

ARCHIPELAGO® DATA LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“Agreement”) is made as of this ___ day of _____, 2004, (“Effective Date”) by and between Archipelago Market Data Services, L.L.C. (“Company”) located at 100 South Wacker Drive, Suite 2000, Chicago, Illinois 60606 and _____ (“Licensee”) located at _____. Company and Licensee may be collectively referred to as the “Parties.”

WHEREAS, Company wishes to grant and Licensee wishes to receive a non-exclusive and non-transferable license to use and access certain market information consisting of, among other things, U.S. equities trading data, general market trends, trend analysis and firm trading activities derived from the Archipelago Exchangesm (“ArcaEx®”) and other information sources (“Data”); and

WHEREAS, the Data will be updated during ArcaEx® routine hours of business operations.

NOW, THEREFORE, in consideration of the foregoing and the representations, mutual premises, warranties, conditions and other good and valuable consideration received and to be received under this Agreement, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby agree as follows:

ARTICLE I **Terms and Conditions**

1.1 General Legal Information

The Company hereby grants to Licensee a non-exclusive, non-transferable, worldwide license to use the Data in accordance with the terms and conditions herein. If applicable, the Company shall furnish access to the Data in accordance with **Schedule A**. Licensee assumes sole responsibility for the information derived from the Data. The Data is for informational purposes only. None of the information contained on ArcaEx® constitutes a solicitation, offer, opinion or recommendation by the Company or ArcaEx® to buy or sell any securities or other financial instruments or to provide legal, tax, accounting or investment advice or services regarding the suitability or profitability of any security or investment. Neither the Company nor ArcaEx® has made any recommendation regarding the purchase or sale of any security, or endorsed or sponsored any company identified in the Data. Advice from a securities professional is strongly advised.

1.2 Term and Termination

The term of this Agreement shall be for a minimum term of one year from the Effective Date, and shall be automatically renewed for successive six-month periods unless either party terminates this Agreement in accordance with its terms. After the initial term, Licensee may terminate this Agreement for convenience upon thirty (30) days’ prior written notice; provided, however, that such termination shall not relieve Licensee of its responsibility to pay any fees or charges previously incurred, as applicable. The Company may terminate this Agreement in whole or in part, including Licensee’s access to the Data, at any time with or without cause.

1.3 Fees

Licensee shall pay Archipelago for access to the Data in accordance with **Schedule B** attached hereto, thirty (30) days' from the date of an issued invoice. Archipelago may impose new or additional fees or modify the fees at any time upon thirty (30) days' prior notice to Licensee.

ARTICLE II **License Restrictions**

2.1 Proprietary Rights

The Data is protected by copyright, trademark, international treaties and other proprietary rights and laws of the United States and other countries. Licensee agrees to abide by all applicable intellectual property laws, as well as any additional notices or restrictions contained in the Data. Unauthorized use of the Data and the materials contained in the Data may violate applicable copyright, trademark or other intellectual property laws or other laws. The trademarks, service marks, copyrights, and other proprietary materials (collectively, the "Proprietary Rights") displayed on the Data are registered and common law trademarks, copyrights, and proprietary material of Archipelago and various third parties. The Company does not sponsor, affiliate, or endorse the products and/or services represented by the third party trademarks displayed in the Data. Nothing contained in the Data should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of the Proprietary Rights without the written permission of Archipelago or such other party that may own the Proprietary Rights.

2.2 Passwords

Archipelago requires that Licensee provide specific information to obtain a User ID and Password as a part of the registration process. By obtaining a User ID and Password, Licensee represents and warrants that Licensee has authority to access the Data information on behalf of the entity that Licensee represents. Licensee's unique User ID and Password together shall constitute Licensee's signature ("Signature"). A Signature affixed to or contained in any transmitted document shall be sufficient to prove that Licensee originated the document and agrees to be bound by the terms and conditions thereof. Licensee shall not disclose Licensee's Signature to any unauthorized person. All User IDs and Passwords are specific not only to Licensee's organization but also to Licensee, the individual possessing the unique User ID and Password. Licensee agrees not to permit Licensee's User ID and Password to be used by any other individual within or outside of Licensee's organization, and further agrees to institute internal procedures to ensure passwords are kept secure. Licensee agrees to promptly notify Archipelago as to any changes regarding all User IDs and Passwords allocated to Licensee's organization including, but not limited to, termination or change of information relating to a specific User ID and Password by emailing MarketData@archipelago.com.

2.3 Data Use

Licensee shall use the Data only for its individual use in its business and, solely in the regular course of its business, Licensee may sublicense a non-exclusive, non-transferable, worldwide license to use, reproduce, display, publish and transmit the Data to Securities Professionals. As applied in this section 2.3, the term "Securities Professional" applies to registered broker-dealers, investment advisers and the like who furnish and receive financial data and information.

Licensee shall use, reproduce, display, publish or transmit all Data made available, or portions thereof, in the same format as the Data is made available to Licensee. Licensee shall accurately and continuously display the updated, used, reproduced, displayed, published or transmitted Data. Except as otherwise set forth herein, Licensee shall have no other rights with respect to the Data, including without limitation, any right otherwise to use the Data, to reformat or create derivative works based on the Data or to store the Data for historical compilations.

