



## 2<sup>nd</sup> MARKET CAPITAL ADVISORY CORPORATION

### SUBADVISORY AGREEMENT

THIS INVESTMENT SUBADVISORY AGREEMENT (the "Agreement") is entered into as of the [day] day of [month],[year], (the "Effective Date") by and among [Advisor Name], organized and existing under the laws of the State of [State] ("Adviser"), and 2nd Market Capital Advisory Corporation, organized and existing under the laws of the State of Wisconsin ("Sub-Adviser").

WHEREAS, Adviser is an investment adviser registered under [registration], as amended ("Advisers Act"), and manages a number of client accounts; and

WHEREAS, Sub-Adviser is engaged principally in the business of rendering investment advisory portfolio curation services and is registered as an investment adviser under the Advisers Act; and

WHEREAS, the Adviser desires to retain Sub-Adviser to furnish certain investment services with respect to all or a portion of the accounts of certain of Adviser's clients ("Clients") that Adviser may allocate to Sub-Adviser from time to time in Adviser's sole discretion (hereinafter, the "Client Accounts"), and are entering into this Agreement to set forth the terms and conditions under which Sub-Adviser will provide such services.

NOW, THEREFORE, the parties hereto agree as follows:

1. *Appointment.*

Adviser hereby appoints Sub-Adviser as its investment sub-adviser with respect to the Client Accounts for the period and on the terms set forth in this Agreement. Sub-Adviser hereby accepts such appointment and agrees to render the services herein set forth, for the compensation herein provided. Such appointment shall apply to the investment subscription services provided by the Sub-Adviser set forth in Schedule A. References in this Agreement to the Client Accounts shall be understood to mean only that portion of the assets of a Client's account that is allocated to Sub-Adviser, unless otherwise expressly provided.

2. *Duties of Sub-Adviser.*

Sub-Adviser is hereby authorized and directed and hereby agrees to recommend investments for purchase, sale or exchange, all in accordance with the description of Sub-Adviser's investment strategy set forth in Schedule A hereto.

3. *Duties of Adviser.*

Adviser shall be responsible for executing any orders to purchase, sell or exchange investments in the Client Accounts and shall have full responsibility for all communications with the Clients. Prior to designating any Client Account to Sub-Adviser, Adviser shall determine that such Client Account shall be suitable for investment in accordance with the Adviser's investment portfolio strategy as set forth in Schedule A based on the Client's financial circumstances, investment objectives, risk tolerance, liquidity needs and any other factors that may be appropriate to such determination. Adviser shall be responsible for providing Clients with a current copy of Sub-Adviser's disclosure statement prepared in accordance with Form ADV, Part 2A/2B, and will not make any representations to any person except as contained in Sub-Adviser's disclosure statement. Adviser shall provide Sub-Adviser with monthly portfolio holdings for Client Accounts, as well as other information Sub-Adviser deems necessary to render the services set forth herein.

4. *Custody of Client Accounts.*

Each Client Account shall be maintained in the custody of a custodian determined by the Adviser. Sub-Adviser shall not maintain custody of the Client Accounts' assets, and will not be liable for any loss resulting from any act or omission of the custodian other than acts or omissions arising in reasonable reliance on instructions of the Sub-Adviser. The custodian will be responsible for the custody, receipt and delivery of securities and other assets of each account, and Sub-Adviser shall have no authority, responsibility or obligation with respect to the custody, receipt or delivery of securities or other assets of any Client Account. Sub-Adviser shall not be responsible for any fees or charges of the custodian.

5. *Compensation.*

For the services provided pursuant to this Agreement, Adviser shall pay Sub-Adviser an investment subscription fee with respect to the Client Accounts in the amounts and in the manner set forth in Schedule B, attached hereto and incorporated herein by reference.

