

## Application Form for Non Display Usage (NDU)

Date: .....

To: Information Services Department

We, ....., by ....., the authorized signatory (hereinafter referred to as the “**Subscriber**”), having the head office at No. ...., Tel. ...., Fax. ...., E-mail ....., desire to subscribe to Non-Display Usage of Information provided by the Stock Exchange of Thailand (hereinafter referred to as the “**Service Provider**”) in accordance with the details as follows:

**1. Category of Subscribers** (Please indicate all applicable categories and types)

- ☐ Data Vendor <sup>1</sup>
- ☐ End User <sup>2</sup>
- ☐ Data Vendor’s Client <sup>3</sup>
- ☐ Others (please specify) .....

**2. Type of Subscription**

- ☐ Firm
- ☐ Subscriber Group

**3. Type of Information** (Please indicate all applicable categories and types)

- ☐ Real Time Information
- ☐ Delayed Information (15minutes or more)
- ☐ End of Day Information

**4. Information Receiving Channel**

- ☐ Via SET FEED system of the Service Provider
- ☐ Via other authorized Data Vendor (please specify) .....

**5. Non-Display Usage categories:**

- ☐ a) Automated Trading Application
- ☐ b) Others applications (For the purpose of funds administration, risk management, portfolio valuation or quantitative analysis)

(Please specify).....

<sup>1</sup> **Data Vendor** means a person who has entered into an agreement with the Service Provider for the use and dissemination of Information to its clients.

<sup>2</sup> **End User** means a person who has directly entered into an agreement with the Service Provider for the use of Information internally, but cannot disseminate the Information further.

<sup>3</sup> **Data Vendor’s Client** means a customer who subscribes to receives Information from Data Vendor.

- ☐ c) Index creation or pricing of financial products (including but not limited to funds, derivatives, structured products, and contracts for difference (CFDs)) or activities such as spread betting.
- ☐ d) Any Non-Display Usage or creation of Derived Data outside the business activities described in a), b) and c).

Please specify in details.....

**6. Reception Point:** (please provide the address of your nominated Reception Point)

.....

**7. Commencement Date:** .....

By signing this application, Subscriber hereby represents and agrees to comply with the terms and conditions of Non-Display Usage according to this application and the attachments attached hereto and the terms and conditions as may be amended, modified or added in the future.

Yours sincerely,

(Company's seal)

Signed ( ) Subscriber

(.....)

## Contact and Coordination Form For Non Display Usage (NDU)

For contact and coordination, please fill in the following details;

Name of Subscriber: .....

Address: .....

.....

### Contact Persons

Data Service Coordinator	Position/Work Unit	Contact Details
1.		Tel.
		Fax.
		E-mail:
2.		Tel.
		Fax.
		E-mail:
Finance Coordinator	Position/Work Unit	Contact Details
1.		Tel.
		Fax.
		E-mail:
2.		Tel.
		Fax.
		E-mail:

### Remarks

In the case of change of the detail provided above, please send the new information to  
Information Services Department, The Stock Exchange of Thailand  
93 the Stock Exchange of Thailand Building,  
16<sup>th</sup> Floor, Ratchadaphisek Road, Dindaeng, Bangkok 10400  
Tel. + 662 009 9619-21 E-mail: [infoproducts@set.or.th](mailto:infoproducts@set.or.th)

