

# Schwab Capital Advisors | LLC

2194 Twain Avenue • Carlsbad, CA 92008

Voice: 760-809-2700

Facsimile: (760) 931-6126

Email: [info@schwabcapital.com](mailto:info@schwabcapital.com)

## Investment Management Agreement

This agreement is entered into between Schwab Capital Advisors, LLC, herein referred to as the 'Advisor' and an individual, partnership, corporation, trust or other legal entity, herein referred to as the 'Client', whose signature herein appears below on page 23 of this agreement. Commencement date of this agreement will begin on the latest signature date of either the Advisor or Client as shown on pages 24 and 25 of this agreement. In consideration of the mutual covenants, conditions, promises and other good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Acknowledgments of the Advisor
  - A) The Advisor shall trade the Clients account(s), pursuant to the trading authority granted to the Advisor in this agreement.
  - B) The Advisor will use his best efforts to secure profits for the Client through trading activities and will act only in the best interests of the Client in furnishing trading advice and services in a manner consistent with the program outlined in the Disclosure Document above.
  - C) The Advisor agrees that he will not take any action in fulfilling his advisory obligation to other clients as would unfairly affect the Client's trading.
  - D) The Advisor may in the future develop amendments to the trading program currently in use and in all likelihood, employ them for all accounts managed by the Advisor. The Advisor will not notify its clients of any modifications to existing strategies or the addition of new strategies, unless specifically requested by the Client or considered to be material by the Advisor.
  
2. Acknowledgements of the Client
  - A) The Client is fully advised as to the speculative nature in allocating funds to the Advisor for trading and management purposes and is financially able to accept a substantial or total loss of funds. The Client further recognizes that the Advisor does not guarantee profit. The Client acknowledges receipt of a copy of the Disclosure Document dated July 14, 2008 of Schwab Capital Advisors, LLC. The Client has carefully reviewed, read, and understands the Disclosure Document.
  - B) The Client acknowledges and is aware that any trading account opened by the Client with clearing members of a futures exchange or any financial institution must meet all requirements imposed by such exchange, firm or institution. Opening an account with an exchange, firm or institution does not constitute approval of any trading program or system of the Advisor.
  - C) The Client acknowledges and is fully aware that the Advisor, as a part of regular business, may enter into advisory agreements with various clients that may differ from this agreement. The Advisor's performance of such services is agreeable and acceptable to the Client.
  
3. Obligations of the Client

In order to assist in effecting the provisions and objectives of this agreement, the Client shall have the following obligations:

A) The Client will open a trading account with a brokerage firm and the account will be carried by the brokerage firm in the Client's name or number as a managed trading account. The Client shall bear all brokerage fees and expenses associated with the trading of his account.

B) The Client shall not authorize, direct or effect any trading involving the funds of the managed account during the existence of this agreement and related power of attorney or similar authorization. Further, the Client shall not withdraw any funds from the managed account without giving notice (either verbal or written) to the Advisor prior to any such withdrawal.

C) Client hereby appoints the Advisor an appropriate limited power of attorney and/or such other authorization as may be required by the brokerage firm or financial institution where Client accounts are held. Client will grant sufficient authority to the Advisor to carry out the purposes of this agreement and to execute such other authorizations the brokerage firm, Advisor or any exchange may request from time to time. Such limited power of attorney or other authorizations shall appoint the Advisor as the sole and exclusive agent of the Client's account with respect to buying or selling (including short sales) market interests as defined in the Advisor's Disclosure Document. Trading in futures contracts, commodities, and commodity options, all at such times, in such amounts and at such prices as the Advisor may deem prudent. The Advisor is to communicate such orders directly to the brokerage firm or financial institution and such firms shall be authorized to accept and execute such orders. The Advisor, on behalf of the Client, may invest any assets of the account in government obligations and/or any money market funds offered by any firm holding the account of the Client. The power of attorney or other authorizations shall be a continuing power and shall remain in full force until the termination of this agreement, but the termination of this agreement shall not affect any transaction initiated prior to such termination. The Client agrees that the power of attorney or other authorization will not be canceled during the effectiveness of this agreement. The Client will also execute any other reasonable documentation necessary to properly effect the provisions of his agreement. Such limited power of attorney granted to the Advisor will be deemed to terminate with the termination of this agreement and will not require written notice.

