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together with

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- c. You will obtain a Subscription password that enables your use of the Software and Data (your "**Password**"). You agree to keep your Password confidential, and not to disclose it to anyone else, publish it, or allow anyone else to use it. You acknowledge and agree that, in addition to providing your unique Password, Licensor may implement technical measures that enable the Brokerage Affiliates to verify your compliance with the terms of this Agreement, as well as authentication that you are the user, such as multi-factor or 2FA authentication, which may, at Licensor's discretion, be an optional feature you can select or required for each login or on some other timed basis.

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3. PAYMENT

- a. Fees, charges and payment terms (collectively, "**Fees**"), if any, for the Software and/or the Data will be as disclosed to you in the application process for your Subscription (including an application process for an account with a Brokerage Affiliate in which this Agreement is included), or on a TradeStation company website, or as part of your login process, or as otherwise published in the Software or in a TradeStation company client center. The Fees may change at any time and from time to time, and will be published on a TradeStation company website, or in a TradeStation company client center, or as notifications in the Software, or by email or other electronic means, or any other suitable method. Your use of Software or Data after any such change in Fees constitutes your unconditional and irrevocable acceptance of such changes.
- b. You agree to pay when due all Fees for your Subscription. If your Subscription is being used in connection with a Brokerage Affiliate's services, such Brokerage Affiliate is authorized to offer the Subscription and this Agreement to you, and you hereby authorize such Brokerage Affiliate to debit any accounts you have with such Brokerage Affiliate the full amount of all Fees (if any are charged), in advance of the period or periods to which the use by you of your Subscription relates. Such Brokerage Affiliate, in its discretion, may not charge you any separate amounts for your use of your Subscription. For the avoidance of doubt, any fees or charges a Brokerage Affiliate debits to your brokerage account that relates to your level of account activity or funding should not be construed as, and is not, regardless of what it is called, Fees for this Subscription, but is rather an inactivity or low-activity fee being charged

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- c. If any separate Fees are payable by you for this Subscription, regardless of who charges them to you, no refunds or prorated refunds are required to be made to you. Your Fees are for permitted access to the Software and the Data, and do not change, and are not reduced or prorated, based on your actual login to, or use of, the Software or the Data, even if you rarely or never use them, and your promises and obligations under this Agreement are the same whether or not you are charged Fees. Also, any and all applicable sales or use taxes, as well as all applicable Exchange fees and charges (unless expressly included in your Subscription for no additional charge), shall be your responsibility and paid by you in full and on a timely basis, typically in advance of services rendered.
- d. If you are paying Licensor for your Subscription by credit card, you hereby authorize Licensor or its affiliate to use the credit card information furnished by you to Licensor or its affiliate for purposes of fulfilling your payment obligations under this Agreement. You further represent and warrant that (i) the credit card information provided by you (card number, expiration date and card-holder's name) is accurate and valid in all respects and lawfully authorized for use, and that you are providing your credit card information to Licensor fully intending and expecting your credit card to be fully charged all Fees; and that (ii) such credit card belongs to you or has been authorized for use by you by the valid card-holder. Upon expiration of your credit card, you shall notify Licensor of the new credit card expiration date and all other relevant new information pertaining to the new credit card. Please see the **Privacy Statement** posted by link from TradeStation company websites, which you acknowledge you have read and understand.
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With respect to products or services involving the receipt of financial market information, ***if you claim that you are a Non-Professional Subscriber or a "Non-Pro," you represent and warrant that you meet and comply with all Exchange requirements for qualification as a Non-Professional Subscriber, and that the following statements are and shall continue to be true for as long as you receive access to information or services*** pursuant to the terms and conditions of this Agreement:

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- b. You shall use the information and service(s) solely in connection with your own individual personal investment activities and not in connection with any trade or business activities.
- c. You shall not furnish the information or service(s) received to any other person.
- d. You are not a securities broker-dealer, investment advisor, futures commission merchant, commodities introducing broker or commodity trading advisor, registered representative, associate or employee of any of the foregoing, member of a securities exchange or association or futures contract market, or an owner, partner or associated person of any of the foregoing.
- e. You are not employed by a bank or an insurance company or an affiliate of either, or any other organization which performs business functions related to securities or commodity futures investment or trading activity.

