

Amendment No. 1 to
SR-OPRA-2008-02

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Options Price Reporting Authority

Amendment to

National Market System Plan

Filed Pursuant to Rule 608
of Regulation NMS under the
Securities Exchange Act of 1934

1. Text of Amendment

The Options Price Reporting Authority ("OPRA") proposes to amend its national market system plan by amending its form of "Vendor Agreement" for several purposes. Clean and marked copies of a proposed Amendment to the Vendor Agreement are attached, respectively, as Exhibits I and II. Underlining in Exhibit II shows language proposed to be added to OPRA's form of Vendor Agreement by the Amendment, and language proposed to be deleted is shown as struck through.

One purpose of the proposed Amendment to the Vendor Agreement is to revise OPRA's definition of the term "Nonprofessional." That definition currently appears in OPRA's "Electronic Form of Subscriber Agreement" and "Hardcopy Form of Subscriber Agreement" as well as in the Vendor Agreement, and OPRA accordingly also proposes to amend these documents. The proposed revisions of these documents are shown, respectively, in Exhibits III and IV. Underlining in Exhibits III and IV shows language proposed to be added to the forms; language proposed to be deleted is shown as struck through.

In connection with the revision of the term "Nonprofessional," OPRA is also proposing to adopt a new Policy. The proposed new Policy is attached as Exhibit V. Since this document is entirely new, it is not marked to show changes in its language.

2. Purpose of Amendment

The proposed Amendment to OPRA's Vendor Agreement has several purposes.

(a) *Section 5: Definition of "Nonprofessional"; Revision of forms of Subscriber Agreement; New Policy.*

OPRA proposes to revise its definition of the term "Nonprofessional." The definition currently appears in Section 5 of OPRA's Vendor Agreement and in OPRA's "Electronic Form of Subscriber Agreement" and "Hardcopy Form of Subscriber Agreement." These two forms are Attachments B-1 and B-2 to OPRA's form of Vendor Agreement.¹

A person may become an OPRA "Subscriber" in one of two ways. The first way is that the person may sign a "Professional Subscriber Agreement" with the OPRA exchanges. In this case, the person pays fees directly to OPRA on the basis of the number of the person's "devices" and/or "UserIDs."

The second way is that the person may enter into a "Subscriber Agreement," not with the OPRA exchanges, but with an OPRA "Vendor" – an entity that has entered into a Vendor Agreement with the OPRA exchanges that authorizes the entity to redistribute OPRA Data to third persons. In this case, OPRA collects "usage-based" fees from the Vendor, which are often passed through to the Subscriber by the Vendor. If a person qualifies as a "Nonprofessional Subscriber," OPRA caps the fee that it charges the Vendor, and the fees that the Subscriber is required to pay to the Vendor may be less than they would be if the Subscriber is classified as a "Professional Subscriber."²

¹ OPRA's form of Vendor Agreement and its forms of Subscriber Agreements are available on OPRA's website, www.opradata.com.

² More specifically, if a person qualifies as a "Nonprofessional" and signs a Subscriber Agreement with a Vendor, OPRA either caps the "usage-based fees" that it charges the Vendor for the

OPRA's current definition of the term "Nonprofessional" specifies that a person must be an "individual" in order to qualify as a Nonprofessional. OPRA has concluded that this aspect of the definition should be revised to state that a "legal person" may qualify as a Nonprofessional if the legal person is either an individual (a "natural person") or a "qualifying trust." The term "qualifying trust" is proposed to be defined essentially to refer to a trust established for the benefit of one or more members of the trustee's immediate family. OPRA is proposing changes in Section 5 of its form of Vendor Agreement (set forth without marking in Exhibit I and with markings to show the changes in Exhibit II) and in its Electronic Form of Subscriber Agreement (Exhibit III) and Hardcopy Form of Subscriber Agreement (Exhibit IV) to implement the revised definition.

The Addendum for Nonprofessionals that is attached to OPRA's forms of Subscriber Agreement also currently states that a person must use OPRA Data "solely in connection with [the person's] individual personal investment activities" in order to qualify as a Nonprofessional. OPRA has concluded that this language should be revised to clarify that a natural person may qualify as a Nonprofessional if the person uses OPRA Data for the person's own benefit and for the benefit of other members of the person's immediate family and qualifying trusts of which the person is the trustee or custodian, and to include a parallel statement with respect to qualifying trusts to the effect that a qualifying trust may constitute a Nonprofessional only if the trust uses OPRA Data only for the benefit of the trust. Exhibits III and IV show the changes that OPRA is proposing to make to implement this clarification.

OPRA is also proposing to adopt a new policy entitled "Policy With Respect To Definition Of The Term "Nonprofessional"." The proposed Policy is attached as Exhibit V. The purpose of this document is to facilitate implementation of the revised definition of the term "Nonprofessional" as described below under the heading "Manner of Implementation of Amendment."

OPRA believes that the changes that it is proposing in its definition of the term "Nonprofessional" will add clarity to the definition and better align the language of the definition with the understanding of the definition on the part of Vendors and Subscribers who are affected by the definition.

(b) Section 14: Reporting and Record Keeping Requirements.