D) It is agreed the following matters are the responsibilities of the Client and brokerage firm handling the account:

- 1) To carry the managed account in the name or number designated by the Client;
- 2) To designate the managed account on the books of the brokerage firm as an account managed by the Advisor;
- 3) To see that each trade executed for the managed account is designated as a trade executed for an account managed by the Advisor;
- 4) To handle any loss, deficiencies or margin calls directly between the client and the brokerage firm on a timely basis;
- 5) To make and deliver regular reports of trades and report of account balances to the Client and to the Advisor;
- 6) To make any required reports to an exchange regarding the existence of any managed account;
- 7) To see that all trades selected by the Advisor and reported to the brokerage firm are properly effected;
- 8) To expedite payment of all fees owed to the Advisor under the terms of this agreement.

#### 4. Termination of the Investment Management Agreement

- A) The term of this agreement will be on a day-to-day basis and either party, without cause, for any reason may terminate it. Notice of termination may be conveyed verbally or in writing between the Client and Advisor. If a Client contacts the brokerage firm or financial institution to terminate this agreement, it will not constitute a legal termination.
- B) Upon giving or receiving notice of termination, the Advisor may cease entering orders for the account or he may (in his sole discretion), order all or any part of the open positions in the account to be liquidated. Thereafter, the Client accepts full responsibility for existing positions in the account at that time and the Advisor is not responsible to render any further services concerning the account.

#### 5. Notices and Assignabilities

- A) All notices relevant to the terms of this agreement shall be in writing and shall be delivered in person, by facsimile, by email or sent by registered mail. Notices intended for the Client of the Advisor shall be sent to the addresses, facsimile telephone number or email address shown in this agreement. Notices sent to the advisor from the Client without a confirmation that they were in fact delivered does not legally bind the Advisor.
- B) The Advisor may assign all or any rights and responsibilities from this agreement to any firm, partnership, corporation or other legal entity with which the Advisor is affiliated as a principal employee, if it is in the authority of the Advisor's company operating agreement to do so.

#### 6. Relationship to Parties

The relationship between the Advisor and the Client shall be limited to this agreement and for the purposes of managing the Client's account for the benefit of the Client. The Advisor is an independent contractor and this agreement shall not be deemed to establish a joint venture between the Advisor and the Client. Nothing herein contained shall be construed as creating a general partnership or other similar relationship or as authorizing any party to act as a general agent or to enter into any contract or other agreement on behalf of any other party.

#### 7. Management of Account; Performance is Not Guaranteed

The Advisor agrees to manage the account for the Client's benefit and to initiate buy, sell or spread orders for market interests. The Client shall bare all risk of gain or loss in the account and all expenses of this account. No assurance can be given that Advisor's advice will result in profits for the Client or that the Client will incur losses or that losses will be limited. The Advisor is not qualified to give any advice with respect to the tax treatment of profits or losses in the account. The Advisor cannot guarantee that trading will stop at specific levels of equity as predetermined by Client. The Advisor recommends that the Client should make the decision to cease trading rather than have the Advisor cease trading the program when a specified equity level is reached or at a specific point in time. Neither the Advisor nor any of its affiliated entities or parties will be held liable under such conditions.

#### 8. Client's Representations

- A) The Client is aware of the speculative nature and risks of loss inherent in the market interest specified by the Advisor's Disclosure Document and states to be financially, intellectually and emotionally capable of engaging in such activity. All funds in the account represent risk capital to the Client and Client understands there is the potential for a significant risk of loss in participating with the Advisor.

- B) The Client has additional resources beyond the value of the account and any such funds may in the future be committed to the account.
- C) The Client recognizes that the Advisor may request and obtain information concerning the suitability standards of all his clients. Such information will be considered confidential by the Advisor except in those cases of review as required by industry regulators.

#### 9. Non-Exclusive Advice

The Advisor's services are not exclusive and the Advisor will render similar services to others and such services will often be based upon the same advice. The Client acknowledges the advice given by the Advisor is the confidential property of the Advisor and the Client will not disclose the same to third parties without the prior written consent of the Advisor.

