



SUBSCRIBER AGREEMENT

This Subscriber Agreement (this “Agreement”), dated _____, 2008, is between BATS Trading, Inc., a Delaware corporation, with its principal offices at 4151 North Mulberry Drive, Suite 275, Kansas City, Missouri 64116 (“BATS”), and _____, a _____ [corporation/limited liability company], with its principal offices at _____ (“Subscriber”).

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereto agree as follows:

Term of the Agreement. This Agreement will continue until terminated pursuant to the terms of this Agreement.

Services. Subject to the terms and conditions of this Agreement, Subscriber will have the right to access BATS’ electronic communications network (“BATS ECN”) to enter orders on BATS ECN, receive status updates on orders, cancel orders, execute trades against orders on the BATS ECN limit order book and to receive data feeds from BATS ECN containing information regarding open orders, executions and volume on BATS ECN (collectively, the “Services”). BATS reserves the right to modify or change the Services provided BATS notifies Subscriber prior to the effectiveness of the modification and Subscriber’s continued use of the Services following the modification will constitute Subscriber’s acceptance of the modification.

Representations and Warranties of Subscriber. Subscriber hereby represents and warrants that (1) it is duly registered with the SEC as a broker-dealer and, at all times it utilizes the BATS ECN, will remain a registered broker-dealer; (2) it is a member of FINRA and/or any other applicable exchanges (“Applicable Exchanges”), and at all times that it utilizes the BATS ECN, will remain a member of FINRA and the Applicable Exchanges; and (3) Subscriber is registered and/or qualified in those states and other jurisdictions where its business requires such registration and/or qualification (each, a “Required Jurisdiction”). Subscriber agrees to notify BATS immediately in writing and cease using the BATS ECN if any of the above representations cease to be true, are suspended, or revoked. Subscriber further warrants that it is in full compliance with the SEC’s net capital rule, has maintained net capital compliance for at least six months immediately preceding its application with BATS, and will immediately cease using the BATS ECN in the event of any apparent net capital violation.

Representations and Warranties of BATS. BATS hereby represents and warrants that (1) it is duly registered with the SEC as a broker-dealer and, at all times it operates the BATS ECN, will remain a registered broker-dealer; (2) it is a member of FINRA and/or the Applicable Exchanges, and at all times that it operates the BATS ECN, will remain a member of FINRA and/or the Applicable Exchanges; (3) BATS is registered and/or qualified in all Required Jurisdictions; (4) it will comply with all applicable laws, rules, and regulations, and (5) it has the authority and all rights and licenses required to enter into this Agreement and to provide the BATS ECN and the Services to Subscriber. BATS agrees to notify Subscriber immediately in writing if any of the above representations cease to be true, are suspended, or revoked. BATS further warrants that it is in full compliance with the SEC’s net capital rule and will notify Subscriber in the event of any apparent net capital violation.

Compliance. Except as otherwise provided herein, it is the sole responsibility of Subscriber to ensure compliance, by itself, its customers and its representatives, with all applicable United States federal and state laws, rules, and regulations as well as those of FINRA or any other self regulatory organization of which the Subscriber is a member. In particular, Subscriber is solely responsible for compliance with the SEC's short sale rule and Subscriber will not submit any order to the BATS ECN that would constitute an illegal short sale pursuant to applicable SEC rules and regulations. If Subscriber intends to submit a sell order that would constitute a short sale, Subscriber must indicate the order as such. All orders submitted to the BATS ECN must have an appropriate FINRA Market Participant Identifier. Subscriber and its personnel will comply with all BATS ECN policies and procedures, including, without limitation, the BATS Subscriber Manual (which Subscriber hereby acknowledges receipt of) and any other policies and procedures communicated to Subscriber in writing from time to time. Subscriber will cooperate in connection with any inquiry regarding Subscriber's use of the BATS ECN by the SEC, FINRA and/or any applicable self regulatory organization.

Settlement of Transactions. Subscriber agrees that, as between BATS and Subscriber, it is Subscriber's absolute, unconditional, and unassignable obligation, in connection with each securities transaction effected with the BATS ECN to ensure the timely delivery of the subject securities and/or funds as well as any required remittance of interest, dividend payments and/or other distributions. Subscriber will promptly notify BATS in writing upon being aware of any material change in or to Subscriber's clearing arrangements. BATS retains the right to break any trade without liability to Subscriber or any of Subscriber's customers if, in BATS sole, but reasonably exercised discretion, such action is warranted including, but not limited to, reasons relating to credit, margin, operational or regulatory concerns, and BATS agrees to notify subscriber of any such action as soon as commercially practicable.

Best Execution. Subscriber understands, acknowledges and agrees that BATS ECN is a passive order-routing and execution system. Subscriber further understands, acknowledges and agrees that BATS will not make any independent best execution determination, as that term is customarily applied and as those duties are customarily recognized under the Securities Exchange Act of 1934, as amended, and the Investment Advisers Act of 1940, as amended, and/or any other federal and state law, rule or regulation that govern such duty and/or any rules or regulations of any applicable self regulatory organizations. Subscriber understands that executions may occur on BATS ECN at prices outside the quoted National Best Bid or Best Offer.

