

BLOOMBERG TRADEBOOK ELECTRONIC TRADING USER AGREEMENT

This Bloomberg Tradebook Electronic Trading User Agreement (the "Agreement") by and between Bloomberg Tradebook LLC, a limited liability company organized under the laws of Delaware ("Tradebook"), and CITY OF SAN DIEGO ("User"), is effective as of the date entered below.

1. **Services.** User wishes to receive access to certain services, which may include access to one or more request for quote, request for trade or other systems for the negotiation of certain financial instruments ("Instruments") pursuant to this Agreement (the "Services"). Tradebook is willing to provide the Services to User pursuant to this Agreement. The Services do not include the BLOOMBERG TERMINAL service and its communications network.
2. **User's Obligations, Acknowledgments and Consents.**
 - 2.1. Within 30 days of the date of the relevant invoice, User shall pay all applicable access and transactional fees of which User has been given prior written notice related to the use of the Services by User, and any sales tax, VAT, GST or similar taxes imposed on the access and transactional fees, all as specified in the relevant invoice.
 - 2.2. User shall supply all information that Tradebook may reasonably request (or is requested by any governmental, regulatory or self-regulatory authority, agency, court or body ("Governmental Authority")) in writing concerning User, Authorized Traders, User's customers or any principals for which User is acting as agent ("Principals"). "Authorized Trader" as used under this Agreement shall mean any natural person designated by User who has access to the Services acting for and on behalf of User. User shall, following procedures established by Tradebook, designate one or more individuals as Authorized Traders who meet all requirements that Tradebook may prescribe from time to time.
 - 2.3. User acknowledges and agrees that: (a) at no time does Tradebook (i) act as a dealer, underwriter, selling group participant, private placement agent, promoter, offeror, marketer or trading counterparty with respect to the Instruments regarding which User communicates via the Services, (ii) review, approve, assess the suitability of or conduct any due diligence on, such Instruments or, the issuers of such Instruments, or any materials posted by any brokers or dealers with respect to such Instruments, or (iii) take title to or otherwise perform execution, clearing or settlement functions with respect to, such Instruments; and (b) User is responsible for execution, clearing and settlement of transactions using User's customary procedures separately and apart from Tradebook and the Services, for User's own due diligence on Instruments regarding which User communicates via the Services, for determining the suitability of any transactions entered into using the Services, and for verifying the accuracy of any materials posted by any brokers or dealers with respect to such Instruments.
 - 2.4. If a dispute arises between User and another user regarding a negotiation or transaction (or the terms, including any errors, thereof) via the Services, User acknowledges and agrees that it will remain the responsibility of User and such other user(s) to resolve any such dispute.
 - 2.5. User shall not take any action or make any omission relating to the Services that causes the Services or Tradebook to be in violation of any Applicable Law. "Applicable Law" as used under this Agreement shall mean, with respect to any person or entity, any applicable law, statute, regulation or directive, including the laws of any jurisdiction applicable to any use or attempted use of the Services, any rule, requirement, order, notice or guideline of any Governmental Authority, market rules and judgments, orders and rulings of any Governmental Authority, applicable to such person or entity.
 - 2.6. User acknowledges and agrees that it will not rely on Tradebook for time-stamping facilities for orders communicated or transactions entered into using the Services and that Tradebook shall not have any liability for any interruptions or inaccuracies in time-stamps.
 - 2.7. User acknowledges and agrees that all information User, its Authorized Traders, principals and agents provide to Tradebook and its affiliates may be shared with Tradebook's affiliates and their respective agents or sub-agents and that Tradebook may disclose any information provided by or relating to User, Principals, Authorized Traders or other agents, or trades negotiated by User or of its Principals, including the content of this Agreement, to any Governmental Authority, or to any other person or entity as required by Applicable Law or as necessary to facilitate User's use of the Services.
3. **User's Representations and Warranties.** User hereby represents, warrants and covenants to Tradebook, and each time User or any of its Authorized Traders enters an order, requests a quote or trade, negotiates or effects a transaction or otherwise uses the Services, User shall be deemed by such act to represent, warrant and covenant to Tradebook, that:



