

## ICE TRADE VAULT PARTICIPANT AGREEMENT

This agreement (the “ICE Trade Vault Agreement”) sets out the terms on which ICE Trade Vault, LLC (“ICE Trade Vault”), which owns and operates an electronic platform (the “ICE Trade Vault Platform”) for (i) the matching (“Confirmation”) of previously executed trades (“Trade Confirmations” or “Trades”) with other participants, (ii) the matching (“Broker Confirmation”) of Trade data with a third party (“Broker”) responsible for arranging the Trade (“Broker Confirmation Service”) ((i) and (ii) collectively, the “ICE eConfirm Service”), and (iii) the collection, storage and regulatory reporting of a comprehensive range of Trade data in respect of commodity derivatives trades (the “ICE SDR Service”, and together with the ICE eConfirm Service, the “ICE Trade Vault Services”), has agreed to provide the party identified below (“Participant”) with access to the ICE Trade Vault Platform. All capitalized terms used in this ICE Trade Vault Agreement shall have the meanings ascribed to them in this ICE Trade Vault Agreement.

- 1) **ACCESS TO ICE TRADE VAULT PLATFORM.** ICE Trade Vault hereby grants Participant a non-exclusive, non-transferable, revocable license to access the ICE Trade Vault Platform as it may exist from time to time and to utilize any hardware, software, systems and/or communications links furnished by ICE Trade Vault to Participant from time to time (collectively, the “System”) in accordance with the ICE Trade Vault Terms (as defined below), solely for the purpose of allowing Participant to use the ICE Trade Vault Services in the form offered by ICE Trade Vault from time to time.
- 2) **TERMS OF ACCESS.** Participant’s access to and use of the System and the ICE Trade Vault Services will be governed by this ICE Trade Vault Agreement, taken together with (i) the Service and Pricing Schedules (the “Schedules”) available on ICE Trade Vault’s website at [www.icetradevault.com](http://www.icetradevault.com), (ii) the ICE eConfirm Confirmation Procedures Guide governing the ICE eConfirm Service pursuant to Annex A, (iii) the ICE Trade Vault SDR Rulebook governing the ICE SDR Service pursuant to Annex B, and (iv) any other applicable Annexes relating to this ICE Trade Vault Agreement (collectively referred to herein as the “ICE Trade Vault Terms”). ICE Trade Vault may amend the ICE Trade Vault Terms at any time by posting amendments on ICE Trade Vault’s website at [www.icetradevault.com](http://www.icetradevault.com) and any such amendments will be prospectively binding on Participant, provided that ICE Trade Vault will provide at least two weeks’ prior notice, through electronic or other direct communication with Participant, of any such amendments that are likely to materially and adversely affect Participant or its rights or obligations hereunder. Participant’s use of the ICE Trade Vault Platform after the effective date of any such amendment shall constitute its ratification of and agreement to any such amendment. If ICE Trade Vault elects to require Participant to acknowledge and agree to an amendment, such amendment will not become effective until Participant has done so in the manner specified by ICE Trade Vault.
- 3) **PARTICIPANT’S REPRESENTATIONS, WARRANTIES AND COVENANTS.** Participant hereby represents, warrants and covenants as follows:
  - a) The ICE Trade Vault Services, the System and ICE Trade Vault Information (as defined below) are the exclusive proprietary property of ICE Trade Vault constituting trade secrets. For purposes of this Agreement, “ICE Trade Vault Information” means all information and content displayed or distributed on the System or as part of the ICE Trade Vault Services or derived therefrom, but for purposes of this Section 3(a) excludes Trade Confirmation data and Broker Confirmation data submitted to the ICE eConfirm Service by Participant (collectively, the “ICE eConfirm Service Data”) and data submitted to the ICE SDR Service by Participant or on Participant’s behalf (“ICE SDR Service Data”). Participant has been granted a limited license to use the System, the ICE Trade Vault Services and the ICE Trade Vault Information solely for the purposes set forth herein and Participant will have no other rights with respect to the System, the ICE Trade Vault Services or the ICE Trade Vault Information. Without limitation of the foregoing, Participant will access and utilize the System, the ICE Trade Vault Services and the ICE Trade Vault Information solely for its own internal business activities in accordance with the ICE Trade Vault Terms. In accordance with the foregoing, Participant will not provide access to the System, the ICE Trade Vault Services or the ICE Trade Vault Information to any third party unless such third party is an affiliate of Participant or an ICE Trade Vault approved Authorized Agent as provided in Section 4 below. Participant agrees that it will not copy, modify, reverse engineer, reverse assemble or reverse

compile the System, the ICE Trade Vault Services or any of the ICE Trade Vault Information displayed on the System; and that it will not distribute, rent, sell, retransmit, redistribute, release or license the System, the ICE Trade Vault Services or any ICE Trade Vault Information, or any part thereof to any third party (other than to its affiliates and agents subject to and in accordance with this ICE Trade Vault Agreement). Participant further agrees that it will not, without limitation (other than for its own internal use in accordance with this ICE Trade Vault Agreement), communicate, redistribute, or otherwise furnish, or permit to be communicated, redistributed or otherwise furnished, all or any portion of the ICE Trade Vault Information, in any format, to any third party or in constructing or calculating the value of any index or indexed products. Participant will use its best efforts to ensure that its partners, officers, directors, employees and agents maintain sole control and possession of, and sole access to, ICE Trade Vault Information obtained through Participant's access to the System. Notwithstanding anything to the contrary herein, it is understood and agreed that any and all ICE eConfirm Service Data and ICE SDR Service Data shall be the non-exclusive property of ICE Trade Vault and Participant, and that each party shall have the right to use, sell, retransmit or redistribute such information, in accordance with Applicable Law (as defined below) and the provisions of Section 7 hereof. It is further understood and agreed that use of ICE SDR Service Data is subject to restrictions detailed in the ICE Trade Vault SDR Rulebook and Applicable Law. For purposes of this Agreement, "Applicable Law" means all applicable governmental laws, rules and regulations, judicial orders and decisions, and the rules, regulations, interpretations and protocols of any applicable self-regulatory organization, as amended from time to time.