## Attachment 1

### Non Display Usage Terms and Conditions

#### 1. Defined Terms

<b>“Affiliates”</b>	<p>means the company or legal entity which directly or indirectly controls or is controlled by the Subscriber.</p> <p>Control is, in particular, deemed to exist in the event of a shareholding in an amount exceeding 50% of the total number of voting rights of such company, or, otherwise, at the Service Provider’s sole discretion.</p>
<b>“Application”</b>	means the Application Form for Non-Display Usage and its attachments
<b>“Commencement Date”</b>	means the commencement date as specified in the Application
<b>“Delayed Information”</b>	means Information that is available with a time delay of 15 (fifteen) minutes or more (or such other period as specified from time to time by Service Provider) from the time it was first transmitted to the market by Service Provider.
<b>“Derived data”</b>	means any data created by processing the Information with or without other data in such a way that the original Information cannot be identified, recreated or re-engineered from the data as processed.
<b>“End of Day Information”</b>	means Information that is available after close of trading, including but not limited to Information reflecting the closing position on a given trading day.
<b>“Firm”</b>	means a type of subscription that each legal entity shall be counted separately for the purpose of determining the total number of Non-Display Usage accounts. For avoidance of doubt, Affiliates and Subscriber are considered as separate legal entities.
<b>“Fee”</b>	means the fee payable to the Service Provider by the Subscriber for Non-Display Usage as specified in the attachments or determined by the Service Provider from time to time.
<b>“Information”</b>	<p>means equity market data provided by the Service Provider at its sole discretion.</p> <p>Derived Data created from Information by Subscribers in accordance with this Application shall not be regarded as Information.</p>
<b>“Non-Display Usage”</b>	<p>means the use of Information for non-display usage in a manner or for the purposes of the following business activities:</p> <p><b>Category 1: Automated Trading Application:</b> Any application that accesses or use the Information for the purpose of automatic calculation, processing and analysis, and which determines or supports the quantity, price and timing of order execution, will be regarded as an <b>“Automated</b></p>

	<p><b>Trading Application</b>", including program trading, market making application, basket trading application, order routing application, execution algorithms application, etc.</p> <p><b>Category 2: Other Applications:</b> Any applications utilizing the Information for the purpose of funds administration, risk management, portfolio valuation, or quantitative analysis.</p> <p><b>Category 3: Index creation or Financial Products:</b> Any applications utilizing the Information for Index creation, the pricing of financial products (including without limitation: funds, derivatives, structured products, contracts for difference (CFDs) and similar products) or activities such as spread betting. The Service Provider reserves its right to determine whether any activity constitutes "pricing of financial products."</p> <p><b>Category 4:</b> Any non-display usage or creation of Derived Data outside Category 1 – 3 above.</p>
<b>"Real Time Information"</b>	mean Information that is available at real-time or with a time delay of less than 15 (fifteen) minutes (or such other period as specified from time to time by Service Provider) of its creation or transmission from the Service Provider's systems.
<b>"Reception Point"</b>	means the location at which the relevant equipment of the Subscriber received the Information.
<b>"Subscriber Group"</b>	Means a type of subscription that each group is considered as one account of Non-Display Usage. The members of each group must be limited to the Subscriber and its Affiliates, which are clearly named in the Application.

## 2. Scope of Service

- 2.1 The Service Provider grants the Subscriber for the use of Information for Non-Display Usage on the non-exclusive basis.
- 2.2 The Subscriber shall use the Information internally and shall not distribute or disseminate the Information to any third party except as permitted by the Service Provider in accordance with applicable agreements.
- 2.3 In case the Subscriber subscribes to Non-Display Usage of Information as **Subscriber Group**, the Subscriber may distribute or disseminate the Information to its Affiliates that are clearly specified as the members of Subscriber Group only. In this case, such Affiliates may use the Information for Non-Display Usage in the same manner as the Subscriber.

In such case, the Subscriber shall supervise its Affiliates to comply with the term and conditions of this Application and the Subscriber shall be responsible for any action or omission of its Affiliates regarding the use of Information for Non-Display Usage under this Application.

- 2.4 The Subscriber shall provide its own computer equipment comprising hardware, software, communication device and the link at all Subscriber costs and expenses of the Subscriber and shall

install such equipment at the Subscriber's place or Reception Point as approved pursuant to the terms and conditions of the Application.

### 3. Term of Application

Subject to the termination of the Application stipulated herein, this Application shall become effective from the Commencement Date and remain effective for the period of 1 (one) year. This Application shall be automatically renewed for a period of 1 (one) year each time until the Service Provider or the Subscriber notifies the other party by giving a written notice at least 30 (thirty) days prior to the expiry day of the Application that it no longer wishes the term to be renewed. In such case, this Application shall become expired on the last day of the Application.