6. *Expenses.*

During the term of this Agreement, Sub-Adviser will bear all expenses incurred by it in the performance of its duties hereunder, other than those expenses specifically assumed by the Adviser hereunder. All brokerage commissions, custodial fees and other transaction costs shall be charged to the applicable Client Accounts.
7. *Proxies, Legal Proceedings and Class Action Lawsuits.* Sub-Adviser shall have no right or responsibility to vote proxies. Sub-Adviser shall have no responsibility to respond to any corporate action matters incident to the securities held in the Client Accounts including, without limitation, proofs of claim in bankruptcy, class action cases and other litigation.
8. *Agreement to Cooperate.*

Each party agrees to cooperate fully and in good faith with any reasonable request by the other party to respond to any regulatory audit, investigation or inquiry, or legal action related to any of the activities contemplated by this Agreement and shall make its books and records available during normal business hours. If either party requires or reasonably believes it needs copies of any records of the other party to respond to any regulatory inquiry or claim or suit from any individual or entity, the party from whom the records are requested shall supply copies of such records in a timely manner. Each party shall make its records reasonably available to any regulatory authorities or in any judicial or arbitration proceeding involving the other party if requested by such other party. In the foregoing circumstances, the requesting party shall bear all reasonable costs involved with copying and delivering such records.
9. *Services for Other Clients.*

Nothing contained in this Agreement shall limit or restrict (i) the freedom of Sub-Adviser, or any affiliated person thereof, to render investment management and corporate administrative services to other investment companies, to act as investment manager or investment counselor to other persons, firms, or corporations, or to engage in any other business activities, or (ii) the right of any director, officer, or employee of Sub-Adviser to engage in any other business or to devote his or her time and attention in part to the management or other aspects of any other business, whether of a similar nature or a dissimilar nature. Adviser understands that Sub-Adviser, its affiliates and its agents perform investment advisory and management services for various clients and Adviser agrees that Sub-Adviser may give advice and take action in the performance of its duties with respect to any of its other clients which may differ from advice given or the timing or nature of action taken with respect to the Client Accounts. Nothing in this Agreement shall be deemed to require Sub-Adviser, its principals, affiliates, agents or employees to recommend the purchase or sale for the Client Accounts any security which it or they may purchase or sell for its or their own account or for the account of any other client.
10. *Sub-Adviser's Use of the Services of Others.*

Sub-Adviser may, at its sole cost, employ, retain, or otherwise avail itself of the services or facilities of other persons or organizations for the purpose of providing Sub-Adviser or the Client Accounts, as appropriate, with such information, advice, or assistance as Sub-Adviser may deem necessary, appropriate, or convenient for the discharge of its obligations hereunder or otherwise helpful to the Client Accounts, as appropriate, or in the discharge of Sub-Adviser's overall responsibilities with respect to the other accounts that it serves as investment managers or counselor.
11. *Confidentiality.*

Except as otherwise agreed to in writing or as required by law, Sub-Adviser will keep all information regarding Client's personal and financial affairs strictly confidential.
12. *Indemnification.*

Each party agrees to indemnify, defend and hold harmless the other party and its affiliates, and their respective officers, directors, partners, managers, employees and authorized agents from and against any and all claims, damages, liabilities, losses, costs and expenses, including reasonable attorneys' fees and costs, that such party and its affiliates and their respective officers, directors, partners, employees and authorized agents may suffer, which arise, result from, or relate to, the parties performance of services under this Agreement and which are caused by the breach of any representation or warranty made hereunder by such party. This Section shall survive any termination of this Agreement.
13. *Representation of Sub-Adviser.*

Sub-Adviser represents, warrants, and agrees that Sub-Adviser (i) is registered as an investment adviser under the Advisers Act and will continue to be so registered for so long as this Agreement remains in effect; (ii) is not prohibited from performing the services contemplated by this Agreement; (iii) has met, and will continue to meet for so long as this agreement remains in effect, any other applicable federal or state requirements, or the applicable requirements of any regulatory or industry self-regulatory agency, necessary to be met in order to perform the services contemplated by this Agreement; (iv) has the authority to enter into and perform the services contemplated by this Agreement; and (v) will immediately notify Adviser of the occurrence of any event that would disqualify Sub-Adviser from serving as an investment adviser.