OPRA is proposing to change four provisions in Section 14 of the Vendor Agreement, which describes the reports and record keeping that OPRA requires of Vendors.

Paragraph 14(a) would be revised for several purposes. The current language of the paragraph could be misunderstood as requiring a Vendor to provide either a complete list of all Subscribers, including Subscribers that have entered into Subscriber Agreements with the Vendor, or changes to the previous version of the list, on a monthly basis. The revised language makes clear that OPRA requires only summary information on a monthly basis with respect to Subscribers that have entered into Subscriber Agreements with the Vendor. The current language of the paragraph requires that a Vendor report monthly with respect to "the number and type of devices" of each Professional Subscriber that has

person's access to OPRA Data at the level specified in its Fee Schedule – currently \$1.00/month – or, at the Vendor's option, simply charges the Vendor \$1.00/month for the person's access to OPRA Data. If a person does not qualify as a "Nonprofessional," the person may still sign a Subscriber Agreement with a Vendor, but OPRA either caps the "usage-based fees" that it charges the Vendor for the person's access to OPRA Data at the Professional Subscriber "per device" rate (currently \$21.00/month) or, at the Vendor's option, simply charges the Vendor the Professional Subscriber "per device" rate for the person's access to OPRA Data.

entered into a Professional Subscriber Agreement with OPRA. OPRA has for many years permitted Professional Subscribers to pay fees on the basis of the number of “devices” or “User IDs” on which they receive OPRA Data,³ and accordingly the revised language requires that a Vendor report monthly with respect to “the number of devices and/or User IDs” of each such Professional Subscriber that receives OPRA Data on Vendor controlled services. The revised language also states specifically that a Vendor’s reports to OPRA pursuant to paragraph 14(a) are to be provided electronically in a form reasonably satisfactory to OPRA.

The purpose of the changes in the first sentence of paragraph 14(b) is to preserve the current meaning of the sentence in juxtaposition to revised paragraph 14(a). In addition to the reports called for by paragraph 14(a) (reports at least monthly), OPRA has the right to require more complete reports pursuant to paragraph 14(b). These reports are submitted no more frequently than quarterly. The revised first sentence of paragraph 14(b) continues to state that, whereas reports made pursuant to paragraph 14(a) may contain summary information with respect to Subscribers that have entered into Subscriber Agreements with the Vendor, reports made pursuant to paragraph 14(b) must include all information in the Vendor’s list of Subscribers described in the first sentence of paragraph 14(a).

The change in clause 14(c)(3) would revise the language to make clear that a Vendor is not required to retain hardcopy originals of signed Hardcopy Subscriber Agreements and may instead retain copies, either in hardcopy form or in electronic form, provided that copies that are maintained electronically are maintained in a “non-rewriteable, non-eraseable format.”⁴

The changes in new paragraph 14(d) (replacing the final sentence of paragraph 14(c)) refine the statement of OPRA’s record retention requirements to shorten OPRA’s record retention requirement and to make a distinction between two types of records. The current language requires a Vendor to retain all records “for at least six years after the date Vendor discontinues furnishing OPRA Data to such persons [i.e., Subscribers].” That phrase is capable of being misunderstood to say that a Vendor must retain its records with respect to *all* Subscribers for at least six years after it ceases furnishing OPRA Data to *any* Subscriber. As revised, the language requires a Vendor to retain records with respect to its agreements with a Subscriber (these are records described in clauses 14(c)(1), (2) and (3)) for at least three years after it discontinues furnishing OPRA Data to that Subscriber, and requires a Vendor to retain records with respect to the actual use of OPRA Data (these are records described in paragraph 14(a) and clause 14(c)(4)) for at least three years after the records are created. The revised language is placed in a new paragraph 14(d), rather than being left in paragraph 14(c), to confirm that these record retention requirements apply to the Vendor’s records with respect to Subscribers that are described in paragraph 14(a) as well as records described in paragraph 14(c).

(c) Section 19: Provisions for Modifying the Vendor Agreement.

Paragraph 19(a) of the Vendor Agreement currently provides that, “[u]pon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action by the SEC, if required),” OPRA may modify the terms of the Vendor Agreement upon not less than 30 days notice to Vendor, and then states that: “Within thirty (30) days of its receipt of any notice of

³ This is reflected in footnote 2 of OPRA’s Fee Schedule and in its “Policies with respect to Device Based Fees,” both of which are available on OPRA’s website.

