of Data.** Subscriber may not sell, lease, furnish or otherwise permit or provide access to Exchange Data to any other Person or to any other office or place. Subscriber will not engage in the operation of any illegal business use or permit anyone else to use Exchange Data, or any part thereof, for any illegal purpose or violation of any Regulatory Requirements. Subscriber may not present Exchange Data rendered in any unfair, misleading, or discriminatory format. Subscriber shall take reasonable security precautions to prevent unauthorized Persons from gaining access to Exchange Data.

**Use by Non-Professional Subscribers.** Exchange Data is licensed only for personal, non-commercial use by a Non-Professional Subscriber. By representing to Vendor that Subscriber is a Non-Professional Subscriber, or by continuing to receive Exchange Data at a Non-Professional Subscriber rate, Subscriber is affirming to Vendor and MEMX that Subscriber meets the definition of Non-Professional Subscriber as set forth herein. A Non-Professional Subscriber shall comply promptly with any reasonable request from MEMX, or its designee, for information regarding the Non-Professional Subscriber’s receipt, processing, display, use, and redistribution of Exchange Data.

**Use by Professional Subscribers.** Exchange Data is licensed for internal business use and/or personal use by a Professional Subscriber. Professional Subscriber may, on a non-continuous basis, furnish limited amounts of Exchange Data to customers in written advertisements, correspondence, or other literature or during voice telephonic conversations not entailing computerized voice, automated information inquiry systems, or similar technologies. Professional Subscriber shall make its premises available to MEMX, or its designee, for physical inspection of Vendor’s Service and of Professional Subscriber’s use of Exchange Data (including review of any records regarding use of or access to Exchange Data and the number and locations of all devices that receive Exchange Data), all at reasonable times and upon reasonable notice, to ensure compliance with this Agreement.

**3. Proprietary Data.** MEMX grants to Subscriber a non-exclusive, non-transferable license during the term of the Agreement to receive Exchange Data distributed to it by Vendor and, thereafter, to use such Exchange Data as permitted under the terms of this Agreement and Regulatory Requirements. Subscriber acknowledges and agrees that MEMX and its affiliates have proprietary rights to Exchange Data that (a) originates on or relates to trading on MEMX; (b) relates to activities that are regulated or operated by MEMX; (c) MEMX derives from Exchange Data that originates on or relates to MEMX; and (d) is a compilation of information and data that MEMX gathers from other sources. Subscriber further acknowledges and agrees that MEMX’s third party information providers may impose certain requirements on the use and distribution of their respective information and data or information derived from their information and data, and accordingly Subscriber’s rights under this Agreement with respect to Exchange Data including or based on such third party information and data is subject to requirements imposed by the subject provider from time to time, notwithstanding terms and conditions of this Agreement to the contrary. In the event of any misappropriation or misuse by Subscriber or anyone who accesses Exchange Data through Subscriber, MEMX or its affiliates or third-party information providers shall have the right to obtain injunctive relief for its respective materials. Subscriber shall attribute the source of Exchange Data as appropriate under all circumstances.

**4. Payment.** Subscriber shall assume full and complete responsibility for the payment of any taxes, charges, or assessments imposed on Subscriber or MEMX (except for U.S. federal, state, or local incomes taxes, if any, imposed on MEMX) by any foreign or domestic national, state, provincial, or local governmental bodies, or subdivisions thereof, and any penalties or interest relating to the provision of Exchange Data to Subscriber. Interest shall be due from the date of the invoice to the time that the amounts that are due have been paid. To the extent permitted by applicable law, Subscriber acknowledges and agrees that the termination of Vendor’s Service for failure to make payments shall not be considered an improper limitation of access by MEMX. For Professional Subscribers, if any payment is due directly to MEMX under this

Agreement, payment in full is due MEMX in immediately available funds within 30 days of the date of an invoice, whether or not use is made of, or access it made to, Exchange Data. Subscriber agrees to pay MEMX any applicable late fees on all past due amounts that are not the subject of a legitimate and bona fide dispute.