- b) Participant will comply with the ICE Trade Vault Terms and Applicable Law in connection with Participant's access to and use of the System, the ICE Trade Vault Services and the ICE Trade Vault Information.
- c) Participant acknowledges and accepts that it shall be solely responsible for any and all costs or expenses associated with its accessing and utilizing the ICE Trade Vault Platform.
- d) Participant acknowledges that ICE Trade Vault may, in its sole discretion, with or without cause or prior notice to Participant but subject to compliance with Applicable Law, temporarily or permanently cease to make ICE Trade Vault Information available or suspend, terminate or restrict Participant's access to and utilization of the ICE Trade Vault Platform. Participant acknowledges that its access to and utilization of the ICE Trade Vault Platform may be monitored by ICE Trade Vault for its own purposes (including, without limitation, for purposes of monitoring levels of activity in categories of Trade Confirmations and Broker Confirmations and for purposes of maintaining the functional and operational integrity of the System and for purposes of complying with Applicable Law) and not for the benefit of Participant. The ICE eConfirm Confirmation Procedures Guide and the ICE Trade Vault SDR Rulebook, as applicable, may set forth additional terms and conditions under which ICE Trade Vault may temporarily or permanently suspend the respective ICE Trade Vault Service.
- e) Participant has all necessary power and authority to execute and perform this ICE Trade Vault Agreement, and this ICE Trade Vault Agreement is its legal, valid and binding agreement, enforceable against Participant in accordance with its terms. Neither the execution of nor performance under this ICE Trade Vault Agreement by Participant violates any law, rule, regulation or order, or any agreement, document or instrument, binding on or applicable to Participant. If Participant has authorized Broker to submit Trade data for the purpose of Broker Confirmation, Participant represents and warrants that such Broker is authorized to act in connection with the use of such service.
- f) Participant agrees to provide ICE Trade Vault with information related to Participant's use of the System and the ICE Trade Vault Services that are reasonably requested by ICE Trade Vault, if such information is reasonably necessary in order to enable ICE Trade Vault to assess the identity of persons or entities accessing the System and the ICE Trade Vault Services through Participant's Passwords (as defined in Section 4), maintain the integrity of the System, or to comply with Applicable Law, and such information will be accurate and complete in all material respects and subject to the Confidentiality provisions of Section 7. Should Participant refuse to

provide information, or if the information demonstrates a potential violation of the terms and conditions of this ICE Trade Vault Agreement, then ICE Trade Vault shall have the right, upon five (5) days notice, to conduct an on-site audit during regular business hours of Participant's compliance with this ICE Trade Vault Agreement. ICE Trade Vault may inspect, among other things, any use of the System, the ICE Trade Vault Services and the ICE Trade Vault Information. ICE Trade Vault's right of inspection shall extend only so far as may be necessary to ensure compliance by Participant with the provisions of this ICE Trade Vault Agreement.

- g) Participant acknowledges that the System and related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. Participant will (1) comply with all legal requirements established under these controls, (2) cooperate fully with ICE Trade Vault in any official or unofficial audit or inspection that relates to these controls and (3) not export, re-export, divert or transfer, directly or indirectly, any such item or direct products thereof to, or otherwise enter into any transaction or engage in any other activities with, any country, territory or Person restricted or targeted by the economic sanctions or export control laws of the United States, which would be prohibited under the laws or regulations of the United States, any Person that resides or has a place of business in any such country or territory, or any Person that otherwise appears on any U.S.-government provided list of known or suspected terrorists or terrorist organizations. A "Person" shall mean an individual, corporation, partnership, limited partnership, limited liability company, joint venture, association, trust, estate, unincorporated organization or other entity.
  - h) Participant acknowledges and agrees that all fees and other charges incurred by Participant under this ICE Trade Vault Agreement in any calendar month shall be invoiced by ICE Trade Vault to Participant based on the Schedules, as amended from time to time. If Participant elects via the System to pay certain fees and charges on behalf of another firm, Participant acknowledges and agrees that it will also be invoiced for such fees and charges based on the Schedules, as amended from time to time. ICE Trade Vault will provide Participant with an invoice which states the amount owed by Participant, including any fees, other charges or related taxes, which will be due and payable in the currency, timeframe and manner specified in the Schedules. Late payments will bear interest after the due date at a rate per annum of interest equal to the Prime Rate (as published in the Wall Street Journal) plus 1.5%, to the extent that such rate shall not exceed the maximum rate allowed by Applicable Law.
  - i) Participant acknowledges that Participant shall be liable for all taxes and duties (other than franchise and income taxes owed by ICE Trade Vault) arising out of this ICE Trade Vault Agreement or any of Participant's Trade Confirmations or Broker Confirmations, including, without limitation, taxes and duties levied by non-U.S. jurisdictions.
  - j) Participant acknowledges that excessive levels of messages and queries submitted via the ICE Trade Vault API by Participant can negatively impact System performance, and acknowledges that ICE Trade Vault reserves the right to, if deemed necessary by ICE Trade Vault in its sole discretion, suspend Participant's access to the ICE Trade Vault Services and the System pursuant to this Section 3(j). Following any suspension, ICE Trade Vault will notify Participant of the remedial actions necessary in order to reinstate Participant's access to the ICE Trade Vault Services.
  - k) Participant represents that any ICE SDR Service Data submitted by Participant or on its behalf is accurate and complete in all material respects and compliant with Applicable Law and agrees to comply with its obligations under Applicable Law to verify ICE SDR Service Data submitted to the ICE SDR Service on its behalf. Participant further agrees that it will report any errors or omissions in respect of the ICE SDR Service Data as soon as technologically practicable after discovery of any such error or omission in accordance with the ICE Trade Vault SDR Rulebook.
- 4) **USER IDs AND PASSWORDS.** ICE Trade Vault may, in its sole and absolute discretion, issue to Participant, through its employees designated as its administrator(s) with respect to Participant's use of the System ("Participant User Administrator"), one or more user IDs and passwords (collectively, the "Passwords") for use exclusively by employees or ICE Trade Vault-approved third party agents