⁴ This phrase is used in Rule 17a-4(f)(2)(ii)(A), 17 CFR §240.17a-4(f)(2)(ii)(A). Rule 17a-4(f) describes the circumstances in which brokers and dealers may retain certain records in electronic form.

modifications, Vendor shall notify OPRA in writing whether Vendor consents to the modifications. If Vendor does not consent to the modifications within thirty (30) days of its receipt of the notice, this Agreement shall immediately terminate.” This language could be read to say that, if OPRA wishes to use paragraph 19(a) to implement a change in the Vendor Agreement after complying with the applicable requirements of the Exchange Act, a Vendor must affirmatively “opt in” to the change or its Vendor Agreement will be terminated. OPRA currently has over one hundred and eighty Vendors. It is not realistic to expect all of them to sign and return a written consent to a modification of the Vendor Agreement within thirty days of receipt, and not in the interests of either OPRA or a Vendor to permit the Vendor’s Vendor Agreement to terminate automatically if the Vendor fails to meet the thirty day deadline. To avoid this result, OPRA is proposing to change this language so that it clearly states that, if OPRA wishes to use paragraph 19(a) to implement a change in the Vendor Agreement after complying with the applicable requirements of the Exchange Act, OPRA must furnish written notice of the change to the Vendor, following which the Vendor need not “opt in” to the change in order to maintain its status as a Vendor, but may “opt out” of the change by terminating its Vendor Agreement if it is unwilling to accept the change. The revised paragraph makes clear that, if a Vendor timely gives notice of termination of its Vendor Agreement following its receipt of notice of a modification of the Vendor Agreement, the unmodified Vendor Agreement will constitute the agreement between the Vendor and OPRA until the effective date of the Vendor’s termination.

OPRA also proposes to delete current paragraphs 19(b) and 19(c) of the Vendor Agreement. Current paragraph 19(b) specifically addresses the possibility that OPRA might need to modify the provisions of the Vendor Agreement that relate to the Electronic Subscriber Agreement. Current paragraph 19(c) requires that all modifications to the Vendor Agreement other than those described in paragraph 19(a) (modifications subject to the procedure described in this filing) and 19(b) (modifications relating to Electronic Subscriber Agreements) must be signed by the Vendor. OPRA believes that it is no longer necessary to have a paragraph specifically with respect to modifications of the Electronic Subscriber Agreement and that it is consistent with the changes in paragraph 19(a) described in this filing to delete paragraph 19(c).

(d) Section 21: “Assignment” Provision

Section 21 of the Vendor Agreement currently states that the Vendor may not assign the Vendor Agreement without the consent of OPRA “except to a successor corporation upon merger or consolidation of Vendor, or to a corporation acquiring all or substantially all of the property, assets and business of Vendor.” OPRA is proposing to modify that language to accommodate other business entities in addition to corporations.

3. Manner of Implementation of Amendment

After this filing has been approved by the Commission in accordance with paragraph (b)(1) of Rule 608 of Regulation NMS under the Securities Exchange Act of 1934, OPRA will implement a new standard form of Vendor Agreement incorporating the amendments proposed in this filing, and OPRA will require its current population of Vendors to sign either an Amendment in the form set forth as Exhibit I to this filing or the new standard form of Vendor Agreement. After a Vendor has signed either an Amendment or a new form of Agreement, OPRA will permit the Vendor to use the revised forms of Electronic Form of Subscriber Agreement and Hardcopy Form of Subscriber Agreement that are attached to this filing as Exhibits III and IV.

OPRA is not proposing to require that OPRA Vendors replace the agreements that they have currently in place with Nonprofessional Subscribers. Instead, OPRA proposes to state in a new Policy, the form of which is attached as Exhibit V, that OPRA will interpret all Subscriber Agreements between

Vendors and Nonprofessional Subscribers, including Subscriber Agreements that were entered into prior to the date on which this filing becomes effective, as if their language read as shown in Exhibits III and IV, respectively, to this filing. OPRA intends, following the approval of this filing, to post the new Policy on its website and to send a copy of the new Policy to all current Vendors with the next monthly invoices that are sent out by OPRA. The changes that OPRA is proposing may enable a person who is currently classified as a Professional to qualify as a Nonprofessional, but will not cause any person who currently qualifies to be a Nonprofessional to cease to be qualified to be a Nonprofessional. OPRA therefore believes that the changes will not work to the disadvantage of any OPRA Vendor or Subscriber. For this reason, it should not be necessary to require that any Subscriber enter into a new Agreement in order to have the benefit of the changes.

4. Phases of Development and Implementation

Not applicable.

5. Impact on Competition

OPRA believes that the proposed amendments will impose no burdens on competition that are not justified in light of the purposes of the Securities Exchange Act of 1934.

6. Written Understandings or Agreements Among Plan Participants

Not applicable.

7. Approval of Proposed Amendment

The proposed amendment to the OPRA Plan was approved in accordance with the provisions of the Plan at a meeting of OPRA Representatives held on April 30, 2008.

8. Exhibits

- I. Form of Amendment #1 to OPRA Vendor Agreement
- II. Marked Copy of Form of Amendment #1 to OPRA Vendor Agreement
- III. Revision of Sections 1 and 2 in Electronic Form of Subscriber Agreement and Addendum for Nonprofessionals
- IV. Revision of Section 2 in Hardcopy Form of Subscriber Agreement and Addendum for Nonprofessionals
- V. Proposed Policy With Respect To Definition Of The Term "Nonprofessional"

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the self-regulatory organizations have caused this filing to be signed on their behalf by the undersigned, duly authorized.