(a) User: (i) and its Authorized Traders are and will be in compliance in all material respects with Applicable Law, including without limitation any security registration requirements or applicable exemptions therefrom for all securities it or any of its Authorized Traders offers for sale through the Services; (ii) has provided and obtained and shall maintain all required notifications or consents (e.g., for the collection, processing, transfer, and disclosure of certain personal information of Authorized Traders, Principals and their respective directors, officers, employees and shareholders as required by Applicable Law or a request of a Governmental Authority or as required by Tradebook to comply with Applicable Law, Tradebook policy and Tradebook's internal screening policies including Tradebook's performance of its anti-money laundering obligations); (iii) has ensured that use of each unique Identifier issued to each Authorized Trader which enables Tradebook to identify the individual entering messages or otherwise using the Services for and on behalf of User is limited to its Authorized Traders and has and will adopt, implement and enforce access control procedures that limit use of and access to the Services to its Authorized Traders; and (iv) accepts responsibility for all acts or omissions by it, its Authorized Traders or any other person or entity that User uses to use or access the Services or to which User outsources or delegates any activity during the course of using or accessing the Services.

(b) If User is a broker or dealer using the Services, User: (i) is solely responsible for providing any required trade confirmations and account statements to its customers, and complying with (A) any prospectus and offering material delivery requirements, (B) any requirements with respect to securities borrowing and lending with respect to instruments regarding which User communicates using the Services, including applicable possession or control requirements and Federal Reserve Board margin requirements, (C) any requirements with respect to short sales (including circuit breakers and locate requirements), (D) applicable minimum price increments (even if the Services were to permit quotes in smaller increments than those permitted under applicable regulatory requirements) for equity securities, (E) applicable trading halts and suspensions, and (F) applicable requirements with respect to accounts that trade options, including account approval and customer agreement requirements, provision of disclosures, position and exercise limits, and large options position reporting requirements; and (ii) is solely responsible for and in compliance with any applicable order or trade reporting, order audit trail system requirements and consolidated audit trail requirements. For the avoidance of doubt, under no circumstances shall Tradebook be responsible for the foregoing. If User is not a U.S. registered broker or dealer and has customers in the United States that transmit or receive orders in securities, it will comply at all times with an applicable exemption from such registration set forth in Rule 15a-6 under the U.S. Securities Exchange Act of 1934, or is otherwise exempted from such registration.

(c) User has all requisite legal authority and capacity to enter into this Agreement and to use the Services on its own behalf and, if applicable, in the name and on behalf of each of its Principals and third-party customers; and

(d) (i) Tradebook has neither recommended to User the counterparty to any trade, nor is Tradebook responsible for any acts or omissions of such counterparty; (ii) Tradebook has not recommended, solicited or advised User to place any order or engage in any trade; (iii) User has made an independent decision to enter such order, enter into such trade or make such other use of the Services, and has determined that such order, trade or other use is appropriate and proper for User; and (iv) has adequate experience, knowledge and competence to negotiate transaction in the Instruments.

4. **Termination.** Tradebook or User may terminate this Agreement by giving the other prior written notice. The Agreement will be terminated immediately unless otherwise stated in the notice. Tradebook may at any time suspend User's or any Authorized Trader's use of or access to any portion or all of the Services or terminate any portion of the Services upon written notice to User. Termination of this Agreement shall not affect liability accrued as of termination. Paragraphs 2.7 to 7 and 11 shall survive termination of this Agreement and continue in full force and effect.

5. **Limitations of Liabilities; Indemnities.**

5.1 TRADEBOOK AND ITS AFFILIATES MAKE NO WARRANTY, EXPRESS OR IMPLIED, AS TO RESULTS TO BE ATTAINED BY USER OR OTHERS FROM THE USE OF THE SERVICES, AND THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. TRADEBOOK AND ITS AFFILIATES SHALL NOT BE LIABLE FOR TAKING ANY ACTION THEY DETERMINE IS NECESSARY OR DESIRABLE TO COMPLY WITH THEIR GOOD-FAITH UNDERSTANDING OF ANTI-MONEY-LAUNDERING LAWS AND REGULATIONS OR ANY OTHER APPLICABLE LAW. The information and data contained in the Services are derived from sources deemed reliable, but Tradebook, its affiliates and its and their suppliers do not guarantee the correctness or completeness of any programs, data or other information furnished in connection with the Services. To the maximum extent permitted by law, Tradebook and its affiliates shall not be responsible for or have any liability for any injuries or damages caused by the Services or by delays or interruptions of the Services, from whatever cause, and shall not be liable for damages arising from the use of the Services. User is solely responsible for the accuracy and adequacy of the data and information used by it and the resultant output thereof. Tradebook and its affiliates shall have no liability or responsibility for the security or maintenance of any data input by User.