("Authorized Agents") of Participant or a Participant affiliate that are properly authorized to access the ICE Trade Vault Services on behalf of Participant. The initial Participant User Administrator(s) for the ICE eConfirm Service and the ICE SDR Service, if applicable, are identified, respectively, at the end of this ICE Trade Vault Agreement and Participant will notify ICE Trade Vault promptly of any change in its Participant User Administrator(s). Participant will be solely responsible for controlling and monitoring the use of the Passwords, will provide the Passwords only to its Authorized Agents, and will not provide the Passwords to any third party other than an Authorized Agent. Participant will immediately notify ICE Trade Vault of any unauthorized disclosure or use of the Passwords or access to the ICE Trade Vault Service or of the need to deactivate any Passwords. Participant acknowledges and agrees that it will be bound by any actions taken through the use of its Passwords (except through the fault or negligence of ICE Trade Vault), including the Confirmation of Trades and Broker Confirmations, whether or not such actions were authorized. The Participant User Administrator shall be responsible for all communications between ICE Trade Vault and Participant and any notices or other communications sent to the Participant User Administrator by ICE Trade Vault shall be binding on Participant. Upon issuance of Passwords to Participant, ICE Trade Vault may include the Participant's name among any list of participants in promotional materials relating to the ICE Trade Vault Services. Any use of the trademark, trade name or logo of Participant by ICE Trade Vault in a press release or other promotional material will require the prior written consent of Participant.

- 5) **TERM.** This ICE Trade Vault Agreement, as amended from time to time, will continue in effect unless and until terminated by either party upon 30 days' written notice to the other, provided that this ICE Trade Vault Agreement shall remain in effect with respect to any ICE eConfirm Service Data effected and any ICE SDR Service Data submitted prior to such termination. Termination of this ICE Trade Vault Agreement shall terminate the ICE Trade Vault Services provided by ICE Trade Vault to Participant. Each party's continuing obligations under this ICE Trade Vault Agreement and the ICE Trade Vault Terms, including, without limitation, those relating to "Indemnification" and "Confidentiality", will survive the termination of this ICE Trade Vault Agreement.
- 6) **LIMITATION OF LIABILITY; INDEMNITY.**
  - a) PARTICIPANT ACKNOWLEDGES, UNDERSTANDS AND ACCEPTS THAT ICE TRADE VAULT MAKES NO WARRANTY WHATSOEVER TO PARTICIPANT AS TO THE SYSTEM, OR THE ICE TRADE VAULT SERVICES, EXPRESS OR IMPLIED, AND THAT THE SYSTEM, AND ICE TRADE VAULT SERVICES ARE PROVIDED ON AN "AS IS" BASIS AT PARTICIPANT'S SOLE RISK. ICE TRADE VAULT EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER ICE NOR ITS MANAGERS, OFFICERS, AFFILIATES, SUBSIDIARIES, SHAREHOLDERS, EMPLOYEES OR AGENTS MAKE ANY WARRANTY WITH RESPECT TO, AND NO SUCH PARTY SHALL HAVE ANY LIABILITY TO PARTICIPANT (i) FOR THE ACCURACY, TIMELINESS, COMPLETENESS, RELIABILITY, PERFORMANCE OR CONTINUED AVAILABILITY OF THE SYSTEM OR THE ICE TRADE VAULT SERVICES OR (ii) FOR DELAYS, OMISSIONS OR INTERRUPTIONS THEREIN. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE ICE TRADE VAULT SERVICES DO NOT AND SHALL NOT SERVE AS THE PRIMARY BASIS FOR ANY DECISIONS MADE BY PARTICIPANT AND THAT ICE TRADE VAULT IS NOT AN ADVISOR OR FIDUCIARY OF PARTICIPANT.
  - b) Subject to Section 6(c) of this ICE Trade Vault Agreement, Participant shall indemnify, protect and hold harmless ICE Trade Vault, its directors, officers, affiliates, employees and agents from and against any and all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, and costs (including attorney's fees) resulting from or arising out of (i) any act or omission by any person obtaining access to the ICE Trade Vault Platform through the Passwords (other than through the fault or negligence of ICE Trade Vault), whether or not Participant has authorized such access, and (ii) any act or omission of any Broker acting under authorization of Participant in connection with the use of the Broker Confirmation Service.

- c) IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- d) Notwithstanding the terms of Section 6(a), in the event that ICE Trade Vault is determined to be liable to Participant for any cause, Participant expressly agrees that in entering into this ICE Trade Vault Agreement, ICE Trade Vault's aggregate liability, for all causes of action, will not exceed the total fees and other amounts (excluding any applicable taxes or duties) paid to ICE Trade Vault by Participant in the previous six months from the date of the occurrence of the liability.