American Stock Exchange, LLC.
Boston Stock Exchange, Inc.
Chicago Board Options Exchange, Incorporated
International Securities Exchange, LLC
NYSE Arca, Inc.
Philadelphia Stock Exchange, Inc.
The Nasdaq Stock Market LLC

acting jointly as

OPTIONS PRICE REPORTING AUTHORITY

By: /s/ Joseph Corrigan
Joseph Corrigan
Executive Director

Dated: June 30, 2008

Exhibit I

AMENDMENT #1 TO
OPTIONS PRICE REPORTING AUTHORITY
VENDOR AGREEMENT

This Amendment #1 to Options Price Reporting Authority Vendor Agreement (this “Amendment”) is made this __ day of _____, 20__, is between the undersigned Vendor (“Vendor”) and the Options Price Reporting Authority (“OPRA”), and is an amendment to the Vendor Agreement between Vendor and OPRA (the “Vendor Agreement”). All capitalized terms used herein shall have the meanings ascribed to them in the Vendor Agreement.

Vendor and OPRA hereby agree to amend the Vendor Agreement as follows:

1. Section 5 of the Vendor Agreement is hereby amended to read in its entirety as follows:

5. Nonprofessional Subscribers.

To become entitled to receive OPRA Data from Vendor as a Nonprofessional Subscriber, a person must have entered into a Subscriber Agreement with Vendor or a Correspondent Subscriber of Vendor either (i) in the form of Attachment B-1 or Attachment B-2 hereto in which the person has made the representations set forth in the Addendum for Nonprofessionals attached to such form, or (ii) in an alternative form that satisfies the requirements of paragraph 6(c) hereof in which the person has made representations equivalent to those in the Addendum for Nonprofessionals attached to Attachment B-1 or Attachment B-2 hereto. If Vendor, OPRA or (if applicable) a Correspondent Subscriber of Vendor determines that a person previously approved as a Nonprofessional Subscriber does not meet the requirements for such approval (in the case of such determination by OPRA, OPRA shall furnish Vendor notice thereof), Vendor will promptly terminate such person’s Subscriber Agreement or cause the Correspondent Subscriber to promptly terminate such person’s Subscriber Agreement in accordance with the terms thereof and promptly discontinue furnishing OPRA Data to such person, unless or until such person is again approved to receive such information in some authorized capacity, except that in accordance with Section 3(e) Vendor may continue to furnish delayed information to such person, if such person is not retransmitting the information to other persons prior to the time the information becomes historical.

2. Paragraph 14(a) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(a) Vendor agrees to maintain at all times a full, complete and current list of all Subscribers to whom Vendor is furnishing any OPRA Data. The list shall identify the capacity in which each Subscriber is being furnished OPRA Data. For each Subscriber included on the list, the list shall include the name and billing address of the Subscriber and, for each Professional Subscriber that has entered into a Professional Subscriber Agreement with OPRA and that receives OPRA Data on terminals or other devices and/or at User IDs under the control of Vendor, the list shall also include the number of devices and/or User IDs on which such Professional Subscriber currently receives OPRA Data. The list shall include such additional information concerning its

furnishing of OPRA Data to Subscribers as OPRA may from time to time reasonably request. Not less frequently than monthly, Vendor shall provide to OPRA (i) the information on the current version of such list with respect to Professional Subscribers that have entered into Professional Subscriber Agreements with OPRA (or changes from the previous version of such information provided to OPRA) and (ii) summary information with respect to Vendor's furnishing of OPRA Data to the other Subscribers on the current version of such list supporting Vendor's calculation of the fees owed by Vendor to OPRA with respect to such Subscribers. Vendor shall provide such information to OPRA in an electronic form that is reasonably satisfactory to OPRA.

3. The first sentence of Paragraph 14(b) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(b) At such time or times as OPRA may request (but not more frequently than quarterly), Vendor shall deliver to OPRA a full, complete and current copy of the list described in the first sentence of paragraph (a) as of the last day of the most recently completed calendar quarter and also including Vendor's calculation of the fees due from Vendor to OPRA with respect to the Subscribers on the list since the period covered by the most recent prior report furnished to OPRA pursuant to this paragraph.

4. Clause 14(c)(3) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(3) an original or a copy of each completed and signed Hardcopy Subscriber Agreement (and any amendments or modifications thereto), provided, that any such copy maintained electronically shall be maintained in a non-rewriteable, non-eraseable format; and

5. The final sentence of paragraph 14(c) is hereby deleted in its entirety, and the Vendor Agreement is hereby amended by adding the following paragraph thereto as paragraph 14(d) (so that paragraphs 14(d), 14(e) and 14(f) are hereby re-lettered as, respectively, paragraphs 14(e), 14(f) and 14(g)):

(d) All of Vendor's records pertaining to Subscribers and to the computation of Subscriber fees due from Vendor to OPRA, including the required copies of and with respect to Subscriber Agreements, shall be maintained in a reasonably accessible place and in a manner that is reasonably secure in accordance with standard industry practice. Vendor shall maintain records with respect to any Subscriber described in clauses 14(c)(1), (2) and (3) during the time that Vendor furnishes OPRA Data to such person and for at least three years after the date Vendor discontinues furnishing OPRA Data to such person, and Vendor shall maintain records described in paragraph 14(a) and clause 14(c)(4) for not less than three years from the time such records are created.