14. *Representation of Adviser.*

Adviser represents, warrants, and agrees that Adviser (i) is registered as an investment adviser under Advisers Act and will continue to be so registered for so long as this Agreement remains in effect; (ii) is not prohibited from performing the services contemplated by this Agreement; (iii) has met, and will continue to meet for so long as this agreement remains in effect, any other applicable federal or state requirements, or the applicable requirements of any regulatory or industry self-regulatory agency, necessary to be met in order to perform the services contemplated by this Agreement; (iv) has the authority to enter into and perform the services contemplated by this Agreement; (v) has the authority to enter into this Agreement with respect to each of the Client Accounts; (vi) will immediately notify Sub-Adviser of the occurrence of any event that would disqualify Adviser from serving as an investment adviser or of any change in the Client Accounts; and (vii) will not make any incorrect, inaccurate or misleading statement, interpretation or representation or any misrepresentation regarding Sub-Adviser's services, or fail to state material facts concerning Sub-Adviser's services.

15. *Term of Agreement.*

This Agreement shall have an initial term of one (1) year. After the initial term, this Agreement shall automatically renew for additional one (1) year periods on the terms set forth herein unless one party elects not to renew this Agreement by written notice to the other party sent at least thirty (30) days before a scheduled expiration of this Agreement.

16. *Termination of Agreement.*

Notwithstanding the foregoing, this Agreement may be terminated at any time, for any reason, without the payment of any penalty, by either party on at least 30 days' prior written notice

17. *Effect of Termination.*

In the event this Agreement is terminated, neither party shall have any obligation to the other hereunder, except that termination shall not extinguish any rights to compensation that exist as of the date of termination. Adviser's sole liability to Sub-Adviser in the event of a termination of this Agreement shall be the amount due for the investment services rendered up to the date of termination by Sub-Adviser to the Client Accounts, and neither Adviser nor Sub-Adviser shall be liable to the other for any losses, costs, damages, lost profits, lost revenues, or punitive or exemplary damages resulting from such termination. In the event this Agreement is terminated on a day other than the last day on which Sub-Adviser's investment subscription fee is determined, then (a) Sub-Adviser shall be entitled to a prorated investment subscription fee through the date of termination in the event investment subscription fees are calculated and paid in arrears, and (b) Sub-Adviser shall be obligated a prorated amount of its investment subscription fee through the date of termination in the event investment subscription fees are calculated and paid in advance.

18. *Amendments.*

The provisions of this Agreement may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. This Agreement (including any exhibits hereto) may be amended at any time by written mutual consent of the parties.

19. *Risk Acknowledgement.*

Sub-Adviser will use its best judgment and good faith efforts in rendering services to the Client Accounts. Sub-Adviser's investment recommendations on behalf of the Client Accounts shall not constitute legal or tax advice, analysis or opinion. Sub-Adviser does not guarantee future performance or any specific performance, success of any investment decision or strategy that Sub-Adviser may use, or success of Sub-Adviser's overall curation of the Client Accounts. Adviser understands that investment decisions by Sub-Adviser are subject to various market, currency, economic, political, and business risks, and will not always be profitable. Sub-Adviser will provide advice only with respect to the securities, cash, and other investments held in Client Accounts and, in making recommendations for Client Accounts, Sub-Adviser will not consider any other securities, cash or other investments owned by the Clients. Except as otherwise provided by law, Sub-Adviser will not be liable to Adviser or a Client for (a) any loss that Client may suffer by reason of any investment decisions made or other action taken or omitted in good faith by Sub-Adviser with a degree of care, skill, prudence, and diligence under the circumstances that a prudent person acting in a fiduciary capacity would use; (b) any loss arising from Sub-Adviser's adherence to Adviser's or Client's written or oral instructions or restrictions; or (c) any act or failure to act by custodian for the Client Account, or by any other third party.

20. *Notification.*

Sub-Adviser will notify Adviser promptly of any change in the personnel of Sub-Adviser with responsibility for making investment decisions.

21. *Miscellaneous.*

*(a) Governing Law.*

This Agreement shall be construed in accordance with the laws of the State of Wisconsin without giving effect to the conflicts of laws principles thereof and the Advisers Act. To the extent that the applicable laws of the State of Wisconsin conflict with the applicable provisions of the Advisers Act, the latter shall control.