7) **CONFIDENTIALITY.**

- a) Any and all non-public information in any form obtained by either party or its employees arising out of or related to the provision or use of the System or the ICE Trade Vault Services, including but not limited to trade secrets, processes, computer software and other proprietary data, research, information or documentation related thereto and ICE Trade Vault Information, shall be deemed to be confidential and proprietary information. Each party agrees to hold such information in strict confidence and not to disclose such information to third parties (other than to its employees, its affiliates and their employees or its agents) or to use such information for any purpose whatsoever other than as contemplated by the ICE Trade Vault Terms and to advise each of its employees, affiliates and agents who may be exposed to such proprietary and confidential information of their obligations to keep such information confidential in accordance with this Section 7.
  - b) The restrictions in Section 7(a) shall not apply to information which: (i) is in or becomes part of the public domain other than by disclosure by such party in violation of this ICE Trade Vault Agreement; (ii) is known to or obtained by such party previously without an obligation of confidentiality; (iii) is independently developed by such party outside of this ICE Trade Vault Agreement; (iv) is required to be disclosed by Applicable Law, or pursuant to a subpoena or order of a court or regulatory, self-regulatory or legislative body of competent jurisdiction; (v) is disclosed in connection with any regulatory or self-regulatory request for information; or (vi) is submitted by Participant to the ICE eConfirm Service and distributed or sold by ICE Trade Vault in accordance with its standard policies and procedures (provided that such distributed or resold information will not identify Participant or, if applicable, Broker, by name, unless ICE Trade Vault is explicitly directed to do so by Participant and only then for the express purposes set forth in and under conditions agreed to in the ICE Trade Vault Terms).
  - c) In the event that ICE Trade Vault receives a subpoena, data request, or order of court in any private-party litigation requesting confidential information of Participant, ICE Trade Vault will promptly notify Participant of such requirement or request to the extent it is legally permitted to do so. ICE Trade Vault will make reasonable commercial efforts to cooperate with Participant to enable Participant to narrow the scope of the required or requested disclosures or to seek a protective order or other similar relief. If requested by Participant, ICE Trade Vault will formally request that any governmental entity treat the information provided as confidential, to the extent it is not already treated as such, pursuant to the U.S. Freedom of Information Act or pursuant to an equivalent or comparable law or regulation, if applicable.
  - d) Any access to ICE Trade Vault Information provided by ICE Trade Vault to a corporate affiliate, whether pursuant to a license or otherwise, shall be allowed solely for the purposes set forth in the ICE Trade Vault Terms and only with the affiliate's agreement to and compliance with ICE Trade Vault's obligations with respect to ICE Trade Vault Information under the ICE Trade Vault Terms, except to the extent otherwise agreed directly between Participant and such affiliate.
- 8) **NOTICES.** All notices delivered with respect to this ICE Trade Vault Agreement shall be in writing and either (i) hand delivered or forwarded by registered or certified mail, or (ii) sent via electronic mail, in either case to the relevant address provided by a party for such purpose.

- 9) **NO THIRD PARTY BENEFICIARY.** Nothing in this ICE Trade Vault Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this ICE Trade Vault Agreement or imposing any obligations on ICE Trade Vault or Participant to persons not a party to this ICE Trade Vault Agreement other than the right of a counterparty (Participant or Broker) with regard to a Confirmation under the terms of the ICE eConfirm Confirmation Procedures Guide.
- 10) **FORCE MAJEURE.** Neither ICE Trade Vault nor Participant shall be deemed to be in default of any provision hereof or be liable for any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, civil or military authority, civil disturbance, war, strikes, fires, other catastrophes, power failure or any other cause beyond its reasonable control.
- 11) **WAIVER.** No waiver by either party of any default by the other in the performance of any provisions of this ICE Trade Vault Agreement shall operate as a waiver of any continuing or future default, whether of a like or different character.
- 12) **ASSIGNMENT.** This ICE Trade Vault Agreement may not be assigned by either party without the other party's express prior written consent; provided, however, that (A) Participant may assign this ICE Trade Vault Agreement to any entity (i) controlling, controlled by, or under common control with Participant, or (ii) which succeeds to all or substantially all of the assets and business of Participant, provided that, in the case of any such assignment by Participant, the assignee agrees in writing to assume the assignor's obligations under, and to be bound by the provisions of, this ICE Trade Vault Agreement (as it may be amended from time to time); and (B) ICE Trade Vault may assign all or part of its rights and obligations under this ICE Trade Vault Agreement to any entity (i) controlling, controlled by, or under common control with ICE Trade Vault, or (ii) which succeeds to all or substantially all of the assets and business of ICE Trade Vault, provided that, in the case of any such assignment by ICE Trade Vault, the assignee agrees in writing to assume the obligations under, and to be bound by the provisions of, this ICE Trade Vault Agreement that have been assigned. On the effective date of any valid assignment pursuant to this Section 12, the assignor shall be released from all obligations and liabilities arising under this ICE Trade Vault Agreement or, in case of a partial assignment by ICE Trade Vault, from all obligations and liabilities arising from the parts of this ICE Trade Vault Agreement that have been assigned. This ICE Trade Vault Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns in accordance with its terms.
- 13) **GOVERNING LAW.** Unless otherwise specified in an annex, this ICE Trade Vault Agreement is deemed entered into in New York, New York and shall be governed and construed in all respects by the laws of the State of New York, without giving effect to principles of conflict of law. ICE Trade Vault's ICE SDR Service is subject to regulation by the U.S. Commodity Futures Trading Commission ("CFTC") as a Swap Data Repository (provisional application pending with CFTC). The ICE eConfirm Service is a non-regulated, ancillary service offered by ICE Trade Vault.
- 14) **DISPUTE RESOLUTION.** Unless otherwise specified in an Annex, any dispute, claim or controversy between the parties relating to this ICE Trade Vault Agreement shall be resolved through binding arbitration conducted in accordance with the Arbitration Rules of the American Arbitration Association. Any such arbitration shall be conducted in New York, New York or at such other location as may be agreed to by the parties and the arbitrators. For the avoidance of doubt, this arbitration clause only applies to ICE Trade Vault and the Participant and does not apply to any disputes arising between participants or any other disputes between parties other than ICE Trade Vault and the Participant. Notwithstanding the foregoing, each party acknowledges that a breach of this ICE Trade Vault Agreement may cause the other party irreparable injury and damage and therefore may be enjoined through injunctive proceedings in addition to any other rights and remedies which may be available to such other party at law or in equity, and each party hereby consents to the jurisdiction of any federal or state courts located in New York, New York with respect to any such action. The parties expressly waive their right to trial by jury in any such action.
- 15) **BROKER CONFIRMATION FEES.** From time to time, ICE Trade Vault or its affiliates offers rebates to brokers in connection with Broker Confirmation fees incurred by Participant in using the ICE eConfirm Service. Upon written request of Participant, ICE Trade Vault shall make available to