**5. System.** Subscriber acknowledges that MEMX, in its sole discretion, may from time to time make modifications additions, and/or deletions to the System or Exchange Data or any aspect of either. Such modifications additions, or deletions may require corresponding changes to be made to Vendor's Service. Changes or the failure to make timely changes by Vendor may sever, delay, or otherwise affect Subscriber's access to or use of Exchange Data. MEMX shall not be responsible for any such effects. MEMX does not endorse or approve any Vendor, Vendor's Service or equipment utilized by Vendor or Subscriber.

**6. Limitation of Liability.**

MEMX Indemnified Parties shall not be liable to Subscriber or to any other Person for any inaccurate or incomplete Exchange Data received from MEMX or from Vendor, any delays, interruptions, errors, or omissions in the furnishing thereof, or any direct, indirect or consequential damages arising from or occasioned by said inaccuracies, delays, interruptions, errors or omissions.

This Section shall not relieve MEMX, Vendor, Subscriber, or any other Person from liability for damages that result from their own gross negligence or willful tortious misconduct or from personal injury or wrongful death claims.

MEMX, Vendor, and Subscriber understand and agree that the terms of this Section reflect a reasonable allocation of risk and limitation of liability.

**7. Disclaimer of Warranties.** SUBSCRIBER EXPRESSLY ACKNOWLEDGES THAT MEMX INDEMNIFIED PARTIES DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR ANY WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.

**8. Third-Party Information Providers' Limitation of Liability.** MEMX's third-party information providers shall have no liability for any damages, whether direct or indirect, whether lost profits, indirect, special, or consequential damages of Subscriber or any other Person seeking relief through Subscriber relating to the accuracy of or delays or omissions in any Exchange Data provided by MEMX's third-party information providers, even if the third-party information providers have been advised of the possibility of such damages. In no event will the liability of the third-party information providers or their affiliates to Subscriber or any other Person seeking relief through Subscriber pursuant to any cause of action, whether in contract, tort, or otherwise, exceed the fee paid by Subscriber or any other Person seeking relief through Subscriber, as applicable.

**9. Claims and Losses.** Subscriber agrees to indemnify and hold harmless MEMX Indemnified Parties from any and all Claims and Losses imposed on, incurred by, or asserted as a result of or relating to: (a) any noncompliance by Subscriber with the terms and conditions hereof; and (b) any third-party actions related to Subscriber's receipt and use of Exchange Data, whether authorized or unauthorized under this Agreement. Each party agrees to indemnify and hold harmless (and in every case, MEMX shall be permitted to solely defend and settle) another party (including MEMX) and their owners, subsidiaries, affiliates, officers, directors, employees, agents, and any related Persons, against any Claims and Losses arising from, involving, or relating to a claim of infringement or other violation of an intellectual property right by the indemnifying party provided that: (a) the indemnified party promptly notifies the indemnifying party in writing of the Claims and Losses; and (b) the indemnified party reasonably cooperates in the defense of the Claims and Losses.

**10. Termination.** Subscriber acknowledges that MEMX, when required to do so in fulfillment of statutory obligations or otherwise, may by notice to Vendor unilaterally limit or terminate the right of any or all Persons to receive or use Exchange Data, or any part thereof, and that Vendor shall immediately comply with any such notice and terminate or limit the furnishing of Exchange Data and confirm such compliance by written notice to MEMX. Any affected Person will have

available to it such procedural protections as are provided by applicable Regulatory Requirements. In addition to the termination rights permitted under any agreement Subscriber may have with Vendor, this Agreement may be terminated by Subscriber upon 30 days' written notice to Vendor and by MEMX upon 30 days' written notice either to Vendor or Subscriber. In the event of Subscriber's breach, the discovery of the untruth of any representation or warranty of Subscriber, or where directed by a regulatory authority having jurisdiction over MEMX or a MEMX affiliate, MEMX may terminate this Agreement upon not less than 3 days' written notice to Subscriber provided either by MEMX or Vendor.