*(b) Captions.*

The captions contained in this Agreement are included for convenience of reference only and in no way define or delimit any of the provisions hereof or otherwise affect their construction or effect.

*(c) Entire Agreement.*

This Agreement represents the entire agreement and understanding of the parties hereto and shall supersede any prior agreements between the parties relating to the subject matter hereof, and all such prior agreements shall be deemed terminated upon the effectiveness of this Agreement.

*(d) Interpretation.*

Nothing herein contained shall be deemed to require the Adviser to take any action contrary to its Articles or By-laws, or any applicable statutory or regulatory requirement to which it is subject or by which it is bound, or to relieve or deprive the Board of its responsibility for and control of the conduct of the affairs of the Adviser.

*(e) Assignment.*

Neither party shall assign this Agreement without the other party's prior written consent. Both parties acknowledge that transactions that do not result in a change of actual control of management shall not be considered an assignment.

*(f) Severability.*

In the event that any one or more of the provisions of this Agreement shall be deemed unenforceable by any court of competent jurisdiction for any reason whatsoever, this Agreement shall be construed as if such unenforceable provisions had never been contained herein and the remaining provisions of this Agreement shall remain enforceable and in full effect.

*(g) Waiver.*

No failure by Adviser to exercise any right, power, or privilege that it may have under this Agreement shall operate as a waiver thereof. Further, no waiver of any deviation from, or breach of, this Agreement by Sub-Adviser shall be deemed to be a waiver of any subsequent deviation or breach.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized signatures as of the date and year first above written.

**ADVISOR**

\_\_\_\_\_

By

\_\_\_\_\_

Name

\_\_\_\_\_

Title

**SUB-ADVISOR**

2<sup>nd</sup> Market Capital Advisory Corporation

By: \_\_\_\_\_

2MCAC

## SCHEDULE A

### SUB-ADVISER'S INVESTMENT SERVICES

As its sub-advisory service, 2<sup>nd</sup> Market Capital Advisory Corporation applies its investment experience to building and maintaining a curated portfolio which serves as guidance that the advisor can apply to whatever extent is desired. Sub-adviser will send periodic updates in an effort to keep the adviser informed of real time opportunities and analysis of current events.

## SCHEDULE B

### SUB-ADVISORY FEES AND COMPENSATION

#### Compensation

Pursuant to Section 5 of the Agreement, Sub-Adviser shall be paid the following compensation for investment advisory portfolio curation of Client Accounts:

[negotiated] Annual fee paid quarterly in arrears on a Tiered Fee Schedule\*

- [ ] basis points on balances of <\$10M
- [ ] basis points on balances of \$10M to \$20M
- [ ] basis points on balances >\$20M
- We shall provide the services described in our Sub-Advisory Agreement for an annual fee based on the above fee schedule; provided, however, the minimum annual fee for our service is \$50,000

\*When a breakpoint is surpassed, the fees assessed are reduced only for the assets above each breakpoint.

The investment subscription fee will be calculated and paid based on the ending balance of each Client Account as of the close of business on the last day of each calendar quarter.

If Sub-Adviser begins or ceases providing investment services to a Client Account on a day other than the last day of a calendar quarter (including as a result of entry into this Agreement or termination of this Agreement), the investment subscription fee for the period from the commencement of service of the Client Account to the end of such quarter or from the beginning of such quarter to the date of cessation of service of the Client Account, as the case may be, shall be prorated on a per diem basis based on the number of days in the quarter in which the Sub-Adviser actually provided investment services to the Client Account. In the event Sub-Adviser services cease on a day other than the last day of a calendar quarter, then the prorated subscription fee to which the Sub-Adviser is entitled shall be calculated based on the ending balance of the Client Account as of the date of cessation as if it were the last day of the calendar quarter.

Payment of sub-advisory service fees and accompanying accounting statements detailing the number of client accounts and total billable assets are due within 30 days of the end of each calendar quarter.