Participant information regarding any rebates paid by ICE Trade Vault or any of its affiliates to Participant's Brokers in connection with Participant's Broker Confirmations during the three (3) - year period preceding the date of such written request

- 16) **HEADINGS.** The headings in this ICE Trade Vault Agreement are intended for convenience of reference and shall not affect its interpretation.
- 17) **SEVERABILITY.** If any provision of this ICE Trade Vault Agreement (or any portion thereof) shall be invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of this ICE Trade Vault Agreement shall not in any way be affected or impaired thereby.

Date: \_\_\_\_\_, 20\_\_

*[Insert Participant's Full Legal Company Name Below]*

**ICE Trade Vault, LLC**

2100 RiverEdge Parkway, 5<sup>th</sup> Floor  
Atlanta, Georgia 30328, USA

\_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_  
Name: Bruce A. Tupper  
Title: President

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Participant User Administrator for ICE Trade Vault:**

*(Required to gain access to the ICE Trade Vault Services)*

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

## **ANNEX A - ICE eCONFIRM SERVICE**

ICE Trade Vault offers Confirmation and Broker Confirmation Services as non-regulated services. The ICE eConfirm Service is described in greater detail in the ICE eConfirm Confirmation Procedures Guide available at [www.econfirm.com](http://www.econfirm.com), as amended from time to time, which specifies the terms, conditions and procedures applicable to Participant's use of the ICE eConfirm Service.

When submitting Trade Data (as defined in the ICE eConfirm Service Confirmation Procedures Guide) to the ICE eConfirm Service, Participant may indicate that the Trade details are to be automatically reported to the ICE SDR Service pursuant to Annex B of this ICE Trade Vault Agreement and subject to applicable fees in accordance with the ICE SDR Service and Pricing Schedule.

## **ANNEX B – ICE SDR SERVICE**

ICE Trade Vault offers the ICE SDR Service as a regulated service. The rules, terms, conditions and procedures applicable to the ICE SDR Service are set forth in the ICE Trade Vault SDR Rulebook available at [www.icetradevault.com](http://www.icetradevault.com). Participant agrees to be bound by the ICE Trade Vault SDR Rulebook, as amended from time to time, together with this Agreement for purposes of the ICE SDR Service.

In accordance with CFTC regulation § 49.10, ICE Trade Vault will ensure that the recording process of the ICE SDR Service does not invalidate or modify the terms of a valid swap.

## ANNEX C – ADDITIONAL TERMS FOR EU PARTICIPANTS

Where the Participant is incorporated in any member state of the European Union the following terms shall be incorporated into and form part of the ICE Trade Vault Agreement and, in the event of conflict with any other terms of the ICE Trade Vault Agreement, shall prevail over such terms.

### I. COMPLIANCE WITH LAW AND DATA PROTECTION

#### A. Participant shall:

1. comply with, and represents and warrants that it has complied with, the UK Data Protection Act 1998 and all applicable data protection legislation and regulations (the "Data Protection Laws") in relation to the use of the System and access to the ICE Trade Vault Services by Participant and its Authorized Agents;
2. not, by any act or omission, put ICE Trade Vault or any of its affiliates or subsidiaries in breach of any of the Data Protection Laws; and
3. do and execute, or arrange to be done and executed, each act, document and thing necessary or desirable in order to comply with this clause A.

#### B. Without limiting the foregoing, Participant shall:

1. inform, and represents and warrants that it has informed, its authorised employees that ICE Trade Vault may:
  - a. process their Personal Data for the purposes of providing and using the System and accessing the Exchange (including training and support), to administer and improve the System and the Exchange, marketing of ICE Trade Vault products and/or services and to meet legal and regulatory obligations;
  - b. disclose their Personal Data, for the purposes described in clause B.1.a. to any affiliate and/or subsidiary, legal and regulatory authority and any third party to whom ICE Trade Vault may delegate services or functions in relation to the System and/or the ICE Trade Vault Services in accordance with the ICE Trade Vault Terms which may include transferring Personal Data to countries that do not provide legal protection of Personal Data equivalent to that in the United Kingdom.
2. obtain, and represents and warrants that it has obtained, from its Authorized Agents all consents (in the relevant form required by the Data Protection Laws) to the processing described in clauses B.1.a. and B.2.b.

#### C. Participant shall provide to ICE Trade Vault, upon request, evidence that clause I. has been complied with.

II. GOVERNING LAW

- A. The ICE Trade Vault Agreement shall be governed in all respects by, and construed in accordance with the laws of England.

III. ARBITRATION

- A. Any dispute, claim or controversy between the parties relating to this ICE Trade Vault Agreement shall be referred to and finally resolved by arbitration in England.