6. Paragraph 19(a) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(a) Upon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action by the SEC, if required), OPRA may modify the terms of this Agreement, including the Fee Schedule, by giving written notice to Vendor not less than 30 days prior to the effective date of the modification. Vendor may terminate this Agreement upon thirty days written notice

given to OPRA on or before the date specified in OPRA's notice as the effective date of the modification. Unless Vendor gives such a written notice to OPRA of the termination of this Agreement on or before the date specified in OPRA's notice, Vendor shall be deemed to have consented to the modification. If Vendor gives such a written notice to OPRA of the termination of this Agreement on or before the date specified in OPRA's notice, the modification shall not become effective with respect to Vendor prior to the date of the termination of this Agreement.

7. Paragraphs 19(b) and 19(c) of the Vendor Agreement are hereby deleted in their entirety, and paragraphs 19(d), 19(e) and 19(f) are hereby re-lettered as, respectively, paragraphs 19(b), 19(c) and 19(d).

8. Section 21 of the Vendor Agreement is hereby amended to read in its entirety as follows:

21. Assignment of Agreement.

Vendor shall not assign this Agreement in whole or in part without the prior written consent of the OPRA, except to a successor upon merger or consolidation of Vendor, or to an acquiror acquiring all or substantially all of the property, assets and business of Vendor. Subject to the foregoing restriction, this Agreement shall bind and inure to the benefit of the assignees and successors of the parties hereto.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers or duly authorized agents on the day and year first above written.

[Name of Vendor]
By _____
Name _____
Title _____

OPTIONS PRICE REPORTING AUTHORITY –
[currently consisting of:
AMERICAN STOCK EXCHANGE, LLC
BOSTON STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE,
INCORPORATED
INTERNATIONAL SECURITIES
EXCHANGE, LLC
NYSE ARCA, INC.
PHILADELPHIA STOCK EXCHANGE, INC.
THE NASDAQ STOCK MARKET LLC]

By _____
Name _____
Title _____

Exhibit II

AMENDMENT #1 TO
 OPTIONS PRICE REPORTING AUTHORITY
 VENDOR AGREEMENT

This Amendment #1 to Options Price Reporting Authority Vendor Agreement (this “Amendment”) is made this __ day of _____, 20__, is between the undersigned Vendor (“Vendor”) and the Options Price Reporting Authority (“OPRA”), and is an amendment to the Vendor Agreement between Vendor and OPRA (the “Vendor Agreement”). All capitalized terms used herein shall have the meanings ascribed to them in the Vendor Agreement.

Vendor and OPRA hereby agree to amend the Vendor Agreement as follows:

1. Section 5 of the Vendor Agreement is hereby amended to read in its entirety as follows:

5. Nonprofessional Subscribers.

To become entitled to receive OPRA Data from Vendor as a Nonprofessional Subscriber, a person must have entered into a Subscriber Agreement with Vendor or a Correspondent Subscriber of Vendor either (i) in the form of Attachment B-1 or Attachment B-2 hereto or in an alternate in which the person has made the representations set forth in the Addendum for Nonprofessionals attached to such form, or (ii) in an alternative form that satisfies the requirements of paragraph 6(c) hereof in which the person has made representations equivalent to those in the Addendum for Nonprofessionals attached to Attachment B-1 or Attachment B-2 hereto ~~represents that he or she is an individual (not a firm, corporation, limited liability company, partnership, trust or other form of entity or association), that he or she intends to receive OPRA Data for his or her private use only in connection with personal investment activities and not in connection with any trade or business activities, that he or she is not a securities broker dealer, investment advisor, futures commission merchant, commodities introducing broker or commodity trading advisor, member of a securities exchange or association or futures contract market, or an owner, partner, or associated person of any of the foregoing, and that he or she is not employed by a bank or an insurance company or an Affiliate of either to perform functions related to securities or commodity futures investment or trading activity.~~ If Vendor, OPRA or (if applicable) a Correspondent Subscriber of Vendor determines that a person previously approved as a Nonprofessional Subscriber does not meet the requirements for such approval (in the case of such determination by OPRA, OPRA shall furnish Vendor notice thereof), Vendor will promptly terminate such person’s Subscriber Agreement or cause the Correspondent Subscriber to promptly terminate such person’s Subscriber Agreement in accordance with the terms thereof and promptly discontinue furnishing OPRA Data to such person, unless or until such person is again approved to receive such information in some authorized capacity, except that in accordance with Section 3(e) Vendor may continue to furnish delayed information to such person, if such person is not retransmitting the information to other persons prior to the time the information becomes historical.