**11. Notices.** All communications required to be given in writing to MEMX under this Agreement shall be directed to:

MEMX LLC  
545 Washington Blvd.  
11<sup>th</sup> Floor  
Jersey City, NJ 07310  
Email: [TBD email address]

With a copy to: [TBD legal email address]

Direct communication to Subscriber at the last address known to Vendor shall be considered given (a) upon actual receipt if delivered by email, or (b) upon posting the notice or other communication on MEMX's website ([www.memx.com](http://www.memx.com)) or successor website. Subscriber promptly shall give written notice to Vendor of any change in the name or place of residence or business at which Exchange Data is received.

**12. Assignment.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective permitted successors and assigns. Neither Vendor nor Subscriber shall assign this Agreement in whole or in part (including by operation of law) without the prior written consent of MEMX, provided, however, that MEMX shall not unreasonably withhold such consent. Notwithstanding the foregoing, Vendor or Subscriber may assign this Agreement in its entirety to an affiliate or subsidiary without the prior written consent of MEMX, provided that the assigning party is not currently in breach of this Agreement or delinquent in any fees owed to MEMX. MEMX may assign or transfer this Agreement or any of its rights or obligations hereunder to a related or unrelated party upon notice to Vendor and Subscriber.

**13. Severability.** Each provision of this Agreement will be deemed to be effective and valid under applicable law, but if any provision of this Agreement is determined to be invalid, void, or unenforceable under any law, rule, administrative order or judicial decision, that determination will not affect the validity of the remaining provisions of this Agreement, and such provision shall be construed to be effective and valid to the fullest extent under applicable law.

**14. Entire Agreement; Amendment; Waiver.** This Agreement constitutes the complete and entire agreement of the parties to this Agreement with respect to its subject matter and supersedes all prior writings or understandings. If there is any conflict and/or inconsistency between this Agreement and Vendor's agreement with Subscriber, the terms of this Agreement shall prevail as between MEMX and Subscriber. MEMX may modify any term of this Agreement upon 60 days' written notice either to Vendor or Subscriber, and any receipt or use of Exchange Data after such date shall be deemed acceptance of the new term or condition. No failure on the part of MEMX or Subscriber to exercise, no delay in exercising, and no course of dealing with respect to any right, power, or privilege under the Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege under this Agreement.

**15. Governing Law; Venue.** This Agreement will be governed by and interpreted in accordance with the internal laws of the State of Illinois, USA without giving effect to any choice or conflict of law provision or rule. Subscriber hereby submits to the jurisdiction of the state and federal courts located in the County of Cook in the State of Illinois for the resolution of any dispute arising under this Agreement.

**16. Headings.** Section headings are included for convenience only and are not to be used to construe or interpret this Agreement. All references contained herein to sections or subsections shall refer to the sections or subsections of this Agreement, unless specific reference is made to the sections or subsections of another document.

**17. Third Party Beneficiary.** Vendor and Subscriber hereby designate MEMX as a third-party beneficiary of this Agreement, having the right to enforce any provision herein.

**18. Cumulative Remedies.** Except as otherwise limited herein, all rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, equity, by statute, in any other agreement between the parties or otherwise.

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

*[Remainder of page intentionally left blank. Signature page follows.]*

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be executed by their duly authorized officers.

**To execute this Agreement, you must be 18 years of age and you must designate yourself as either a Non-Professional Subscriber or Professional Subscriber (see Section 2 above).**

**Subscriber Type:**         Individual - Complete Section A.  
  
                                  Firm or Organization - Complete Section B.

**A. Individual Subscriber Information**

Subscriber Name: \_\_\_\_\_

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

**Subscriber Status:**         Professional                       Non-Professional\*

*\*To qualify as a Non-Professional Subscriber, you must meet all of the terms set forth in Section 2 of the Agreement.*

**B. Organizational Subscriber Information**

Subscriber Organization Name: \_\_\_\_\_

Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

*\*The Representative must be authorized in writing by the organization or firm to execute the Agreement. MEMX may request documentation evidencing this authority.*

---

**Vendor Information (for Vendor or Data Provider Use Only)**

Vendor Name: \_\_\_\_\_

Representative Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

*\*The Representative must be authorized in writing by Vendor to execute the Agreement. MEMX may request documentation evidencing this authority.*