IV. THIRD PARTY RIGHTS

- A. Subject to this section and Section 6(a) of the ICE Trade Vault Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 (the "Third Parties Act") to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Third Parties Act.
- B. A counterparty to any Transaction (a "Third Party") may enforce the terms of Section 6(a) of the Agreement subject to and in accordance with this section and the arbitration section of this Annex and the provisions of the Third Parties Act. Any counterparty trying to claim against a participant by exercising its third party rights under this Agreement rather than by its direct contractual relations with the participant will be bound by English law and arbitration jurisdiction under this formulation.
- C. The parties to this Agreement do not require the consent of any Third Party to rescind or vary this Agreement at any time.

**ANNEXES D-I (INTENTIONALLY LEFT BLANK)**

**ANNEX J – MASTER AGREEMENT SUPPLEMENT FOR  
RECOGNIZING CONTROLLING STATUS OF ELECTRONIC TRADE CONFIRMATIONS**

I. PURPOSE

- A. ICE Trade Vault has published this Annex J to enable Participant and each counterparty of Participant that uses the ICE eConfirm Service (each, a “Counterparty” for the purpose of this Annex J) to confirm their mutual agreement as to the controlling legal status of confirmations generated by the ICE eConfirm Service with respect to submitted and matched Trades.
- B. Accordingly, Participant may accept this Annex J and agree to be bound by its terms by completing and delivering a letter in the form of Exhibit 1 to this Annex J (an "Acceptance Letter") to ICE Trade Vault, as agent, as described in further detail in Section III below.
- C. Once Participant and a Counterparty have both accepted Annex J, an electronic confirmation generated by the ICE eConfirm Service with respect to a Trade under a Covered Master Agreement (as defined below) shall be deemed to be the controlling confirmation of the Trade (a “Controlling Confirmation”).
- D. Capitalized terms used in this Annex without definition shall have the meanings given to such terms in the ICE Trade Vault Agreement and ICE eConfirm Confirmation Procedures Guide.

II. AMENDMENTS TO COVERED MASTER AGREEMENT

By accepting to be bound by this Annex J in the manner set forth in Section III below, Participant agrees with those of its Counterparties that likewise accept to be bound by this Annex J as follows:

RECITALS

Participant believes it to be beneficial to replace the manual process for confirming certain Trades with a more efficient electronic process to match and confirm such Trades;

Participant and certain Counterparties have each executed a ICE Trade Vault Agreement with ICE Trade Vault that governs the use of the ICE eConfirm Service and outlines the processes and terms and conditions controlling the matching of Trades;

Participant desires to use ICE eConfirm for the purpose of electronically confirming certain Trades in lieu of the confirmation procedures otherwise specified in the master agreements governing such Trades;

Participant desires to avoid the need to amend multiple master agreements and, instead, to rely on this Annex J for the limited purpose of recognizing the controlling legal status and effect of Controlling Confirmations;

NOW THEREFORE for good and valuable consideration the adequacy of which is hereby acknowledged, Participant hereby agrees as follows, notwithstanding anything to the contrary in any Covered Master Agreement (as defined below):

- A. Covered Master Agreement. As between Participant and any Counterparty that accepts to be bound by Annex J, a “Covered Master Agreement” shall be, for purposes of this Annex J, a Master Agreement between Participant and Counterparty (whether executed by the parties before, on or after the Annex J Effective Date (as defined below)) that both Participant and the Counterparty have identified as a Covered Master Agreement in their respective Acceptance Letters.

- B. Legal Effect of Controlling Confirmations. In the event that the ICE eConfirm Service determines that a Trade governed by a Covered Master Agreement between Participant and a Counterparty that has accepted to be bound by Annex J is matched pursuant to Section 3 of the ICE eConfirm Confirmation Procedures Guide:
1. the Controlling Confirmation generated by the ICE eConfirm Service with respect to the Trade will be deemed fully executed by both parties and shall be the controlling confirmation for purposes of the relevant Covered Master Agreement;
  2. the terms of such Controlling Confirmation shall be legally binding on and enforceable against each of the parties to the Trade and such Controlling Confirmation shall supplement, form a part of and be subject to the relevant Covered Master Agreement, as amended by this Annex J, and
  3. the matching by means of the ICE eConfirm Service shall be deemed to constitute an effective notification or delivery of the fully executed confirmation for purposes of the applicable Covered Master Agreement.
- C. Waiver of Defenses. Participant and its Counterparty agree not to contest or assert any defense to the validity or enforceability of any Controlling Confirmation based on any law requiring agreements to be in writing or to be signed by the parties. For this purpose, Participant agrees that to the extent the signature or acknowledgement is required or requested with respect to any Controlling Confirmation, the “clicking” in the appropriate spaces provided by the ICE eConfirm Service in order to input Trade data for matching purposes or to confirm a Trade using ICE eConfirm’s “Click and Confirm” functionality shall be deemed to constitute the requisite signature or acknowledgement to the same extent, and with the same force and effect, as if the relevant party had manually executed a paper confirmation.
- D. Trade Data Submission and Reconciliation. Participant agrees to use commercially reasonable efforts to promptly submit and confirm Trade data and reconcile any Trade data discrepancies presented to Participant by the ICE eConfirm Service in accordance with the ICE eConfirm Confirmation Procedures Guide.
- E. Multiple Confirmations. In the event the parties receive both a Controlling Confirmation from the ICE eConfirm Service with respect to a Trade governed by a Covered Master Agreement and another form of written confirmation with respect to the same Trade, the Controlling Confirmation shall govern and be controlling with respect to such Trade.
- F. Alternative Confirmation Procedures. Nothing in this Annex J shall be construed as requiring Participant to use the ICE eConfirm Service to confirm all Trades executed under a Covered Master Agreement. Where the ICE eConfirm Service does not generate a Controlling Confirmation with respect to a Trade or is not used to confirm a Trade for any reason, Participant and a Counterparty may confirm such Trade pursuant to any other mutually agreed upon confirmation procedure, either as specified in the relevant Covered Master Agreement or otherwise.
- G. Binding Nature of Trades. Nothing in this Annex J shall be construed as affecting the legally binding nature and validity of any Trade.