If any of the foregoing statements are not true for you or your situation, then your status is Professional or “Pro” and you must register for your Subscription as such. You acknowledge and agree that if your status with respect to any of the foregoing statements is affected or changed in any way, you shall immediately notify Licensor in writing of such change of status or position. In addition to other remedies available to Licensor and the Data Suppliers (including the Exchanges), you shall be liable to Licensor and the Data Suppliers (including the Exchanges) for the difference between any fees and costs paid by you and the fees and costs applicable to Professional Subscribers for the same type of information and services that you improperly received as a Non-Professional Subscriber, plus any applicable Exchange and governmental penalties, plus interest computed at the rate of 1.5% per month (or, if lower, the highest rate permitted by applicable law), and you irrevocably authorize Licensor to charge against your credit card, and any Brokerage Affiliate with which you have an account in connection with which you are permitted to use your Subscription to debit your brokerage account, any and all such amounts. ***You understand and agree that all registration and biographical information you provide to Licensor or its affiliates relating to this issue may be examined by the applicable Exchanges, and that Licensor, Brokerage Affiliates and Data Suppliers may, and likely will, conduct searches and inquiries to verify the truth and accuracy of any information you provide, and representations you make, in connection with a claim by you of “non-pro” status.***

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- c. IF ANY OF THE DISCLAIMERS OF LIABILITY IN THIS AGREEMENT ARE FOR ANY REASON DECLARED INVALID BY A COURT OF COMPETENT JURISDICTION, YOU AGREE THAT THE MAXIMUM

COLLECTIVE LIABILITY OF LICENSOR AND ALL CONNECTED PERSONS (AS SUCH TERM IS DEFINED IN THE PARAGRAPH BELOW) TO YOU RELATING TO ANY CLAIM YOU MAY HAVE IN ANY MANNER RELATING TO YOUR SUBSCRIPTION, THE SOFTWARE OR DATA, OR THE USE, CONDITION, OPERATION, EFFECTIVENESS OR QUALITY THEREOF, WHETHER BASED IN CONTRACT, TORT, EQUITY OR ON OTHER GROUNDS OR THEORIES, AND REGARDLESS OF THE CIRCUMSTANCES, SHALL NOT EXCEED THE HIGHER OF (i) THE TOTAL AMOUNT OF FEES (EXCLUDING EXCHANGE FEES AND ANY OTHER “PASS-THROUGH” OR COST-REIMBURSEMENT FEES), IF ANY, ACTUALLY PAID BY YOU TO LICENSOR FOR THE SUBSCRIPTION FOR THE MOST RECENT THREE (3) MONTHS AT THE TIME THE LIABILITY ARISES, AND (ii) U.S. \$300.

- d. You further expressly agree that each Brokerage Affiliate, each other affiliate of Licensor, each of the Data Suppliers (including each of the Exchanges), and each Third-Party Licensor (collectively, “Connected Persons”), if you assert any claim of any kind or nature against any of such Connected Persons in any manner related to this Subscription, the Software, the Data, or your use of any of the foregoing, are express third-party beneficiaries of the provisions of this section for the purpose of asserting against you, and each of them may assert against you, such provisions for estoppel purposes or any other affirmative or equitable defenses.

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- d. To the extent applicable, you agree to make application to, and receive written approval from or execute an appropriate agreement with, each Exchange, to the extent required by the rules, regulations or policies of such Exchange, in order to receive the Data of that Exchange. You also agree to comply with any applicable conditions, restrictions and limitations, and to pay any applicable fees and charges, imposed by such Exchange. These obligations may generally apply, in whole or in part, at a minimum, to Professional Subscribers who receive Exchange financial market data. If any Exchange, for any reason, terminates provision of Data to Licensor or the Data Suppliers, your receipt of Data may be discontinued with or without notice, and you agree that in such event neither Licensor nor the Data Suppliers or their suppliers, or any other Connected Persons, shall have any liability to you.

- e. *You further expressly agree that each of the Connected Persons, if you assert any claim of any kind or nature against any of such Connected Persons in any manner related to this Subscription, the Software, the Data, or your use of any of the foregoing, are express third-party beneficiaries of the provisions of this section for the purpose of asserting against you, and each of them may assert against you, such provisions for estoppel purposes or any other affirmative or equitable defenses.*

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- c. You further expressly agree that each of the Connected Persons, if you assert any claim of any kind or nature against any of such Connected Persons in any manner related to this Subscription, the Software, the Data, or your use of any of the foregoing, are express third-party beneficiaries of the provisions of this section for the purpose of asserting against you, and each of them may assert against you, such provisions for estoppel purposes or any other affirmative or equitable defenses.