#### 10. Miscellaneous

This written agreement constitutes the entire agreement among the parties hereto and may be amended only by a written amendment executed by the parties hereto. This agreement shall be governed by and construed in accordance with the laws of the state of Nevada and the United States and cannot be changed orally, shall inure to the benefit of and bind upon the parties hereto and their respective heirs, executors, administrators, successors and assigns. The captions in this agreement are inserted as a matter of convenience and for reference only and shall not define, limit or describe the scope and intent of any of the provisions of this agreement.

#### 11. Compensation of Advisor

- A) The Advisor will send all statements of incentive fees (when applicable) directly to the brokerage firm or FCM holding the Client's account. All incentive fees charged by the Advisor will automatically be shown as a matter of record on the Client's daily and month end account statement as prepared by the FCM. Direct debit of the Client's account will establish a written record of billing and payment to the Advisor for incentive fees. Incentive fee billing statements will be sent to the brokerage firm or FCM on or after the 1st of the following month in which incentive fees are due. The brokerage firm or FCM agrees to ensure prompt delivery of such fees owed to the advisor, within 7 calendar days after receipt of invoice, by direct debit of the balance from the Client's account. Any obligations of payment for fees by the Client to the Advisor will not be waived if the Client's account, relevant to this Agreement is terminated and the account equity balance is transferred to another location. The Client hereby agrees with the Advisor, and instructs the brokerage firm or FCM to pay the Advisor out of the assets in the Client's account, upon receipt of a billing statement from the Advisor. The Client and Advisor hereby jointly and severally agree to indemnify all financial companies associated with the implementation of this agreement, including the brokerage firm or FCM, and to hold them harmless from any loss or claim associated with any payment of fees from the account, if the payment is subsequently shown to be in error or subject to dispute.
- B) In the event that either party terminates this agreement, incentive fees will be computed and payable based on new profits in the client's account up to the effective date of termination.
- C) In consideration for advisory and management services provided by the Advisor, it is understood the Client under one of the following fee arrangements will compensate the Advisor.

**Trading Program selected \_\_\_\_\_**

\_\_\_\_\_ 1. Management Fee 2%---Incentive Fee 20% of new Net Trading Profits (both realized and unrealized, minus order execution fees) marked to the market at the end of the last trading day of the calendar month. Net Trading Profits will include accrued earned interest (if any) and will be calculated from the last incentive fee period or from the beginning balance as applicable. The Client will commence paying incentive fees at the end of the calendar month, following the first trade that is entered in the Client’s account by the Advisor and monthly thereafter as applicable. Incentive Fees are not refundable in the event of a loss in the account in subsequent months, however no subsequent Incentive Fees will be payable until such Client’s account has again earned Net Trading Profits (as described on pages 15-17 of the Advisor’s Disclosure Document).

\_\_\_\_\_ 2. Alternative Incentive Fee Agreement should be attached, if applicable, and signed by all parties.

THE CLIENT AND THE ADVISOR MUST RETAIN SIGNED COPIES OF THIS DOCUMENT. PLEASE RETURN THE ORIGINAL PAGES OF THIS ENTIRE INVESTMENT MANAGEMENT AGREEMENT, INCLUDING THE SIGNATURE PAGE (6 PAGES) ALONG WITH THE PRIVACY STATEMENT AND GIVE-UP AUTHORIZATION.

**With the signature(s) below and by depositing funds with the FCM, Client(s) acknowledge(s) their acceptance of all of the above terms and conditions of this agreement, including having received a copy of the current disclosure document:**