2.4 Confidentiality

Archipelago is not liable for any unauthorized use of the Data. Licensee agrees to immediately notify Archipelago of any unauthorized use of Licensee's User ID or Password or any other breach of site security of which Licensee becomes aware. Licensee shall remain liable for all confidential or proprietary information disclosed as a result of any failure to provide any notice required under this Section. Archipelago may, without notice, choose to block Licensee access to the Data if Archipelago has reason to believe that Licensee's User ID or Password are being used by unauthorized persons, or that unauthorized access to Registration Information has occurred or may occur, or for other reasons deemed appropriate by Archipelago in its sole discretion.

2.5 Restrictions on Use

The information provided on the Data is not intended for distribution to, or use by, any third party without Archipelago's express written permission. Licensee may not use the Data for any illegal purpose or in any manner inconsistent with this Agreement. Licensee agrees not to use, transfer, dispose or distribute any information on the Data in any manner that could compete with Archipelago's business. Except for copies used for Licensee's internal business purposes, Licensee may not copy, reproduce, republish, recompile, redeliver, decompile, disassemble, reverse engineer, distribute, publish, display, modify, upload, post, transmit, create derivative works from, or in any other way create a misimpression or confusion among users with respect to sponsorship or affiliation or exploit in any way material from the Data. Licensee agrees that any copy Licensee makes pursuant to this paragraph shall include the Archipelago copyright notice.

2.6 Modifications to the Systems and Electronic Access Services

Licensee acknowledges and agrees that nothing in this Agreement constitutes an undertaking by the Company to provide the Data in its present form or under the current specifications. The Company, in its sole and absolute discretion may from time to time make additions to, deletions from, modifications to, or change the nature of the Data.

ARTICLE III Disclaimers, Warranties and Limitations of Liability

3.1 Disclaimer of Warranty

DATA AND INFORMATION PROVIDED BY ARCHIPELAGO MARKET DATA SERVICES, L.L.C., OR ANY OF ITS AFFILIATES, THEIR MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND CONTRACTORS IS FOR INFORMATIONAL PURPOSES ONLY, AND IS NOT INTENDED FOR TRADING PURPOSES. AS SUCH, THE DATA AND INFORMATION OBTAINED VIA ArcaEx® AND OTHER INFORMATION SOURCES PROVIDED BY THE COMPANY IS ON AN "AS IS" BASIS, AND ARCHIPELAGO EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION

WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. THE COMPANY DOES NOT WARRANT THAT THE DATA WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE DATA IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE COMPANY DOES NOT WARRANT OR REPRESENT THE USE OF THE MATERIALS ON THIS SITE IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE.

3.2 Disclaimer of Data Accuracy

Licensee acknowledges and agrees that the Data and other similar market information provided by Company may be inaccurate or incomplete and are subject to error, delay or change. Reliance upon such Data and market information shall be at Licensee's risk.

3.3 Limitation of Liability

Licensee acknowledges that in no event shall Archipelago be liable to Licensee for any direct, special, incidental, indirect, punitive, consequential damages or any other damages of any kind (including, but not limited to, lost profits, trading losses and damages that may result from the use of the data and information obtained via ArcaEx® or other information sources, any delay or interruption of service, or omissions or inaccuracies in the information) even if the Company or any other party have been advised of the possibility thereof with respect to the Data. Any material downloaded or otherwise obtained through the use of the Data is done at Licensee's own discretion and risk and Licensee will be solely responsible for any damage to Licensee's computer system or loss of data that results from the download of such material.

3.4 Modification and Monitoring of Data

Archipelago reserves the right, in its sole discretion, to change, modify, add or remove portions of these terms and conditions at any time and to monitor any and all use of the Data. Licensee's use of the Data after the posting of such modifications will constitute Licensee's acceptance of the modified terms of use of the Data.

ARTICLE IV **Miscellaneous Provisions**

4.1 Jurisdiction and Applicable Law

The laws of the state of Illinois govern these Terms of Use without regard to its conflict of law provisions. If Licensee takes legal action relating to these Terms of Use, Licensee agrees to file such action only in the federal or state courts located within Cook County, Illinois, and Licensee consents and submits to the personal jurisdiction of those courts for the purposes of litigating any such action. The failure of the Company to exercise or enforce any right or provision of these Terms of Use shall not constitute a waiver of such right or provision.

4.2 Headings

The section titles in this Agreement are used solely for Licensee's convenience and have no legal or contractual significance.

4.3 Severability

If any provision of this Agreement is deemed unlawful, void or unenforceable for any reason, that provision will be deemed severable from these terms and will not affect the validity and enforceability of the remaining provisions.

4.4 Assignment

This Agreement may not be assigned or transferred by Licensee to any other person or entity without Archipelago's prior written consent.

4.5 Entire Agreement

This Agreement constitutes the entire agreement between Licensee and the Company relating to the use of the Data.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

Archipelago Market Data Services, L.L.C.

[COMPANY]

By: _____

By: _____

Print Name

Print Name

Title

Title