10. INDEMNITY.

You shall indemnify and hold harmless Licensor and each of its affiliates, including the Brokerage Affiliates, and each of their respective directors, officers, employees and affiliates, from and against any claim, damages, loss, liability, cost and/or expense (including, but not limited to, reasonable attorneys' fees and costs, before and at any trial or other proceeding, at all tribunal levels, and whether or not any suit is instituted) that directly or indirectly arise from or are caused by or relate to: (a) any use by you of any of the Software and/or any of the Data; (b) any breach or violation by you of any term or provision of this Agreement or any other agreement you have made in connection with your registration for the Subscription; (c) your assertion of a claim against Licensor, any of the Connected Persons, or any of their respective employees, agents or affiliates, that asserts that any of them are responsible or liable for any loss or damage the risk of which has been disclaimed by Licensor (on its own behalf and/or for the benefit of Connected Persons) or assumed by you under this Agreement; (d) any violation of any kind by you, or on your behalf, of the legal or contractual rights of any third party (including each of the Connected Persons and their respective affiliates), including, but not limited to, violation of any such person's patent, copyright, trademark, service mark, trade secret or other intellectual property rights; and/or (e) any false or misleading information provided by you to Licensor, any of the Connected Persons (including the Exchanges), or to any of their respective suppliers or affiliates.

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- a. The Fees and any other consideration paid by you for the Subscription relate only to your receipt of the Software and Data (as included at the time of your Subscription, or a selected by you as added features, functions or services), and to no other products or services, including upgrades or technical support Licensors or an affiliate offers or may offer from time to time. All support services, including technical support and other services and benefits that may be made available from time to time by Licensors or an affiliate, and the terms and conditions upon which they are made available (including pricing), may be modified at any time and from time to time by Licensors or its affiliate with or without notice. Licensors is not required to provide error corrections or updates, and ***if you are or become dissatisfied with the Subscription for lack of updates or error corrections, or for other reasons, your sole remedy and recourse is to cancel the Subscription.*** You represent and acknowledge that you have numerous other satisfactory choices if you decide to cancel and take your business elsewhere. If Licensors does provide an upgraded build or version, you may be required to accept such upgrade and not be permitted access to any prior version or build, including the one you are using at the time of the upgrade, and upgrades may be made seamlessly (meaning automatically) made when you login and not readily apparent to you, and with or without notice to you. Licensors and its affiliates may decide, in its or their sole discretion, not to provide any technical or other support with respect to any prior version or build as soon as it has been replaced.
- b. If you are given or accept any *EasyLanguage* technical support or consulting services by or from Licensors or its affiliates, or similar services of any kind, a separate fee may be payable by you ("**EasyLanguage Support Services**"). If a fee is payable, it shall be discussed with you in advance. Neither Licensors, nor its affiliates, in the performance of EasyLanguage Support Services, provides or offers trading strategies or systems of any kind. The sole purpose of EasyLanguage Support Services is to assist you in your use of *EasyLanguage* to express and formulate strategies or systems that you are developing or have developed. Solely you assume the risk that the technical suggestions given to you accurately reflect your strategies or systems and your intent, before you use them. Licensors and its affiliates provide EasyLanguage Support Services only on the condition that you fully accept and assume these premises and risks, and you hereby acknowledge and agree that you do accept and assume them.

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Each affiliate of Licensors (including each of the Brokerage Affiliates), is an intended third-party beneficiary of this Agreement, and may enforce all rights and obligations, and assert all defenses, in its favor contained in this Agreement, and each Brokerage Affiliate, in any dispute-resolution proceeding (including civil litigation, arbitration, reparations or any other alternative dispute forum) with you or anyone acting by or through you, may assert any or all of the disclaimers, assumptions of risk and other provisions of this Agreement (unless expressly prohibited by applicable laws, rules or regulations). Neither this express beneficiary designation, nor any other provision of this Agreement, creates in your favor any express or implied right or remedy, of any kind or nature, against any Brokerage Affiliate or other affiliate of Licensors under this Agreement or otherwise.

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The performance by Licensors, any Third-Party Licensors and each of the Data Suppliers of, under or with respect to this Agreement, including delivering availability and use of the Software and the Data pursuant to your Subscription, shall be excused (without creating liability of any kind to Licensors, any Third-Party Licensors or any Data Supplier) in the event and to the extent that any software bug or virus, failure of any internet service provider, operator error, failure of any electronic or mechanical equipment, hardware, communication system or other system, or any component thereof, telephone or other interconnect problems, unauthorized access, theft, security breach, government restriction, exchange or market regulation, suspension of trading, war, terrorism, cyberterrorism, strike or other labor dispute, civil disorder, fire, tornado, wind storm, earthquake, power failure, explosion, or any other third-party failure, or any other act, event or circumstance beyond the reasonable control of Licensors or such Data Supplier (as applicable), renders such performance, in whole or in part, impossible or difficult to accomplish.