2. Paragraph 14(a) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(a) Vendor agrees to maintain at all times ~~on a current basis a full, complete and current~~ list of all Subscribers to whom Vendor is furnishing any OPRA Data, ~~and to provide a full, complete and current copy of such list (or changes from the previous version of the list) to OPRA not less frequently than monthly.~~ The list shall identify the capacity in which each Subscriber is being furnished OPRA Data. For each Subscriber included on the list, the list shall include the name and billing address of the Subscriber and, for each Professional Subscriber that has entered into a Professional Subscriber Agreement with OPRA and that receives OPRA Data on terminals or other devices and/or at User IDs under the control of Vendor, the list shall also include the number ~~and types of devices~~ and/or User IDs on which such Professional Subscriber currently receives OPRA Data. The list shall include such additional information concerning its furnishing of OPRA Data to Subscribers as OPRA may from time to time reasonably request. Not less frequently than monthly, Vendor shall provide to OPRA (i) the information on the current version of such list with respect to Professional Subscribers that have entered into Professional Subscriber Agreements with OPRA (or changes from the previous version of such information provided to OPRA) and (ii) summary information with respect to Vendor's furnishing of OPRA Data to the other Subscribers on the current version of such list supporting Vendor's calculation of the fees owed by Vendor to OPRA with respect to such Subscribers. Vendor shall provide such information to OPRA in an electronic form that is reasonably satisfactory to OPRA.

3. The first sentence of Paragraph 14(b) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(b) At such time or times as OPRA may request (but not more frequently than quarterly), Vendor shall deliver to OPRA a ~~report~~ full, complete and current copy of the list described in the first sentence of paragraph (a) as of the last day of the most recently completed calendar quarter including the information described in paragraph (a) and also including Vendor's calculation of the fees due from Vendor to OPRA with respect to the Subscribers on the list since the period covered by the most recent prior report furnished to OPRA hereunder pursuant to this paragraph.

4. Clause 14(c)(3) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(3) ~~a signed~~ an original or a copy of each completed and signed Hardcopy Subscriber Agreement (and any amendments or modifications thereto), provided, that any such copy maintained electronically shall be maintained in a non-rewriteable, non-eraseable format; and

5. The final sentence of paragraph 14(c) is hereby deleted in its entirety, and the Vendor Agreement is hereby amended by adding the following paragraph thereto as paragraph 14(d) (so that paragraphs 14(d), 14(e) and 14(f) are hereby re-lettered as, respectively, paragraphs 14(e), 14(f) and 14(g)): *[The marking shows the changes to the former final sentence of paragraph 14(c).]*

(d) All of Vendor's records pertaining to Subscribers and to the computation of Subscriber fees due from Vendor to OPRA, including the required copies of and with respect to Subscriber Agreements, shall be maintained in a reasonably accessible place and in a manner that is reasonably secure in accordance with standard industry practice. Vendor shall maintain records with respect to any Subscriber described in clauses 14(c)(1), (2) and (3) during the time that Vendor furnishes OPRA Data to such

~~persons and for at least six years after the date Vendor discontinues furnishing OPRA Data to such persons~~ person and for at least three years after the date Vendor discontinues furnishing OPRA Data to such person, and Vendor shall maintain records described in paragraph 14(a) and clause 14(c)(4) for not less than three years from the time such records are created.

6. Paragraph 19(a) of the Vendor Agreement is hereby amended to read in its entirety as follows:

(a) Upon compliance with any applicable requirements of the Securities Exchange Act of 1934 (including any affirmative action by the SEC, if required), OPRA may modify the terms of this Agreement ~~upon not less than 30 days notice to Vendor. Without limiting the generality of the foregoing, OPRA may modify the Fee Schedule on not less than 30 days notice. Within thirty (30) days of its receipt of any notice of modifications, Vendor shall notify OPRA in writing whether Vendor consents to the modifications. If Vendor does not consent to the modifications within thirty (30) days of its receipt of the notice, this Agreement shall immediately terminate, including the Fee Schedule, by giving written notice to Vendor not less than 30 days prior to the effective date of the modification. Vendor may terminate this Agreement upon thirty days written notice given to OPRA on or before the date specified in OPRA's notice as the effective date of the modification. Unless Vendor gives such a written notice to OPRA of the termination of this Agreement on or before the date specified in OPRA's notice, Vendor shall be deemed to have consented to the modification. If Vendor gives such a written notice to OPRA of the termination of this Agreement on or before the date specified in OPRA's notice, the modification shall not become effective with respect to Vendor prior to the date of the termination of this Agreement.~~

7. Paragraphs 19(b) and 19(c) of the Vendor Agreement are hereby deleted in their entirety, and paragraphs 19(d), 19(e) and 19(f) are hereby re-lettered as, respectively, paragraphs 19(b), 19(c) and 19(d). *[The marking shows the text of deleted paragraphs 19(b) and 19(c).]*

~~(b) Without limiting the generality of paragraph (a), OPRA may modify the terms of this Agreement as they relate to the use of Electronic Subscriber Agreements if OPRA determines in its discretion that Electronic Subscriber Agreements are likely to be unenforceable or invalid for any reason. If the effect of OPRA's modification is to cease the use of Electronic Subscriber Agreements, as of the effective date of the modification Vendor shall no longer allow any Subscriber to enter into any Electronic Subscriber Agreement, and Vendor shall discontinue providing OPRA Data to any Subscriber that had entered into an electronic Subscriber Agreement prior to the effective date of the modification not later than sixty (60) days after the effective date of the modification, unless the Subscriber has by that date entered into a Hardcopy Subscriber Agreement.~~

~~(c) — Except as provided in paragraphs (a) and (b) of this Section 19, no modification of this Agreement shall be valid unless set forth in writing and executed by the parties hereto.~~

8. Section 21 of the Vendor Agreement is hereby amended to read in its entirety as follows:

21. **Assignment of Agreement.**

Vendor shall not assign this Agreement in whole or in part without the prior written consent of the OPRA, except to a successor ~~corporation~~ upon merger or consolidation of Vendor, or to a ~~corporation~~ an acquiror acquiring all or substantially all of the property, assets and business of Vendor. Subject to the foregoing restriction, this Agreement shall bind and inure to the benefit of the assignees and successors of the parties hereto.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers or duly authorized agents on the day and year first above written.