### 4. Fee

- 4.1 The Subscriber agrees to pay monthly Fee as per quarterly basis in advance at the rates specified in the attachments and within the period indicated on the invoice. The Subscriber agrees that it shall be responsible for value added tax (VAT) and other taxes and duties as required by law.
- 4.2 In the event that the Subscriber fails to pay all or part of Fee by the due date stated in the invoice, the Subscriber must pay penalty of late charge at the rate as prescribed by the applicable law on the unpaid Fee from the date of default until the Fee have been paid in full.

### 5. Intellectual Property Rights

- 5.1 The rights in the Information, software programs, trade name, trademark, service mark, copyright, patent and trade secret including any other intellectual property directly or indirectly relating to the service under this Application, either registered or non-registered, ("**Intellectual Property**") shall belong to the Service Provider. The Service Provider permits the Subscriber to use the Service Provider's Intellectual Property within the scope as specified in this Application only. In no circumstances have the rights of the Intellectual Property been transferred to the Subscriber or customers or any third parties.
- 5.2 The Service Provider does not claim intellectual property rights to Derived Data created and used in accordance with this Application. The external dissemination of such Derived Data is not subject to any fees by the Service Provider.
- 5.3 Unless otherwise stipulated in clause 2, in case the Subscriber, or its Affiliates when subscribes as Subscriber Group, reproduces, adapts, amends or does anything to the Information or Intellectual Property without the prior written permission from the Service Provider, it shall be deemed that such an action violates the Service Provider's Intellectual Property and shall cause the Service Provider irreparable injury that cannot be adequately compensated for by means of monetary damages. Any breach thereof by the Subscriber may be enforced by the Service Provider by mean of equitable relief (including, but not limited to, injunctive reliefs) in addition to any other rights and remedies that may be available.
- 5.4 In the event that the Subscriber violates the terms and /or conditions relating to the Service Provider's Information or Intellectual Property set forth in this Application, the Service Provider shall have the right to suspend deliver of, or the access of the Subscriber to the Information. This however, shall not deprive the Service Provider of the right to terminate the Application and demanding damages or act otherwise as provide by the law.

- 5.5 If the Subscriber learns that the Subscriber's customer violates the Service Provider's Intellectual Property, it shall notify the same to refrain from violation immediately. However, the Subscriber shall have no right to pursue any legal action without an approval in writing from the Service Provider. In case the Subscriber fails to notify the customer to suspend its violation of Intellectual Property right, clause 5.3 shall apply, mutatis mutandis, to that customer.

This provision shall remain in force and effect and survive the termination of this Application.

## **6. Representations of Subscriber**

- 6.1 The Subscriber represents that the Subscriber is a person under the law and has the rights and capacity according to the law in all respects to enter into this Application and perform the duties and obligations under this Application.
- 6.2 The Subscriber represents that the Subscriber, and its Affiliates when subscribes as Subscriber Group, shall use the Information according to the terms and conditions provided in this Application only.

This representation shall remain in force and effect and survive the termination of this Application.

## **7. Representation of Service Provider**

- 7.1 The Service Provider does not represent that the Information is accurate; however, it will use its reasonable efforts to notify the Subscriber in the event an inaccuracy arises and to correct such inaccuracy.
- 7.2 The Service Provider makes no representation that this service will be free from any disruption arising out of failure of hardware, software or any communication device. In the event of such failure, the Service Provider will use its reasonable efforts to notify the Subscriber and to promptly take actions to recover from such failure.

Such error or failure shall not be deemed violation of the terms and conditions by the Service Provider and the Subscriber shall have no right to demand that the Service Provider be liable for the damage or expenses sustained by the Subscriber.

## **8. Damage Prevention**

- 8.1 The Subscriber shall hold the Service Provider harmless from any damage resulting from the use of Information by the Subscriber, and/or its Affiliates when subscribes as Subscriber Group, except in the case of Service Provider's gross negligence, fraud or willful misconduct.

In case there is any damage incurred to the Service Provider as a result of the Subscriber's, and/or its Affiliate's when subscribes as Subscriber Group, breach of Application, the Subscriber agrees to reimburse damages incurred to the Service Provider, including lawyer's fees.