5.2 Tradebook, its affiliates, its and their suppliers and its and their third-party agents shall have no responsibility or liability, contingent or otherwise, for any injury or damages, whether caused by the negligence of Tradebook or its affiliates or any of its and their employees, subcontractors, agents, equipment vendors or otherwise, arising in connection with the Services rendered under this Agreement or the use of the Services and shall not be liable for any lost profits, losses, punitive, incidental or consequential damages or any claim against User by any other party.

5.3 Tradebook and its affiliates make no warranties, express or implied, with respect to the Services. To the maximum extent permitted by law, User releases Tradebook and its affiliates and its third-party agents from all liability, including, without limitation, for any lost profits, losses, punitive, incidental or consequential damages arising from User's use or any use by User's Authorized Traders, customers, users, Principals or agents of the Services, including but not limited to any failure of any connection to the Services, regardless of the cause.



5.4 User shall indemnify, hold harmless and at User's expense defend Tradebook and its directors, officers, employees, affiliates and agents, against any loss, claim, demand or expense (including reasonable attorneys' fees) arising in connection with a breach of this Agreement by User or the use of the Services by User or its Authorized Traders, customers, clients, Principals or agents.

5.5 Notwithstanding anything to the contrary in this Agreement, to the extent permitted by law, the aggregate liability of Tradebook and its affiliates arising in connection with this Agreement and the Services for damages, regardless of the form of the action, shall not exceed the fees paid by User during the three months preceding the first loss or damage (the "Liability Cap") for the Services for the particular Subscription Category or Categories to which the damages relate, and this shall be User's exclusive remedy; provided, however, that the Liability Cap shall never be less than US\$5000 nor exceed US\$1 million (the "Annual Maximum Liability Amount"); provided, further, that the Annual Maximum Liability Amount shall limit User's aggregate claims in connection with this Agreement and the Services across all Subscription Categories during each calendar year. As used in this Agreement, the "Subscription Categories" are those categories of products and/or billing classifications set forth from time to time in User's "rate card" for the Services.

5.6 No party shall be liable to the other for any default resulting from force majeure, which shall be deemed to include any circumstances beyond the reasonable control of the party or parties affected. No action, regardless of form, arising out of or pertaining to any of the Services may be brought by User more than one year after the cause of action has accrued. This Agreement shall not limit any liability for death or personal injury directly resulting from negligence if and to the extent such limitation would violate applicable law.

5.7 Notwithstanding any limitations contained in paragraphs 5.1 through 5.6 to the contrary, Tradebook agrees to indemnify User and hold it harmless and at Tradebook's expense defend User against any claim that the programs, data, information and other items provided by Tradebook hereunder infringe any copyright, trademark or other contractual, statutory or common law rights; provided, however, that (a) User shall promptly notify Tradebook in writing of the claim, (b) Tradebook shall have sole control of the settlement and defense of any action to which this indemnity relates, (c) User shall cooperate in every reasonable way to facilitate such defense, and (d) if User becomes aware of any suspected infringement by a third party of any proprietary rights of Tradebook, User shall promptly notify Tradebook of such activities.