_____	OPTIONS PRICE REPORTING AUTHORITY –
[Name of Vendor]	[currently consisting of:
	AMERICAN STOCK EXCHANGE, LLC
By _____	BOSTON STOCK EXCHANGE, INC.
Name _____	CHICAGO BOARD OPTIONS EXCHANGE,
	INCORPORATED
Title _____	INTERNATIONAL SECURITIES
	EXCHANGE, LLC
	NYSE ARCA, INC.
	PHILADELPHIA STOCK EXCHANGE, INC.
	THE NASDAQ STOCK MARKET LLC]
	By _____
	Name _____
	Title _____

Exhibit III

ATTACHMENT B-1
OPTIONS PRICE REPORTING AUTHORITY
ELECTRONIC FORM OF
SUBSCRIBER AGREEMENT

* * * * *

You hereby represent and agree as follows:

1. Your full name and address are: *[Vendor must provide a means for Subscriber to furnish this information]*

2. You shall receive the Service and the OPRA Data included therein solely for your own business or personal use, and you shall not retransmit or otherwise furnish the OPRA Data to any person, other than your own employees on devices that are subject to the control of Vendor. If you are a Nonprofessional and have completed the Addendum for Nonprofessionals, you are only permitted under this Agreement to use the OPRA Data for the investment activities described in the Addendum for Nonprofessionals~~your own personal investment activities.~~

* * * * *

ADDENDUM FOR NONPROFESSIONALS

(To be completed by Nonprofessional Subscribers only)

The purpose of this Addendum is to determine whether you are a “Nonprofessional” for OPRA’s purposes. OPRA defines a “Nonprofessional” as ~~a legal person~~~~an individual~~ an individual for whom the four statements set out in paragraphs 1(a) through (d) of this Addendum are true.

1. You represent and agree that the following statements are and will continue to be true for so long as you receive OPRA Data as a Nonprofessional:

(a) You are either a “natural person” (an individual human being) or a “qualifying trust.”~~* You are not a corporation, partnership, limited liability company, or other form of entity (including any form of trust that does not qualify as a qualifying trust) entering into this Agreement in your own individual capacity and not on behalf of any other person or any corporation, partnership, limited liability company, trust, association or other form of entity.~~ If you agree, click on “I AGREE”:

“I AGREE”

(b) If you are a natural person, you~~You~~ shall use the OPRA Data solely in connection with your personal investment activities and the personal investment activities of your immediate family members** and qualifying trusts of which you are the trustee or custodian. If you are a qualifying trust, you shall use the OPRA Data solely in connection with your personal investment activities. ~~In any case, you shall not use the OPRA Data in connection with any trade, business, professional or other commercial activities, individual personal investment activities and not in connection with any trade or business activities.~~ If you agree, click on “I AGREE”:

“I AGREE”

(c) You are not a securities broker-dealer, investment advisor, futures commission merchant, commodities introducing broker or commodity trading advisor, member of a securities exchange or association or futures contract market, or an owner, partner or associated person of any of the foregoing. If you agree, click on “I AGREE”:

“I AGREE”

(d) You are not employed by a bank or an insurance company or an affiliate of either to perform functions related to securities or commodity futures investment or trading activity. If you agree, click on “I AGREE”:

“I AGREE”

2. You agree to notify Vendor promptly if your circumstances change such that any of the statements in Section 1 of this Addendum would no longer be true for you.

“I AGREE”

*The term “qualifying trust” means (a) any irrevocable or revocable trust (1) which has only one trustee, who is a natural person and is not receiving any compensation for acting as trustee and (2) of which the only current beneficiaries are any one or more of the trustee and the immediate family members of the trustee, and (b) any custodial account established under a Uniform Transfers to Minors Act or similar state statute (1) which has only one custodian, who is a natural person and is not receiving any compensation for acting as custodian, and (2) of which the beneficiary is a lineal descendant (a child, grandchild, etc.) of the custodian. A “current beneficiary” is a beneficiary to whom the current income or principal of the trust may or must then be distributed, ignoring the possible exercise of any then unexercised power of appointment. The term “immediate family members” is defined in the footnote to paragraph 1(b) of this Addendum.

**The term “immediate family members” means, with reference to a particular natural person, the spouse of that person, that person’s lineal ancestors (that is, parents, grandparents, etc.) and lineal descendants (that is, children, grandchildren, etc.), and the spouses (including surviving spouses) of that person’s lineal ancestors and lineal descendants. The term includes step and adoptive relationships.