- 8.2 The Subscriber shall hold the Service Provider harmless from any claims, damages or costs and expenses from third parties who receive the Information from the Subscriber, and/or its Affiliates when subscribes as Subscriber Group.

This provision shall remain in force and effect and survive the termination of this Application.

## 9. Confidentiality

Unless it is provided otherwise in this Application, the party shall keep documents and/or Information received from the other party in the course of action or performance under this Application (“**Information Document**”) whether Information Document is relating to the technical issues or business concerning the use and/or provision of the Information under this Application and whether it is acknowledged verbally or in the form of a hard copy, software or otherwise, confidential and shall not disclose such Information Document to other persons by any means without written approval from the disclosing party save for the disclosure by operation of the law, in which case, the party requested to make the disclosure shall notify the other party to resolve and identify an appropriate means to make such disclosure.

For avoidance of doubt, the Information Document includes this Application and its attachment (s) attached herewith or as amended from time to time.

This provision shall remain in force and effect and survive the termination of this Application.

## 10. Audit

10.1 The Service Provider or its third party auditors may, upon giving the Subscriber 30 (thirty) days prior written notice, audit the system, record and other relevant documents related to Subscriber’s, and/or its Affiliate’s when subscribes as Subscriber Group, use of Information solely to verify that the Subscriber, and its Affiliate when subscribes as Subscriber Group, is in compliance with the terms and conditions hereof. The Service Provider’s employees or the third party auditors conducting such audits will be subject to the Subscriber’s standard confidentiality and security policies and procedures. Nothing in this Application shall be deemed to require the Subscriber or its Affiliates to disclose any information respecting its business operations or other information not related to the subject matter of this Application.

10.2 The Subscriber shall ensure that Service Provider or its third party auditors receive access to the relevant documents and technical infrastructure at the site of Subscriber itself and the sites of the members of Subscriber Group.

10.3 The cost of any audit conducted shall be borne by Service Provider, unless the audit reveals that:  
a) any of the disclosures required herein were material incomplete, inaccurate or misleading;  
b) there has been a breach by the Subscriber, or its Affiliates when subscribes as Subscriber Group, of the terms of this Application; or  
c) any complaint made against the Subscriber was found to be of merit.

In above case, the Subscriber shall pay and bear the cost of audit. Moreover, in the event that the audit referred to in clause 10.1 and 10.2 shows there has been an underpayment of the Fee, the Subscriber shall pay the underpayment and interest on the underpayment at the rate as prescribed by the applicable law from the date it was first incurred until it makes a full payment to the Service Provider.

## 11. Amendment to the Terms of the Application

11.1 The Service Provider has the right to amend the terms and conditions of this Application which include the Fee rates by notifying the Subscriber in writing at least 60 (sixty) days prior to the date such amendment takes effect.

11.2 In the event the Service Provider notifies the Subscriber of the amendment to the terms and conditions of the Application in clause 11.1 above and the Subscriber fails to notify the Service



Provider of its objection to the amendment within 30 (thirty) days from the date of the receipt of the notice, the amendment shall be deemed to be in full force and effect from the date the amendment takes effect.

- 11.3 In the event that the Subscriber objects to the amendment to the terms and conditions of the Application as above mentioned and wishes to terminate the Application, the Subscriber shall give the Service Provider the notice of termination within 30 (thirty) days from the date of the receipt of the amendment notice. The notice of the termination shall take effect on the date the amended terms and conditions becomes effective.

## **12. Termination of Application**

- 12.1 Service Provider may immediately terminate this Application on the occurrence of any of the following events:

- a) The Subscriber goes into liquidation or registers the business dissolution or is under receivership or declared bankrupt by the court order.
- b) The Subscriber fails to pay the Fee by the due date.
- c) The Subscriber's representation is found to be false.

- 12.2 Service Provider may terminate this Application if the Subscriber fails to comply with the terms of the Application and such failure has not been cured within a period of 15 (fifteen) days from the date of the receipt of a written notice unless it is provided otherwise in this Application.