Connectivity. Subscriber is solely responsible for providing and maintaining all necessary electronic communications with the BATS ECN, including, wiring, computer hardware, software, communication line access, and networking devices.

Market Data. By using the BATS ECN, Subscriber hereby agrees that BATS may use the data transmitted by Subscriber to the BATS ECN for any and all legitimate business purposes related to BATS' operation of the Services, including but not limited to the processing of orders, trade reporting, and the clearing and settling of transactions executed by the BATS ECN. BATS also may include Subscriber's de-identified order and execution related data in the BATS market data feed so long as such data is aggregated in a manner that does not associate or link Subscriber with any order(s) or transactions(s). The confidentiality provisions contained in this Agreement shall apply to the use of Subscriber's order and transaction related information. Subscriber agrees to allow BATS to share Subscriber and Subscriber identifiable information with applicable regulatory or self-regulatory organizations upon BATS' receipt of a regulatory inquiry.

Retransmission of Market Data. Subscriber agrees to use any market data received from BATS for internal use only. Subscriber shall insure that all internal use of market data (1) clearly and prominently identifies the information as originating from BATS where applicable, (2) is password protected to prevent unauthorized access, and (3) is not altered by Subscriber to make it materially incorrect or misleading in any way. Subscriber may not convey, retransmit, republish, or rebroadcast any market data to any outside party unless its signs and complies with a separate BATS Market Data Feed Agreement.

Confidentiality of Subscriber. BATS will not disclose the identity of Subscriber to any of its other subscribers or to any third parties in connection with orders entered or executed by Subscriber on the BATS ECN, except as required by a court or regulatory or self regulatory authority with jurisdiction over the BATS ECN or Subscriber, or to facilitate the clearance and settlement of a trade, or with written permission from Subscriber. This section shall remain in effect after termination of this Agreement.

Clearly Erroneous Trade Policy. Subscriber has read and agrees to the terms stipulated in the BATS ECN Clearly Erroneous Trade Policy (as set forth in the BATS Subscriber Manual), as BATS may amend from time to time and provide written notice thereof to Subscriber.

Arbitration. In connection with the following agreement to arbitrate, Subscriber understands that: (1) arbitration is final and binding on the parties; (2) the parties are waiving their right to seek remedies in court, including the right to jury trial; (3) pre-arbitration discovery is generally more limited than and different from court proceedings; (4) the arbitrators' award is not required to include factual findings or legal reasoning, and any party's right to appeal or seek modification of rulings by the arbitrators is strictly limited; and (5) the panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry. Subject to the preceding disclosures, Subscriber agrees that any controversy arising out of or relating to Subscriber and the BATS ECN will be resolved and settled by arbitration under the auspices of the FINRA Dispute Resolution conducted in Chicago, Illinois. Judgment upon arbitration may be entered in any court, state or federal, having jurisdiction.

Fees. By signing this Agreement, Subscriber agrees to make timely payment of the system usage fees outlined in the Fee Schedule posted at <http://www.batstrading.com/FeeSchedule> as well as any applicable late fees for the failure to make payment within the required time period. Fees are payable within 30 days of the invoice date. Subscriber will also remit to BATS any Nasdaq, NYSE, or other applicable exchange charges that may be incurred by BATS on its behalf. If Subscriber requests that their trades be cleared using the ACT system, Subscriber agrees to pay all ACT related clearing fees associated with Subscriber's executions. Subscriber will be solely responsible for any and all telecommunications costs and all other expenses incurred in linking to, and maintaining its link to, the BATS ECN. Failure to make payments within 30 days from the invoice date may result in suspension or termination of Services. Subscriber agrees to pay BATS a late charge in the amount of 1% per month on all past due amounts that are not the subject of a legitimate and bona fide dispute. BATS reserves the right to change fee schedule with 48 hours prior notice to Subscriber (delivered via e-mail and posted to the BATS Web Site). The provisions of this section will survive the termination of this Agreement.

WARRANTIES. THE SERVICES ARE PROVIDED AS IS, WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED CONDITIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, ANY IMPLIED WARRANTY ARISING FROM TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE, AND OF ANY OTHER WARRANTY OR OBLIGATION WITH RESPECT TO THE BATS ECN OR ANY SOFTWARE OR OTHER MATERIALS MADE

AVAILABLE TO SUBSCRIBER AND ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED.

BATS will employ commercially reasonable measures to prevent the transference of computer viruses, worms, and all other electronic and software code that may be harmful to, or that may disrupt, Subscriber's computer, Internet communication, or data storage systems, through BATS' transmission of any proprietary or third-party data.

There is no guaranty that the Services provided by BATS will meet the Subscriber's requirements, be error free, or operate without interruption or delay. Subscriber acknowledges that all or portions of the BATS ECN service may be unavailable from time to time.