14. SEVERABILITY.

If any provision of this Agreement is held to be invalid, void or unenforceable by reason of any law, rule, administrative order or judicial decision, that determination shall not affect the validity of the remaining provisions of this Agreement.

15. WAIVER.

Except as specifically permitted in this Agreement, no provision of this Agreement can be, or be deemed to be, waived, altered, modified or amended unless agreed to in writing signed by an authorized officer of Licensor (Vice President or higher).

16. ENTIRE UNDERSTANDING; ASSIGNMENT.

This Agreement contains the entire understanding between you and Licensor concerning the subject matter of this Agreement, and supersedes all prior or contemporaneous agreements or understandings, oral or written. You may not assign any of your rights or delegate any of your obligations hereunder without first obtaining the prior written consent of Licensor.

17. CHOICE OF LAW AND VENUE.

This Agreement shall be deemed to have been made in the State of Florida, United States of America, and shall be construed, and the rights and liabilities of the parties determined, in accordance with the laws of the State of Florida. Venue for any dispute involving or relating to your Subscription shall be proper only in Miami-Dade County, Florida or Broward County, Florida, except if waived by Licensor in writing in its sole and absolute discretion, and except that any dispute between you and any Data Supplier and/or Exchange (which does not include Licensor) shall be proper only in the county where the principal executive office of such Data Supplier or Exchange is located. You hereby irrevocably consent to personal jurisdiction in the State of Florida, and represent that Miami-Dade and Broward counties in Florida are not inconvenient locations or forums for you.

18. ADDITIONAL IMPORTANT INFORMATION AND DISCLAIMERS

- a. **Investment and trading involve risks, including possible loss of principal and other losses. The Software and Data are designed, provided and/or presented chiefly to provide a training tool for the understanding and analysis of the financial markets. They are licensed to you with the understanding that neither Licensor or any Third-Party Licensor, nor the Data Suppliers, are engaged in rendering any investment, trading or other professional advice. If investment, trading or other professional advice is required, the services of a competent, licensed professional should be sought. No employee, agent or representative of Licensor, any Third-Party Licensor, any Data Supplier, or any of their respective affiliates is authorized to provide any such advice of any nature whatever, and any such advice, if given, is in violation of Licensor's (or such Third-Party Licensor's) and such Data Suppliers' policies, is unauthorized and may not be relied upon.**
- b. **The use of any trading system or strategy, including any system or strategy included as a sample in, or that is or was developed using, the Software or any of the Data, does not and cannot guarantee that you will make profits, increase profits or minimize losses. Any popular or other tools, strategies or systems included in the Software are intended merely as examples of technical ideas that can be incorporated into a personally designed trading strategy or system. None is recommended. You must use your own judgment or consult a professional for advice on such matters.**
- c. **Trading results based upon hypothetical or historically tested trading strategies or systems do not necessarily compare to results of actual trading. No hypothetical or historical trading record can account for the level of risk present in actual trading. Numerous factors relating to market conditions, the existence or nonexistence of specific events or circumstances, human error, human/emotional reaction to losses during actual trading, inherent limitations of certain hypothetical or historically tested models, particularly ones that do not operate at the "tick" (as opposed to open, high, low, close) level, volume of trade, and liquidity differences between hypothetical models and actual trades, and other supply/demand differences that may not be**

addressed by hypothetical models, and other conditions and circumstances, can account for these differences. There is no guarantee that your hypothetical trading results, even if tested against historical data, will produce comparable actual trading results. In fact, there are frequently sharp differences between hypothetical or historically tested performance results and the actual results subsequently achieved by any particular trading system or strategy. The possible reasons for this include the likelihood that no trading strategy or system can, even with automated trading, be precisely executed as designed.

- d. You should be aware that certain commonly used trading “jargon,” including trading terms, such as, for example, a “limited risk” position, should not be taken literally. For example, so-called “limited risk” positions in certain options trades are not in fact limited as may be expected. Again, with respect to matters such as these, a licensed professional should be consulted.
- e. *TradeStation* is an “open platform.” This means that independent companies and individuals that are not affiliates of Licensor may offer trading tools or strategies (which are in no way or manner part of the Software) that are compatible with TradeStation. Licensor conducts no investigation or review of the effectiveness or value of any such tools or strategies, and does not recommend, endorse, approve or disapprove of any of them. There are also independent, unaffiliated individuals and companies that offer *EasyLanguage* programming, consulting and related services (which are in no way or manner part of the EasyLanguage Support Services that may be provided by Licensor or its affiliates). Again, Licensor conducts no investigation or review of the effectiveness or value of any such services, and does not recommend, endorse, approve or disapprove of any of them.
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