In the event that the Subscriber breaches the terms and conditions of this Application, the Service Provider is not required to return the Fee having been paid by the Subscriber. This shall not prejudice the right of the Service Provider to claim damages or take any other actions available under the law.

- 12.3 The Subscriber may terminate this Application if the Service Provider is unable to provide the Information to the Subscriber for a period of 45 (forty five) consecutive days and the Subscriber serves a written notice of termination on the Service Provider at least 7 (seven) days in advance.
- 12.4 Either party shall be entitled to terminate this Application by providing the other party with no less than 30 (thirty) days prior written notice.

## **13. Obligations upon Termination**

Upon the termination of this Application, the Subscriber shall perform the following obligations:

- 13.1 immediately pay all unpaid fees and penalties (if any) under this Application.
- 13.2 immediately cease the use of Information from the effective date of termination, however, the Subscriber shall have the right to continue using the Information previously received during the term of this Application in its internal systems for record purposes only.

**14. Invalidity of the Application**

If any of the terms and conditions of this Application are held to be void, invalid or unenforceable for any reason, such invalidity or unenforceability shall not invalidate, impair or render unenforceable the remaining provisions. In that event, both parties agree that the terms of this Application shall be modified and reformed so as to correspond to the provisions of the law and the objectives of this Application.

**15. Force Majeure**

Save for the obligation to pay Fee under this Application, in the event of Force Majeure, either party shall be excused from the performance under this Application.

For avoidance of doubt, “Force Majeure” shall mean any event the happening or pernicious results of which could not be prevented even though a person against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation and in such condition. This shall include riot, protest, flood, fire, earthquake, emergency stage, war, government’s rules and regulations or any other causes beyond a reasonable control of the parties, which prevent them from complying with the terms and conditions herein. The parties will be deferred to comply with their duties only when they have notified the other in writing immediately after the incident happens. Such party will be deferred until the Force Majeure comes to an end.

In the event that either party is prevented from performing its obligations under the Application due to Force Majeure for a period of more than sixty (60) days, the Application shall be deemed automatically terminated and the duties and obligations after the termination as provided in clause 13 shall be promptly performed.

**16. Assignment**

The Subscriber shall not assign this Application or any right or obligation hereunder without the prior written consent of the Service Provider.

**17. Waiver**

Non-exercising of right or delay in the exercise of right of remedy under this Application will not operate as a waiver of the exercise of such right or remedy. Any exercise of the right or remedy whether in whole or in part under this Application shall not preclude any other or further exercise of any other right or remedy available under the law.

**18. Expenses**

Unless this Application provides otherwise, each party shall be responsible for its own costs and expenses in entering into the transaction under this Application.

**19. Governing Law**

This Application shall be governed by and construed in accordance with the laws of Thailand and the parties hereby agree that any dispute arising out of or related to this Application shall be subject to the exclusive Court of Thailand.

## Attachment 2

### Non Display Usage Fee Schedule

#### Non-Display Usage Fee Schedule

Category	Information	Type of Subscription	
		Firm (/ Firm / month)	Subscriber Group (/ Subscriber Group / month)
1. Automated Trading Application	use of Information (Real Time Information*)	THB 80,000	THB 160,000
2. Other Applications: any applications for the purpose of - funds administration; - risk management; - portfolio valuation; or - quantitative analysis	use of Information (Real Time Information*)	THB 5,000	THB 10,000
3. Index creation, pricing of financial products (including funds, derivatives, CFDs etc.), spread betting or similar activities	use of Information (Real Time Information, Delayed Information or End of Day Information)	Please contact the Service Provider	
4. Any Non-Display Usage or creation of Derived Data outside the business activities described in 1. – 3. above	Real Time Information	THB 50,000	THB 100,000
	Delayed Information or End of Day Information	THB 20,000	THB 40,000

#### Note:

- Above Fee shall be net of withholding tax and free of any taxes, such as Value-Added Tax (VAT) or any other sales taxes or government imposed tax.
- (\*) Fee may be charged, at Service Provider's sole discretion, for the use of Delayed Information or End of Day Information for Non-Display Usage under Category 1 and/or 2.