### III. PROCEDURE FOR ACCEPTING ANNEX J

- A. To accept Annex J, Participant must return to ICE Trade Vault (i) a completed and duly executed Acceptance Letter, in the form of Exhibit 1 to this Annex J, and (ii) a conformed copy of the Acceptance Letter containing, in place of the signature(s) in the duly executed version, the printed or typewritten name of each signatory.
- B. Upon receipt of the Acceptance Letter and the conformed copy, ICE Trade Vault will archive the original and post the conformed copy of the Acceptance Letter on the ICE

eConfirm system thereby making it available online for viewing, downloading and printing by any Counterparty using the ICE eConfirm Service.

- C. The agreement to supplement and make the specified amendments to a Covered Master Agreement as contemplated by this Annex J and the Acceptance Letter, on the terms and subject to the conditions set forth in this Annex J, shall, as between Participant and a Counterparty, be effective on receipt by ICE Trade Vault, as agent, of an Acceptance Letter from the later of the parties to accept Annex J (the "Annex J Effective Date"). Any such amendments shall apply to each Covered Master Agreement between Participant and the relevant Counterparty (whether entered into before, on or after the Annex J Effective Date) and any Trade governed by it and submitted to the ICE eConfirm Service on or after the Annex J Effective Date.
- D. In accepting Annex J, Participant may not specify additional provisions, conditions, modifications, deletions, or limitations in its Acceptance Letter or otherwise with respect to Annex J. Any purported acceptance of Annex J that ICE Trade Vault, as agent, determines in good faith is not in compliance with this Section III will be void.
- E. Acceptance of Annex J is irrevocable except that Participant may, on any Business Day during the Annual Revocation Period, deliver a notice substantially in the form of Exhibit 2 to this Annex J to designate the next Annual Revocation Date as the last date on which any Counterparty may accept this Annex J in respect of any Covered Master Agreement then or in the future between the Counterparty and such Participant, as provided in clause A of Section V.

#### IV. OTHER PROVISIONS

- A. *Representations of Participant.* Participant represents that:
  - 1. it has the necessary corporate and/or legal authority to accept this Annex J and to perform each and every obligation imposed by this Annex J; and
  - 2. this Annex J represents a legally valid, binding and enforceable obligation of Participant.
- B. *Status of Master Agreements.* The sole purpose of this Annex J is to recognize electronic Trade Confirmations generated by the ICE eConfirm Service for Trades governed by Covered Master Agreements as Controlling Confirmations. Accordingly, this Annex J shall not be construed to amend or modify any provisions of any Covered Master Agreement other than those related to confirmations.
- C. *Notices.* Notices between Participant and a Counterparty related to any Trade governed by a Covered Master Agreement shall be delivered in accordance with the notice provisions of the relevant Covered Master Agreement or the ICE eConfirm Confirmation Procedures Guide, as appropriate.
- D. *Status of Bilateral Amendments to Covered Master Agreements to Provide for Electronic Confirmations.* If Participant and a Counterparty have previously entered or at any time in the future enter into a bilateral amendment to a Covered Master Agreement to provide for electronic confirmations such as those generated by the ICE eConfirm Service, Annex J will not apply to such Covered Master Agreement or Trades governed by it and will be without prejudice to such bilateral amendment from the date such bilateral amendment is effective.

#### V. LIMITED RIGHT TO REVOKE ANNEX J

- A. Participant may, during the Annual Revocation Period (as defined below), deliver a notice substantially in the form of Exhibit 2 to this Annex J (a "Prospective Revocation Notice")

to designate the next Annual Revocation Date (as defined below) as the latest date on which any Counterparty may accept this Annex J in respect of any Covered Master Agreement then or in the future between the Participant and such Counterparty. Upon the effective revocation of Annex J on the next Annual Revocation Date, Annex J will not amend or otherwise affect any Covered Master Agreement between that Participant and a Counterparty that accepts Annex J after the Annual Revocation Date. The "Annual Revocation Period" means, with respect to each calendar year, the period between June 1 and June 30 of such calendar year. The "Annual Revocation Date" means, with respect to each calendar year, July 15<sup>th</sup> of such calendar year. If July 15<sup>th</sup> in any calendar year is not a day on which ICE Trade Vault's Atlanta offices are open, the Annual Revocation Date with respect to such calendar year will be deemed to occur on the next day that ICE Trade Vault's Atlanta offices are open.

- B. Participant's right to submit a Prospective Revocation Notice with respect to Annex J is without prejudice to (i) any amendment to any Covered Master Agreement between Participant and a Counterparty effected pursuant to this Annex J on or prior to the Annual Revocation Date, and (ii) any amendment effected pursuant to this Annex J to any Covered Master Agreement entered into after the Annual Revocation Date between Participant and a Counterparty that accepted Annex J on or before the Annual Revocation Date, which in each case will be (or continue to be) effective.
- C. To revoke Annex J, Participant must return to ICE Trade Vault on any Business Day during the Annual Revocation Period (i) a completed and duly executed Prospective Revocation Notice, in the form of Exhibit 2 to this Annex J, and (ii) a conformed copy of the Prospective Revocation Notice containing, in place of the signature(s) in the duly executed version, the printed or typewritten name of each signatory.
- D. Upon receipt of the Prospective Revocation Notice and the conformed copy, ICE Trade Vault will archive the original and post the conformed copy of the Prospective Revocation Notice on the ICE eConfirm system thereby making it available online for viewing, downloading and printing by any Counterparty using the ICE eConfirm Service.