CLIENT SIGNATURE (S): \_\_\_\_\_

\_\_\_\_\_

CLIENT PRINTED NAMES: \_\_\_\_\_

\_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

TELEPHONE \_\_\_\_\_

FAX \_\_\_\_\_

E-MAIL \_\_\_\_\_

DATE \_\_\_\_\_

FCM \_\_\_\_\_

ACCOUNT NUMBER \_\_\_\_\_

INITIAL SIZE OF ASSET ALLOCATION \_\_\_\_\_

SCHWAB CAPITAL ADVISORS, LLC \_\_\_\_\_

James Schwab, Principal

DATE \_\_\_\_\_

# Schwab Capital Advisors | LLC

## PRIVACY STATEMENT

Pursuant to the Commodity Futures Trading Commissions new rules, financial institutions like SCHWAB CAPITAL ADVISORS are required to provide privacy notices to their clients. We at SCHWAB CAPITAL ADVISORS consider privacy to be fundamental to our relationship with our clients. We are committed to maintaining the confidentiality, integrity and security of our current and former clients' nonpublic information. Accordingly, we have developed internal policies to protect confidentiality while allowing clients' needs to be met. We will not disclose any non-public personal information about clients, except to service providers as required by applicable law or regulation. In the normal course of serving our clients, information we collect may be shared with companies that perform various services such as accountants or auditors. Specifically, we may disclose to these service providers non-public personal information including:

- Information SCHWAB CAPITAL ADVISORS receives from clients on managed account agreements and related forms (such as name, address, Social Security/Tax identification number, birth date, assets, income and investment experience); and
- Information about clients' transactions with SCHWAB CAPITAL ADVISORS (such as account activity and account balances).

Any party that receives this information will use it only for the services required and as allowed by applicable law or regulation, and is not permitted to share or use this information for any other purpose. To protect the personal information of individuals, we permit access only by authorized employees who need access to that information to provide services to our clients and us. In order to guard clients' non-public personal information, we maintain physical, electronic and procedural safeguards that comply with the U.S. federal standards. If the relationship between a client and SCHWAB CAPITAL ADVISORS ends, SCHWAB CAPITAL ADVISORS will continue to treat clients' personal information as described in this notice. An individual client's right to privacy extends to all forms of contact with SCHWAB CAPITAL ADVISORS including telephone, written correspondence and electronic media, such as the Internet. SCHWAB CAPITAL ADVISORS reserves the right to change this privacy notice, and to apply changes to information previously collected, as permitted by law. SCHWAB CAPITAL ADVISORS will inform clients of any such changes as required by law.

CLIENT SIGNATURE (S): \_\_\_\_\_

\_\_\_\_\_

CLIENT PRINTED NAME(S): \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_

# Schwab Capital Advisors | LLC

## FEE PAYMENT AUTHORIZATION

FCM Name \_\_\_\_\_

Address \_\_\_\_\_

In connection with my commodity trading account (Number \_\_\_\_\_) carried by you, you hereby are authorized to deduct and pay to Schwab Capital Advisors CTA ("CTA") such incentive and management fees ("Fees") as it may specify in writing to you from time to time. The CTA shall be solely responsible for determining the amount of such fees, and you hereby are directed to comply with instruction you receive from CTA without further direction or confirmation from the undersigned. This fee payment authorization shall remain in effect until terminated in writing by the undersigned.

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Joint Party Signature

\_\_\_\_\_  
Client Name (Print)

\_\_\_\_\_  
Joint Party Name (Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# Schwab Capital Advisors | LLC

## CLIENT AUTHORIZATION FOR GIVE-UP ORDERS

The undersigned Client(s) authorizes SCHWAB CAPITAL ADVISORS to execute orders on behalf of the Client's account on a "give-up" basis. Schwab Capital Advisors shall have the authority to designate the FCM or Floor Broker who will act as Executing Broker for trades entered into the market on behalf of the Client's account. The Executing Broker will "give up" the orders to the Client's Clearing Broker, for the Client's account held at the Clearing Broker. The Clearing Broker will be acting as the carrying broker and will carry these positions. The Client understands that the Executing Broker will charge fees for give-up orders to the Clearing Broker. The Client agrees that in some cases the Clearing Broker will have to be reimbursed by the Client's account held at the Clearing Broker. The Client authorizes SCHWAB CAPITAL ADVISORS to enter into all arrangements on the Client's behalf, which are necessary or appropriate in the judgment of Schwab Capital Advisors to carry out the obligations of Schwab Capital Advisors in setting up and executing the "give-up" order process. The Client authorizes SCHWAB CAPITAL ADVISORS to negotiate any such agreements up to, but not in excess of, "give-up" charges amounting to \$2.00 per side. The Client must approve any charges in excess of this amount.

CLIENT SIGNATURE(S): \_\_\_\_\_  
\_\_\_\_\_

CLIENT PRINTED NAME(S): \_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_