Exhibit IV

ATTACHMENT B-2
OPTIONS PRICE REPORTING AUTHORITY
HARDCOPY FORM OF
SUBSCRIBER AGREEMENT

* * * * *

You hereby represent and agree as follows:

1. Your full name and address: (please type)

2. You shall receive the Service and the OPRA Data included therein solely for your own business or personal use, and you shall not retransmit or otherwise furnish the OPRA Data to any person other than your own employees on devices that are subject to the control of Vendor. If you are a Nonprofessional in accordance with the Addendum for Nonprofessionals, you are only permitted under this Agreement to use the OPRA Data for the investment activities described in the Addendum for Nonprofessionals~~your own personal investment activities~~.

* * * * *

ADDENDUM FOR NONPROFESSIONALS

(To be completed by Nonprofessional Subscribers only)

The purpose of this Addendum is to determine whether you are a “Nonprofessional” for OPRA’s purposes. OPRA defines a “Nonprofessional” as a legal person~~an individual~~ for whom the four statements set out in paragraphs 1(a) through (d) of this Addendum are true.

1. You represent and agree that the following statements are and will continue to be true for so long as you receive OPRA Data as a Nonprofessional:

(a) You are either a “natural person” (an individual human being) or a “qualifying trust.”* ~~You are not a corporation, partnership, limited liability company, or other form of entity (including any form of trust that does not qualify as a qualifying trust) entering into this Agreement in your own individual capacity and not on behalf of any other person or any corporation, partnership, limited liability company, trust, association or other form of entity.~~

(b) If you are a natural person, you~~You~~ shall use the OPRA Data solely in connection with your personal investment activities and the personal investment activities of your immediate family members** and qualifying trusts of which you are the trustee or custodian. If you are a qualifying trust, you shall use the OPRA Data solely in connection with your personal investment activities. In any case, you shall not use the

OPRA Data in connection with any trade, business, professional or other commercial activities individual personal investment activities and not in connection with any trade or business activities.

(c) You are not a securities broker-dealer, investment advisor, futures commission merchant, commodities introducing broker or commodity trading advisor, member of a securities exchange or association or futures contract market, or an owner, partner, or associated person of any of the foregoing.

(d) You are not employed by a bank or an insurance company or an affiliate of either to perform functions related to securities or commodity futures investment or trading activity.

2. You agree to notify Vendor promptly if your circumstances change such that any of the statements in Section 1 of this Addendum would no longer be true for you.

(Subscriber's Signature)

(Type or print Subscriber's Name)

*The term "qualifying trust" means (a) any irrevocable or revocable trust (1) which has only one trustee, who is a natural person and is not receiving any compensation for acting as trustee and (2) of which the only current beneficiaries are any one or more of the trustee and the immediate family members of the trustee, and (b) any custodial account established under a Uniform Transfers to Minors Act or similar state statute (1) which has only one custodian, who is a natural person and is not receiving any compensation for acting as custodian, and (2) of which the beneficiary is a lineal descendant (a child, grandchild, etc.) of the custodian. A "current beneficiary" is a beneficiary to whom the current income or principal of the trust may or must then be distributed, ignoring the possible exercise of any then unexercised power of appointment. The term "immediate family members" is defined in the footnote to paragraph 1(b) of this Addendum.

**The term "immediate family members" means, with reference to a particular natural person, the spouse of that person, that person's lineal ancestors (that is, parents, grandparents, etc.) and lineal descendants (that is, children, grandchildren, etc.), and the spouses (including surviving spouses) of that person's lineal ancestors and lineal descendants. The term includes step and adoptive relationships.

Exhibit V

POLICY WITH RESPECT TO DEFINITION OF THE TERM “NONPROFESSIONAL”

OPRA’s definition of the term “Nonprofessional” is set out in an “Addendum for Nonprofessionals” that is attached to its “Electronic Form of Subscriber Agreement” and its “Hardcopy Form of Subscriber Agreement.” As of _____, 2008 [*the date on which File No. SR-OPRA-2008-02 becomes effective*], OPRA has revised its definition of the term to permit certain trusts (referred to in the revised definition as “qualifying trusts”) to be Nonprofessionals and to permit a person to qualify as a Nonprofessional even if the person uses OPRA Data for the benefit of certain other members of the person’s immediate family. The complete definition is available in OPRA’s Electronic Form of Subscriber Agreement and Hardcopy Form of Subscriber Agreement.

Pursuant to Section 5 of OPRA’s form of Vendor Agreement, OPRA permits Vendors to use their own form Subscriber Agreements that have been approved by OPRA instead of the OPRA forms.

As of _____, 2008, OPRA will interpret the definition of “Nonprofessional,” as set forth in all Subscriber Agreements between Nonprofessional Subscribers and their Vendors including Subscriber Agreements in OPRA’s standard forms and approved Vendors’ form Subscriber Agreements entered into prior to that date, and as referred to in Section 5 of all Vendor Agreements that OPRA entered into prior to that date, in accordance with the revised definition of the term that became effective on that date.