Subscriber is NOT required to solely utilize the BATS ECN, and agrees to maintain service with competing market centers and/or broker-dealers sufficient to conduct its business in the event Service is unavailable on the BATS ECN.

LIMITATIONS ON LIABILITIES. Subscriber agrees that, in the absence of fraud, gross negligence or deliberate misconduct, none of BATS, BATS ECN, nor their owners, subsidiaries, affiliates, officers, directors, employees, agents or any related persons and entities, will be liable for any loss or claim, including without limitation, lost profits, loss of opportunity, loss of use, trading losses, loss of other costs or savings, nor for any damages suffered, or cost and expenses incurred by Subscriber, by any customer or account of Subscriber, or any third-party, of any nature, or from any cause whatsoever, whether direct, special, incidental, or consequential, arising out of the furnishing, performance, maintenance or use of, or inability to use, the services, equipment, communication lines, software, databases, manuals and any other material furnished by or on behalf of BATS, notwithstanding that BATS or BATS ECN may have been advised of the possibility that damages may or will arise in any given situation. Neither Subscriber nor any of its officers, employees and/or agents are employees, officers, agents or persons who have the authority or capacity to act for or on behalf of BATS. Neither BATS, BATS ECN, nor their owners, subsidiaries, affiliates, officers, directors, employees, agents, and any related persons and entities will be liable in any way for any inaccuracy, error, or delay in, or omission of the transmission or delivery of the Service in the absence of fraud, gross negligence or willful misconduct.

Indemnification by Subscriber. Subscriber agrees to indemnify and hold harmless BATS, BATS ECN, their owners, subsidiaries, affiliates, officers, directors, employees, agents, any related persons and entities, and each subscriber or third person on the contra side of any executed trade, from and against all expenses and costs and damages (including any legal fees and expenses), direct, consequential, and/or incidental in nature, claims, demands, proceedings, suits, and actions, and all liabilities resulting from, in connection with, or arising out of any failure by Subscriber, for any reason, fraudulent, negligent or otherwise, to comply with its obligations under this Agreement and for any loss or claim which may arise from a claim that one or more trades or orders in securities placed by Subscriber with the BATS ECN were in violation of any state or federal securities law or regulation of FINRA and/or any exchange.

Indemnification by BATS. BATS agrees to indemnify, defend and hold harmless Subscriber and its subsidiaries, affiliates and its and their respective officers, directors, employees, and agents from and against all expenses and costs and damages (including any legal fees and expenses), direct, consequential, and/or incidental in nature, claims, demands, proceedings, suits, and actions, and all liabilities resulting from, in connection with, or arising out of any third party claim that the BATS ECN or Services, or Subscriber's use thereof, infringes any copyright, patent, trademark, trade secret or other intellectual property right.

Termination. Subscriber or BATS may terminate this Agreement or any part of the Services upon 30 days written notice to the other party. In addition, BATS may suspend or terminate the Services to Subscriber if it determines that, in BATS sole determination: (1) Subscriber has breached any material term of this Agreement and fails to cure such breach within 5 business days after written notice thereof from BATS, provided however, that BATS may immediately suspend Services to a Subscriber in the event that any portion of the “Representations and Warranties of Subscriber” section of this Agreement ceases to be accurate; (2) Subscriber is engaged in activities that have resulted in or are likely to cause a loss or impairment of functionality of the BATS ECN for other Subscribers (e.g., by sending illegitimate or erroneous orders that will or do disable the proper functioning of the BATS ECN); or (3) Subscriber is retransmitting or republishing BATS market data without the prior approval of BATS. Upon termination, Subscriber agrees to return all BATS ECN software and equipment to BATS. Subscriber will continue to be obligated to pay charges incurred up to and including the date of termination and to accept transactions already effected on its behalf by BATS.

Assignment. Subscriber’s license to use the Services during the term of this Agreement is personal, nonexclusive and nontransferable. Except as provided below, neither party may assign its rights or delegate any obligations under this Agreement, nor any part hereof, without the prior written consent of the other party, and any such assignment will be void. Neither party shall unreasonably withhold consent upon written request by the other party. BATS may assign its rights and obligations under this Agreement without prior consent of Subscriber pursuant to any acquisition of controlling interest in BATS, provided that (1) Subscriber shall be given prompt written notice of such acquisition and assignment; and (2) Subscriber may, in its sole discretion, elect to terminate this Agreement immediately upon receipt of such notice, in which event Subscriber shall have no further obligation to BATS save for any fees outstanding as of the date of termination.

Force Majeure. Neither party to this Agreement will be liable for delay or failure to perform its obligations hereunder (other than a failure to pay amounts when due) caused by an event that is beyond the party’s control; provided, however, that such party will not have contributed in any way to such event.

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.

Choice of Laws. This Agreement will be deemed to have been made in the State of New York and will be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of New York.

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first written above.

Subscriber: _____

BATS Trading, Inc.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____