6. **Proprietary Rights.** Tradebook and/or its affiliates own all intellectual property rights relating to the Services and derivative works created therefrom. User acknowledges that the Services, related materials and software were developed, compiled and arranged by Tradebook and its affiliates through expenditure of substantial time, effort and money and constitute valuable intellectual property and trade secrets. User shall not recompile, disassemble, reverse engineer, make or distribute any other form of, or create derivative works from, the Services, or use any of Tradebook's or its affiliates' marks or trade names without prior written consent of Tradebook.
7. **Use of Data; User Right to Disclose the Agreement.** User hereby grants Tradebook a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, fully sublicenseable and freely assignable license to store, use, copy, display, disseminate and create derivative works from: (i) the price and quantity data for each negotiation entered into by User or its Principals via the Services and (ii) each bid, offer and/or order provided via the Services by User or its Principals (the "Trading Data"); provided, however, that Tradebook shall not, and shall not purport to authorize third parties (including its affiliates) to (1) use the Trading Data to replicate or reverse engineer User's trading strategies (except as required by Applicable Law or to comply with Tradebook's regulatory obligations) or (2) sell, retransmit or redistribute Trading Data except (a) to other users of the Services as necessary to provide the Services; (b) where such Trading Data is anonymized and is not segregated from similar data sourced from other users of the Services; or (c) as required by Applicable Law, to comply with Tradebook's regulatory obligations or as necessary to provide any services requested by User. Nothing in this Agreement shall prevent User from using User's Trading Data. User and Authorized Traders shall not, and shall cause their affiliates, Principals, clients and customers not to, distribute, sell or retransmit trading data, other than User's Trading Data, or other information obtained via the Services. As required by Applicable Law or as directed by a Governmental Authority with jurisdiction over User or its Principal, User may provide this Agreement to any Governmental Authority or to any other person or entity.
8. **Validity.** If any Agreement provision is to any extent held invalid or unenforceable, the remainder of this Agreement shall not be affected and each such provision shall be valid and enforceable to the fullest extent permitted by law. In such case, this Agreement shall be reformed to the minimum extent necessary to correct any invalidity or unenforceability, while preserving to the maximum extent the rights and commercial expectations of the parties.
9. **Complete Agreement; Construction.** This Agreement is the complete and exclusive statement of the parties' agreements regarding the subject matter hereof and supersedes any oral or written communications, representations or agreements relating thereto. No Agreement changes or waivers shall be binding unless in a writing signed by the parties, except that Tradebook may, with notice to User, amend this Agreement for regulatory reasons or to provide additional services, and User's use of the Services after such notice shall be deemed User's acceptance of the amendment. This Agreement, including any modifications, waivers or notifications relating thereto, may be executed and delivered by facsimile, electronic mail, or other electronic means, including, via a website designated by Tradebook, by completing the procedures specified on that website. Any such facsimile, electronic mail transmission, or communication via other such electronic means shall constitute the final agreement of the parties and conclusive proof of such agreement, and shall be deemed to be in writing and to have the same effect as if signed manually. User agrees that it has the ability to store the information delivered to User electronically such that it remains accessible to User in an unchanged form. Unless the context otherwise requires: (i) forms of the word "include" mean that the inclusion is not limited to



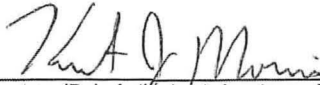
the items listed; (ii) "or" is disjunctive but not exclusive; and (iii) words in the singular include the plural, and in the plural include the singular.

- 10. **Assignment.** Neither Tradebook nor User may assign this Agreement, in whole or in part, without the prior written consent of the other party; provided, however, that Tradebook may assign this Agreement, in whole or part, without User's consent, to a Tradebook affiliate.
- 11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of New York regardless of the substantive law that might otherwise govern under applicable choice-of-law principles. The parties hereto, their successors and assigns, agree to submit to the exclusive jurisdiction of the federal and state courts located in New York County, New York in connection with any matters arising out of or relating to this Agreement and waive all objections to the selection of such venue or to such courts' assertion of jurisdiction over the parties regarding such matters, including without limitation on the grounds of forum non conveniens and sovereign immunity.
- 12. **Consent to Electronic Delivery.** User consents to the provision of information not specifically addressed to User and to delivery of all correspondence or communications related to this Agreement or in connection with User's use of the Services by e-mail or other electronic means or to a website designated by Tradebook, subject to Applicable Law. Any documents delivered to User electronically are deemed to be in "writing."
- 13. **Disclosure.** Tradebook is a registered broker-dealer with the U.S. Securities and Exchange Commission and a member of the U.S. Financial Industry Regulatory Authority, Inc., U.S. Securities Investor Protection Corporation ("SIPC") and the Municipal Securities Rulemaking Board ("MSRB"). For more information about SIPC visit www.sipc.org or call (202) 371-8300.

Agreed to by:

CITY OF SAN DIEGO

Company Name



Signature (Duly Authorized signatory, officer, partner or proprietor)

Kent Morris

Name (Please type or print)

Chief Investment Officer

Title (Please type or print)

8/16/21

Date

Agreed to by:

BLOOMBERG TRADEBOOK LLC



9/3/2021

Date

Approved as to form this 8th day of August, 2023.

MARA W. ELLIOTT, City Attorney

BY: 
Deputy City Attorney