Form of Acceptance Letter for Annex J

[To be printed on Participant's letterhead]

[Date]

Ladies and Gentlemen:

**Annex J to the ICE Trade Vault, LLC ICE Trade Vault Participant Agreement  
- Binding Acceptance**

The purpose of this letter is to confirm our agreement, as a Participant, to be bound by the terms of Annex J to the ICE Trade Vault Agreement as published by ICE Trade Vault, LLC ("ICE Trade Vault"), as amended from time to time ("Annex J"). This letter constitutes an Acceptance Letter as defined in Annex J.

**1. Binding Supplement to Covered Master Agreements**

The entirety of provisions contained in Annex J is incorporated by reference into this Acceptance Letter. Pursuant to the terms of Annex J, this Acceptance Letter shall supplement and form part of each Covered Master Agreement that is now or in the future executed between us and other ICE Participants that also agree to be bound by Annex J with respect to the Covered Master Agreement.

For purposes of Annex J and this Acceptance Letter, we hereby agree that the following shall be "Covered Master Agreements":

	<b>Covered Master Agreements</b>
<input type="checkbox"/>	<b>NAESB:</b> Base Contract for Sale and Purchase of Natural Gas (as published by the North American Energy Standards Board, Inc.)
<input type="checkbox"/>	<b>GISB:</b> Base Contract for Short-Term Sale and Purchase of Natural Gas (as sponsored by the Gas Industries Standard Board, Inc.)
<input type="checkbox"/>	<b>EEl:</b> Master Power Purchase and Sale Agreement (as published by the Edison Electric Institute and National Energy Marketers Association)
<input type="checkbox"/>	<b>WSPP:</b> Western Systems Power Pool Agreement (as sponsored by the Western Systems Power Pool)
<input type="checkbox"/>	<b>ISDA:</b> ISDA Master Agreement (as published by the International Swap and Derivatives Association, Inc.)
<input type="checkbox"/>	Market Based Power Sales Tariff
<input type="checkbox"/>	Interchange Agreement

<input type="checkbox"/>	Master Power Purchase and Sale Agreement (non-EEI)
<input type="checkbox"/>	Master Power Sale Agreement
<input type="checkbox"/>	<b>NBP:</b> Short Term Flat NBP (National Balancing Point) Trading Terms and Conditions 1997
<input type="checkbox"/>	<b>GTMA:</b> Grid Trading Master Agreement (as published by the Electricity Forward Agreement Association)
<input type="checkbox"/>	<b>EFET:</b> EFET (European Federation of Energy Traders) Standard Natural Gas Contract (as published by EFET)
<input type="checkbox"/>	<b>EFET:</b> EFET (European Federation of Energy Traders) Standard Electricity Contract (as published by EFET)
<input type="checkbox"/>	<b>GasEDI:</b> GasEDI Base Contract for Short-Term Sale and Purchase of Natural Gas (as published by GasEDI)
<input type="checkbox"/>	Negotiated Long Form Financial Confirmation (non-ISDA)
<input type="checkbox"/>	AFB: Master Agreement for Foreign Exchange and Derivatives Transactions (Governed Under French Law)
<input type="checkbox"/>	FBF: Master Agreement Relating to Transactions on Forward Financial Instruments (Governed under French Law)
<input type="checkbox"/>	<b>Rahmenvertrag:</b> Master Agreement for Financial Derivatives (Governed under German Law)
<input type="checkbox"/>	Master Natural Gas Purchase and Sale Agreement
<input type="checkbox"/>	General Terms and Conditions For Purchasing and Selling Refined Petroleum Products
<input type="checkbox"/>	LEAP Master Agreement for Purchasing and Selling Refined Products and Crude Oil
<input type="checkbox"/>	General Terms and Conditions For Purchasing and Selling Crude Oil
<input type="checkbox"/>	General Terms and Conditions for Purchasing and Selling Natural Gas Liquids
<input type="checkbox"/>	<b>IBMA:</b> International Bullion Master Agreement

## 2. Appointment of ICE Trade Vault as Agent and Release

Participant hereby appoints ICE Trade Vault as its agent for the limited purposes of administering acceptances of Annex J, and accordingly waives and hereby releases ICE Trade Vault from any rights,



claims, actions or causes of action whatsoever (whether in contract, tort or otherwise) against ICE Trade Vault arising out of or in any way relating to ICE Trade Vault's role as agent with respect hereto.

**3. Contact Details**

Participant's contact details for purposes of this Acceptance Letter are:

- Name:
- Address:
- Telephone:
- Fax:
- E-mail:

**4. Consent to Disclosure of Acceptance Letter**

Participant consents to the publication of the conformed copy of this letter by ICE Trade Vault and to the disclosure by ICE Trade Vault of the contents of this letter as contemplated by Annex J.

Yours faithfully,

*[Legal Name of Participant]*

Participant

By:

Name:
Title:
Signature:

Form of Prospective Revocation Notice for Annex J

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**[To be printed on Participant's letterhead]**

**[Date]**

Ladies and Gentlemen:

**Annex J to the ICE Trade Vault, LLC ICE Trade Vault Participant Agreement  
– Designation of Annual Revocation Date**

The purpose of this letter is to notify you that we wish to designate this year's Annual Revocation Date as the last date by which any Counterparty may adhere to the terms of Annex J to the ICE Trade Vault Agreement as published by ICE Trade Vault, LLC ("ICE Trade Vault"), as amended from time to time ("Annex J") in respect of any Covered Master Agreement (now or in the future) between us.

This letter constitutes a Prospective Revocation Notice as referred to in clause A of Section V of Annex J.

We consent to the publication of the conformed copy of this notice by ICE Trade Vault upon receipt and after the Annual Revocation Date and to the disclosure by ICE Trade Vault of the contents of this letter.

Yours faithfully,

*[Legal Name of Participant]*

Participant

By:

Name:
Title:
Signature: