



**ICE CLEAR U.S., INC.**

**Clearing Membership  
Application Instructions  
and Forms**

**September 2014**

Intercontinental Exchange  
ICE Clear US

**[www.theice.com](http://www.theice.com)**

Enclosed is an application form and related documents which must be completed by firms seeking to become Clearing Members of the ICE Clear US, Inc. The applicant must also be a member firm of ICE Futures U.S. in order to clear the contracts that are traded on the exchange. All Clearing Members must meet ICE Clear US, Inc.'s operational criteria and requirements with respect to the contracts sought to be cleared. The following is a list of documents that must be furnished by applicants for Clearing Membership. *An original plus one copy of all documents and agreements should be sent to the attention of:*

President  
ICE Clear US, Inc.  
55 East 52nd Street, 40<sup>th</sup> Floor  
New York, NY 10055  
(212) 748-4001

An application fee of \$1500 must also be enclosed with the application, made payable to ICE Clear U.S., Inc.

A. Forms to be Completed:

1. Application for Clearing Membership
2. Clearing Member Agreement, including "Schedule A" listing of settlement accounts
3. Certified Resolutions (Corporations only)  
Partnership Certificate (Partnerships only)  
Certificate of Member or Manager and Opinion of Counsel (LLC's only)
4. Letter to applicant's settlement bank directing such bank to accept the transfer instructions from ICE Clear U.S. (At present, ICE Clear U.S. settlement banks are JP Morgan Chase, Brown Brothers Harriman, Harris NA, and Deutsche Bank Trust Company Americas.) Applicant must have or establish settlement accounts with one of the ICE Clear U.S. settlement banks.
5. Custody Collateral Account Letter
6. Authorized Signature Letter
7. Parental Guaranty

B. Documents to be provided:

1. Certificate of Incorporation, By laws, and all amendments thereto (if applicant is a corporation), certified by the secretary of the corporation.
2. Partnership Agreement and all amendments thereto (if applicant is a partnership), certified by a general partner of the partnership.
3. Articles of Organization and Operating Agreement and all amendments thereto (if applicant is a limited liability company), certified by a member of the limited liability company.
4. Most recent audited financial statement and most recent Form 1-FR or FOCUS certified by the Chief Financial Officer.

**ICE Clear U.S., Inc.  
Application for Membership**

Name of Applicant: \_\_\_\_\_

Taxpayer ID: \_\_\_\_\_

Clearing Number being requested: \_\_\_\_\_

We hereby apply to ICE Clear U.S., Inc. for Clearing Membership with respect to contracts traded on ICE Futures U.S. In connection with this application, we hereby furnish the following information:

1. State of Incorporation: \_\_\_\_\_  
(Attach certified copy of certificate of incorporation, partnership agreement, articles of organization, or other charter documents including all amendments.)
2. Office maintained pursuant to ICE Clear US, Inc. Rule 201.
  - a) Address
  
  - b) Telephone number
  
  - c) Names and titles of officers, general partners, of members located at office authorized to act pursuant to ICE Clear US Rule 201(a)(iii).

3. Persons managing, controlling, and owning applicant

a) Management

Function	Name and Title	Business Address
Chief Executive Officer		
Chief Operating Officer		
Officer in charge of Futures unit		
Chief Financial Officer		
Executive Officer, General Partner, or Member responsible for supervision pursuant to ICUS Rule 201 (a)(iv)		
Secretary		

b) Control

i. The names of each person who is a member of the Board of Directors or other governing body of the applicant:

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ii. The name of such governing body is:

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c) Ownership

i. The name and address of each person who, by reason of share ownership or partnership or membership control, whether direct or indirect, or beneficial or of record, or pursuant to any agreement or understanding or other arrangement or relationship, (i) has contributed or has an interest in 10% or more of our equity, or (ii) has an interest in 10% or more of our income, or (iii) holds 10% or more of our voting power, is as follows:

Name

Percent

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- ii. The names of each other clearing organization of which the applicant is a member or to which the applicant has applied for membership (specify whether applicant is a member or applicant in each case) are as follows:

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- iii. The officer, member, manager, or partner to act as the principal contact for the applicant and to whom notices from the Corporation should be addressed is:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

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Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

4. We [are/are not] a party to an agreement or understanding, written or oral, which if consummated would result in a change in any information furnished in item 3 above.

Are

Are Not

5. If the answer to item 4 is in the affirmative and we have not previously advised you thereof, a description of such agreement or understanding is attached hereto:



4. List the number of trader memberships guaranteed on other Exchanges:

Exchange	Account Type Customer/House	Floor Traders	Floor Brokers

5. The standard position limit granted clearing member applicants is:

Customer Segregated	150% of ANC (Adjusted Net Capital)
Proprietary	75% of ANC
Total	200% of ANC

Please indicate whether applicant is requesting Standard position limits or Other (if other, indicate percentages being requested).

6. State the estimated percentage of total business the applicant intends to clear in the following categories:

Customer Segregated	_____ %
Proprietary	_____ %

We recognize our responsibility to immediately notify you of any changes in the information contained herein and otherwise as specified in the Rules and By laws of ICE Clear US.

We hereby certify to you that the information furnished herein is complete and correct.

Name of Applicant: \_\_\_\_\_

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

Title \_\_\_\_\_

## CLEARING MEMBER AGREEMENT

In consideration of becoming a Clearing Member of ICE Clear US, Inc. (the "Clearing Corporation") and of being permitted to clear with the Clearing Corporation contracts or other instruments that are traded on or subject to the Rules of any exchange or market and that are cleared by the Clearing Corporation (each such exchange or market, an "Exchange"), and for other good and valuable consideration, the undersigned hereby agrees with the Clearing Corporation and each such Exchange as follows:

1. The term "Rules" of the Clearing Corporation or of any Exchange shall include the Certificate of Incorporation. By-Laws and Rules of the Clearing Corporation and/or such Exchange, and all interpretations, resolutions, policies, procedures and orders promulgated by the Clearing Corporation or such Exchange, as the same may now or hereafter be in effect. The term "Collateral" shall mean the funds, property (including without limitation any substitutions for and proceeds of such property) and amounts subject to the pledges and security interests granted pursuant to Sections 6, 7 and 9 of this Agreement. Unless the context clearly requires otherwise, all capitalized terms used herein which are defined in the Rules of the Clearing Corporation or an Exchange and not otherwise defined herein, shall have the same meanings as set forth in such Rules.
2. The undersigned will observe, comply with and be bound by the Rules of, and submit to the jurisdiction of, the Clearing Corporation and of each Exchange. Without limiting the generality of the foregoing, the undersigned specifically acknowledges and agrees as follows:
  - (a) The Rules of the Clearing Corporation and any Exchange may be changed at any time by the Board of Directors of the Clearing Corporation or such Exchange without the consent of, or any other action by, the undersigned or any other Clearing Members of the Clearing Corporation, except as may be otherwise expressly provided in such Rules.
  - (b) The undersigned will comply with the financial requirements applicable to Clearing Members of the Clearing Corporation as prescribed from time to time by the Clearing Corporation and/or by any Exchange.
  - (c) The undersigned will maintain on deposit in the Guaranty Fund of the Clearing Corporation such amount as may be prescribed from time to time by the Clearing Corporation. All or any portion of such amount may be withdrawn and applied by the Clearing Corporation at such time and for such purposes as provided for in or pursuant to the Rules of the Clearing Corporation, including without limitation, to cover losses attributable to acts or omissions of Clearing Members other than the undersigned.
  - (d) The undersigned will pay when and as due any assessments that may be made against the undersigned pursuant to the Rules of the Clearing Corporation, including, without limitation, to cover losses attributable to acts or omissions of Clearing Members other than the undersigned.
  - (e) The undersigned will timely comply with the rules of the Clearing Corporation and of the Exchanges governing the deposit and payment of initial or original margin, variation margin, option premiums and the purchase price of any commodity and any other amounts coming due pursuant to or in accordance with such Rules, and the Clearing



Corporation may sell or otherwise dispose of any money or other property deposited as initial or original margin by the undersigned without notice to or further consent of the undersigned as provided in or pursuant to such Rules. Without limiting the generality of the foregoing, if the Clearing Corporation, in its sole discretion, deems it advisable to borrow funds pending the consummation of the sale of any such property as aforesaid, the Clearing Corporation may pledge or otherwise grant a security interest in any such property to secure the repayment of such borrowing, and such borrowing, together with any interest, charges or expenses incurred in connection therewith, may at the election of the Clearing Corporation be paid out of the proceeds of sale of such property to the extent such proceeds are sufficient, with the undersigned remaining liable for the deficiency.

- (f) The undersigned will timely comply with any limits that may be established from time to time by the Clearing Corporation and/or any Exchange on the size of the positions the undersigned may carry with the Clearing Corporation.
  - (g) The undersigned will comply promptly with any request for information that may be made by authorized representatives of the Clearing Corporation pursuant to the rules of the Clearing Corporation, and will permit authorized representatives of the Clearing Corporation, at any time upon demand, to inspect, take temporary possession of and make copies of the undersigned's books and records relating to transactions of the undersigned cleared or submitted for clearance by the Clearing Corporation.
  - (h) The undersigned may be fined, suspended, expelled or otherwise penalized by the Clearing Corporation in accordance with the Rules of the Clearing Corporation or any Exchange if the undersigned violates any provision of the Rules of the Clearing Corporation.
  - (i) The undersigned will be bound by, and will timely perform all obligations arising under or in connection with, all Contracts which (A) were heretofore submitted by or pursuant to the Rules of any Exchange or of the Clearing Corporation for clearance by the undersigned and have not been fully performed or closed out in accordance with the Rules of such Exchange and the Clearing Corporation, or (B) are hereafter submitted by or pursuant to the Rules of any Exchange or the Clearing Corporation for clearance by the undersigned until they are fully performed or closed out in accordance with the Rules of such Exchange and the Clearing Corporation.
3. The undersigned hereby authorizes the Clearing Corporation to give instructions to \_\_\_\_\_ (the "Bank") to debit the accounts of the undersigned set forth in Schedule A annexed hereto (collectively, the "Accounts") in such amounts as the Clearing Corporation may specify for the deposit with, or payment to, the Clearing Corporation of initial or original margin, variation margin, option premiums or the purchase price of any commodity, or any other amounts coming due pursuant to or in accordance with the Rules of the Clearing Corporation and to transfer such amounts so debited to such account or accounts of the Clearing Corporation as the Clearing Corporation may specify, without inquiry or regard as to the purpose or use of such amounts or as to the authority of the person or persons acting on behalf of the Clearing Corporation in giving such instructions.

4. The undersigned will have on deposit in the Accounts sufficient funds and property to deposit with or pay to the Clearing Corporation in full any initial or original margin, variation margin, option premiums or the purchase price of any commodity, and any other amounts coming due when and as required pursuant to or in accordance with the Rules of the Clearing Corporation.
5. The undersigned will execute and deliver such instruments and documents, and take such further action, as the Bank may reasonably request in order to confirm or better effectuate the authority granted to the Clearing Corporation pursuant to Section 3.
6. The undersigned hereby pledges and grants to the Clearing Corporation a security interest in all property deposited in the Guaranty Fund by the undersigned from time to time, all property deposited in the house or proprietary original margin account of the undersigned with the Clearing Corporation, and all substitutions for, and proceeds of, any such property, as security for the prompt and unconditional payment of each and every obligation and liability of the undersigned to the Clearing Corporation under the Rules of the Clearing Corporation.
7. The undersigned hereby pledges, and grants to the Clearing Corporation a security interest in, and right of setoff as to, any amounts owing to the undersigned from the Guaranty Fund and the margin accounts of the undersigned with the Clearing Corporation from time to time, as security for the prompt and unconditional payment of each and every obligation and liability of the undersigned to the Clearing Corporation under the Rules of the Clearing Corporation.
8. The Clearing Corporation may, at any time or from time to time, in its sole discretion and without notice to the undersigned, appropriate and apply any of the Collateral described in Section 6 or Section 7 toward the payment of any amounts owing by the undersigned to the Clearing Corporation and may take such other actions with respect thereto as may be authorized or permitted to a secured party under the New York Uniform Commercial Code, as in effect from time to time.
9. The undersigned hereby pledges, and grants to the Clearing Corporation a security interest in, all funds and property on deposit in the customer account of the undersigned with the Clearing Corporation from time to time, and all substitutions for and proceeds of such property, as security for the prompt and unconditional payment of each and every obligation and liability of the undersigned to the Clearing Corporation under the Rules of the Clearing Corporation with respect to and in connection with Contracts and positions cleared or carried by the Clearing Corporation for the customer account of the undersigned with the Clearing Corporation. The Clearing Corporation may at any time or from time to time in its sole discretion and without notice to the undersigned or any other Person appropriate and pay any of said funds and property, including said substitutions and proceeds, toward the payment of any such obligation or liability and may take such other actions with respect thereto as may be authorized or permitted to a secured party under the New York Commercial Code, as in effect from time to time.
10. The undersigned represents, warrants, and agrees that:
  - (a) Each security interest granted herein creates a valid and continuing first lien on, and security interest in, the Collateral in favor of the Clearing Corporation, subject to no prior liens, security interests or encumbrances of any kind whatsoever or rights of others, which

lien and security interest is effective as against creditors of, or purchasers from, the undersigned, subject to any requirement for perfection thereof under any applicable law.

- (b) The undersigned is, or will be (insofar as the security interest granted herein covers Collateral to be acquired after the date hereof), the owner of the Collateral described in Section 6 of this Agreement, and authorized to pledge and grant a security interest in the Collateral described in Section 9 of this Agreement, free from any and all pledges, liens, security interests, encumbrances, claims or rights of others, and the undersigned will promptly notify the Clearing Corporation of any pledge, lien, security interest, encumbrance, claim or right of others made against the Collateral and will define the Collateral against any such pledge, lien, security interest, encumbrance, claim or right of others which is adverse to the lien and security interest granted to the Clearing Corporation hereunder.
  - (c) No financing statement, assignment, notice of assignment or other similar document covering all or any part of the Collateral is on file in any public office or has been delivered to any obligee or obligor of the undersigned or any other person, except any financing statement, assignment, notice of assignment or other similar document filed or delivered by the undersigned in favor of the Clearing Corporation pursuant to this Agreement or the Rules of the Clearing Corporation
  - (d) The undersigned authorizes the Clearing Corporation, at the undersigned's expense, to file one or more financing statements to perfect the security interests granted herein, without the Clearing Member's signature thereon, and the undersigned agrees to take such actions and to execute and deliver such documents as the Clearing Corporation may request in order to perfect and enforce its rights under this Agreement of the Rules of the Clearing Corporation.
  - (e) Neither the execution and delivery of this Agreement nor any act to be performed pursuant to this Agreement or the Rules of the Clearing Corporation or any Exchange, by or on behalf of the undersigned or the Clearing Corporation, will violate or conflict with any provision of the certificate of Incorporation, by-laws, partnership agreement, limited liability company agreement or any other organizational document, as the case may be, of the undersigned, or of any agreement which is binding upon the undersigned, or of any law applicable to the undersigned.
  - (f) The undersigned has full power and all necessary authority to execute and deliver this Agreement and to perform any act that may be required pursuant to this Agreement or the Rules of the Clearing Corporation or of each Exchange.
  - (g) All information furnished to the Clearing Corporation in connection with its application for membership in the Clearing Corporation is true, complete and accurate.
  - (h) The undersigned is duly organized and validly existing under the laws of the jurisdiction of its organization and, if relevant under such laws, is in good standing.
11. The undersigned shall indemnify and hold harmless the Clearing Corporation and the Bank from and against any liability, cost or expense incurred by either of them in connection with any act or omission made in compliance with this Agreement.

12. The authorization granted to the Clearing Corporation and the Bank pursuant to Section 3 of this Agreement shall remain in full force and effect unless and until expressly revoked or modified by written notice received and accepted by the Clearing Corporation and the Bank at least five business days prior to the day any proposed revocation or modification is to become effective. In the event such authorization should be revoked or terminated by operation of law without notification to the Clearing Corporation and the Bank, the obligation of the undersigned to indemnify and hold harmless the Clearing Corporation and the Bank, pursuant to Section 11 of this Agreement shall nevertheless continue in full force and effect with respect to any act or omission made in compliance with this Agreement until such written notice has been so received.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

FOR CORPORATIONS:

\_\_\_\_\_  
Name of Corporation

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

Attest:

\_\_\_\_\_  
Secretary

FOR PARTNERSHIPS:

\_\_\_\_\_  
Name of Partnership

By: \_\_\_\_\_  
General Partners

FOR LIMITED LIABILITY COMPANIES:

\_\_\_\_\_  
Name of Limited Liability Company

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

**Clearing Member Agreement  
Schedule 'A'**

Clearing Member \_\_\_\_\_

Bank: \_\_\_\_\_

Customer Segregated Account	Proprietary Account
USD	USD

Bank: \_\_\_\_\_

Customer Segregated Account	Proprietary Account
AUD	AUD
CAD	CAD
CHF	CHF
CZK	CZK
EUR	EUR
GBP	GBP
HUF	HUF
JPY	JPY
NOK	NOK
NZD	NZD
SEK	SEK
ZAR	ZAR

**CERTIFICATE OF CORPORATE RESOLUTIONS**

The undersigned, being the Secretary of \_\_\_\_\_, a corporation duly organized and validly existing under the laws of the State of \_\_\_\_\_ (the "Corporation"), does hereby certify that, at a meeting of the Board of Directors of the Corporation held on \_\_\_\_\_ [or by unanimous written consent of the members of the Board of Directors dated \_\_\_\_\_ ], the following resolutions were adopted, and the same remain in full force and effect as of the date hereof:

RESOLVED, that the Corporation shall apply for clearing membership in ICE Clear US, Inc.; that the officers of the Corporation be and they hereby are authorized to file an application for such clearing membership in such form as may be prescribed by ICE Clear US, Inc. and to pay such application fees or charges as may be required by ICE Clear US, Inc. in connection therewith; that the form, terms and provisions of the proposed Clearing Member Agreement between the Corporation and ICE Clear US, Inc., copies of which have been presented to this Board, be and the same hereby are approved; and that the officers of the Corporation be and they hereby are authorized to execute and deliver said Agreements and such other agreements, instruments and documents as ICE Clear US, Inc. may require in connection therewith, and to take such other action as any such officer may deem necessary or appropriate in connection with carrying out the purposes of this resolution.

Dated: \_\_\_\_\_

Secretary: \_\_\_\_\_

**ICE CLEAR U.S., INC.  
PARTNERSHIP CERTIFICATE**

The undersigned, a general partner of \_\_\_\_\_, a partnership duly organized and validly existing under the laws of the State of \_\_\_\_\_ (the "Partnership"), hereby certifies to ICE Clear U.S. Inc. that:

1. Each of the following persons is a general partner in the Partnership, and the signature next to the name of each such person is the genuine signature of each such person, respectively (attach additional sheets, if necessary)

NAME

SIGNATURE

_____	_____
_____	_____
_____	_____
_____	_____

Each of the general partners listed in paragraph 1, acting alone, is authorized, in the name and on behalf of the Partnership and its partners, to take all such actions as may be necessary or appropriate to enable the Partnership to become a Clearing Member of ICE Clear U.S., Inc., including, without limitation:

- (a) Executing and delivering a Clearing Member Agreement on behalf of the Partnership, in the form provided by ICE Clear U.S. Inc.; and
- (b) Executing and delivering such other agreements and such other application forms, instruments, and documents, and taking such other action, as any such partner may deem necessary or appropriate in connection with obtaining clearing membership in ICE Clear U.S., Inc.

IN WITNESS WHEREOF, the undersigned has executed this certificate on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
General Partner

**ICE CLEAR US, INC.  
OPINION OF COUNSEL (LLC applicants)**

ICE Clear US, Inc.  
Gentlemen:

This opinion is addressed to you in connection with the request of [name of firm] (the "Applicant") to receive clearing privileges, to act as a guarantor of a non-clearing member of the Exchange(s) and/or to become a Clearing Member of ICE Clear U.S., Inc., with respect to contracts that are cleared by ICE Clear U.S., Inc. For purposes of rendering this opinion to ICE Clear US, Inc., we have reviewed such laws and regulations and examined such documents and records that we have deemed necessary. Based upon, and subject to the foregoing, it is our opinion that:

- 1) The Applicant is a Limited Liability Company, duly organized and validly existing under the laws of the State of \_\_\_\_\_ .
- 2) Each of the ICE Clear US, Inc. Application for Membership and ICE Clear US, Inc. Clearing Member Agreement has been duly authorized, executed and delivered by the Applicant.
- 3) Each of the Agreements has been duly executed and delivered by the Applicant and constitutes a valid and binding agreement of the Applicant. This opinion is rendered to ICE Clear US, Inc. solely for its benefit and may not be relied upon by any other person for any purpose without our prior written consent.

Sincerely,

\_\_\_\_\_



**Letter to Applicant's Settlement Bank**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Bank Name and Address)

Gentlemen:

This letter is to advise you that we have authorized ICE Clear US, Inc to give you instructions ("Transfer Instructions") to debit our accounts which are listed on Schedule A annexed hereto, in such amounts as ICE Clear US, Inc. may specify from time to time, and to transfer the amounts so debited to such account or accounts as ICE Clear US, Inc. may specify.

You are hereby authorized and directed to comply with all such Transfer Instructions.

Very truly yours,

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

**Treasury Custody Account Letter**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

ICE Clear U.S., Inc.

Gentlemen:

Pursuant to your request, the following CUSTODY ACCOUNTS are the accounts ICE Clear U.S., Inc. should use when transferring released United States Treasury Obligations back to \_\_\_\_\_ (Clearing Member).

**CUSTOMER SEGREGATED ORIGINAL MARGIN**

Account Name \_\_\_\_\_  
Account Number \_\_\_\_\_  
Bank/Fed Routing # \_\_\_\_\_

**HOUSE ORIGINAL**

Account Name \_\_\_\_\_  
Account Number \_\_\_\_\_  
Bank/Fed Routing # \_\_\_\_\_

**GUARANTY FUND**

Account Name \_\_\_\_\_  
Account Number \_\_\_\_\_  
Bank/Fed Routing # \_\_\_\_\_

We also designate \_\_\_\_\_  
(Brown Brothers Harriman, JP Morgan Chase, Harris NA)  
to be the bank that we will wire transfer United States Treasury Obligations to for  
Original Margin and Guaranty Fund purposes.

Very truly yours,

Name \_\_\_\_\_

Title \_\_\_\_\_

**Authorized Signature Letter**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

ICE Clear U.S., Inc.

Gentlemen:

The following are the signatures of the partners and/or officers and/or employees who authorized to issue instructions to ICE Clear U.S., Inc., one signature to be sufficient:

- 1)
- 2)
- 3)
- 4)

Sincerely,  
Name \_\_\_\_\_

Title \_\_\_\_\_

**ICE CLEAR U.S., INC.  
GUARANTY OF CLEARING MEMBER**

WHEREAS, \_\_\_\_\_ (the "Company") has applied to become a Clearing Member in, or is a Clearing Member of, ICE Clear U.S., Inc.; and

WHEREAS, under the By-Laws and Rules of ICE Clear U.S., Inc., one of the conditions for the Company to become and/or to remain a Clearing Member is to deliver to ICE Clear U.S., Inc. a guaranty in the form prescribed by ICE Clear U.S., Inc. whereby a Person controlling the Company guarantees certain obligations of the Company to ICE Clear U.S., Inc.; and

WHEREAS, the undersigned ("Guarantor") has control of the Company as more particularly set forth in Section 12(f) of this Guaranty;

NOW THEREFORE, in order to induce ICE Clear U.S., Inc. to grant, or to permit the continuation of, the clearing membership of the Company in ICE Clear U.S., Inc., the undersigned ("Guarantor") hereby agrees with ICE Clear U.S., Inc. as follows:

1. Defined Terms  
All capitalized terms used in this Guaranty, but not defined in this Guaranty, shall have the meanings assigned to them in the By-Laws and Rules of ICE Clear U.S., Inc., as they may be amended and be in effect from time to time.
2. Guaranty  
Guarantor hereby unconditionally guarantees to ICE Clear U.S., Inc. the payment in full when due of all amounts now or hereafter owing by the Company to ICE Clear U.S., Inc. pursuant to the By-Laws and Rules of ICE Clear U.S., Inc. under or in connection with any proprietary account carried by ICE Clear U.S., Inc. for the Company (including without limitation any amounts owing, whether as original margin, variation margin, option premium or otherwise, pursuant to or in connection with any Contracts cleared by ICE Clear U.S., Inc.) (hereinafter, "Guaranteed Amounts"), without any setoff, deductions or withholdings of any kind.
3. Expenses of Collection  
Guarantor shall pay all reasonable attorney's fees and other damages, costs, and expenses incurred by ICE Clear U.S., Inc. in order to collect any Guaranteed Amounts from the Company or Guarantor, or otherwise incurred as a result of the Company's failure fully and faithfully to pay any Guaranteed Amounts or as a result of Guarantor's failure to timely fulfill its obligations under this Guaranty.
4. Reimbursement for Returned Amounts  
Guarantor shall reimburse ICE Clear U.S., Inc. for any Guaranteed Amounts paid by the Company to ICE Clear U.S., Inc. which ICE Clear U.S., Inc. is subsequently required to return or repay for any reason (including without limitation the Company's bankruptcy or insolvency).
5. Waivers  
Guarantor hereby waives the giving of any notice, including without limitation:

- (a) Notice of acceptance of this Guaranty by ICE Clear U.S., Inc.
- (b) Notice that the Company has incurred obligations to pay any Guaranteed Amounts to ICE Clear U.S., Inc.;
- (c) Notice of any extension of time or other modification of, or amendment to, the terms for the payment of any Guaranteed Amount by the Company to ICE Clear U.S., Inc.
- (d) Notice of presentment, demand for payment, default, dishonor, protest or notice of protest with respect to any notes, drafts, or other instruments evidencing any Guaranteed Amounts received from the Company by ICE Clear U.S., Inc.; and
- (e) Notice of any defaults by or disputes with the Company with respect to payment or performance in connection with any Guaranteed Amounts.

6. Amendment or Modification with Respect to the Guaranteed Amounts

- (a) The modification of any contract or agreement between the Company and ICE Clear U.S., Inc. or of any other obligation of the Company (whether under the By-Laws and/or Rules of ICE Clear U.S., Inc., as now in effect or as hereafter amended, or otherwise) shall not discharge or otherwise affect the liability of Guarantor with respect thereto under this Guaranty.
- (b) Guarantor acknowledges that ICE Clear U.S., Inc. from time to time, may extend the time of payment of the whole, or any part, of any Guaranteed Amounts, and may receive and accept notes, bills, checks, and other instruments for the payment of money, made, accepted or delivered by the Company or any other Person or Persons, as well as extensions or renewals thereof, without in any way releasing or discharging Guarantor from its obligations hereunder.

7. Termination

Guarantor may terminate this Guaranty by delivering written notice of such termination to ICE Clear U.S., Inc. No such termination shall be effective until five (5) Business Days after receipt by ICE Clear U.S., Inc. of such notice. No such termination shall affect Guarantor's liability with respect to any Guaranteed Amount owing by the Company pursuant to or in connection with any obligation incurred by the Company prior to the time the termination is effective.

This Guaranty shall be a continuing guarantee of payment and not of collection. Guarantor's obligations under the Guaranty are independent of all obligations and liabilities of the Company to ICE Clear U.S., Inc. ICE Clear U.S., Inc. shall not be required to proceed first against the Company or any other Person before resorting to Guarantor for payment under this Guaranty. Guarantor is not nor shall Guarantor become a creditor of the Company by virtue of this Guaranty, and any payment hereunder by Guarantor to ICE Clear U.S., Inc. shall not reduce any indebtedness of Guarantor to the Company nor establish a credit for Guarantor with the Company.

8. Demands and Notices

- (a) Demands on Guarantor for payment under this Guaranty and other communications required or permitted to be made hereunder shall be in writing and delivered by hand delivery or by mail or telefacsimile to the following address or telefacsimile number:

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- (b) Notices and other communications required or permitted to be made hereunder to ICE Clear, U.S., Inc. shall be in writing and delivered by hand delivery or by mail or telefacsimile to the following address or telefacsimile number:

ICE Clear U.S., Inc.  
55 East 52nd Street, 40th Floor  
New York, NY 10055  
ATTN: President  
Telefacsimile: (212) 748-4004

- (c) A demand for payment or notice sent by telefacsimile or hand delivery shall be deemed delivered (unless transmitted or hand delivered after the close of business, in which case it shall be deemed received at the close of business on the next Business Day). A demand for payment or notice sent by overnight mail or courier shall be deemed to have been received two Business Days after it was sent. Guarantor or ICE Clear U.S., Inc. may change the persons and/or addresses to which demands, notices and other communications are to be sent upon written notice to the other party.

9. Amendment of Guaranty

This Guaranty and each of its provisions may be waived, modified, varied, released, terminated or surrendered, in whole or in part, only by a duly authorized written instrument signed by ICE Clear U.S., Inc. and Guarantor.

10. No Waiver of Rights and Remedies by ICE Clear U.S., Inc.

No failure by ICE Clear U.S., Inc. to exercise its rights under this Guaranty shall give rise to any estoppel against ICE Clear U.S., Inc. or excuse Guarantor from performing under this Guaranty. No waiver by ICE Clear U.S., Inc. of performance by Guarantor under any of the provisions of this Guaranty shall be construed as a waiver of any subsequent performance by Guarantor under the same provision, or of performance under any other provision, of this guaranty.

11. Burden and Benefit

This Guaranty shall bind Guarantor and its successors and assigns and shall inure to the benefit of ICE Clear U.S., Inc. and its successors and assigns. Guarantor shall remain

liable under this Guaranty, notwithstanding any assumption of this Guaranty by a successor or assign of Guarantor, unless and until released in writing from its obligations hereunder by ICE Clear U.S., Inc. Guarantor's obligations under this Guaranty shall extend to transactions between ICE Clear US., Inc. and any successors and assigns of the Company which are owned and/or controlled, in whole or in part, by Guarantor.

12. Representations and Warranties

The Guarantor hereby represents and warrants to ICE Clear U.S., Inc. that:

- (a) If an Entity, it is a \_\_\_\_\_, duly organized and validly existing under the laws of \_\_\_\_\_, and, if relevant under such laws, is in good standing;
- (b) It has full power and authority necessary to execute and deliver this Guaranty and to incur and perform all of its obligations that may arise from, in connection with, or as a result of, this Guaranty;
- (c) All action necessary to authorize the execution, delivery and performance of this guaranty has been duly taken;
- (d) Its obligations under this Guaranty constitute its legal, valid and binding obligations, enforceable in accordance with their terms;
- (e) At the time of the execution and delivery of this Guaranty, nothing (whether financial condition or any other condition or situation) exists to impair in any way its obligations to ICE Clear U.S., Inc. under this Guaranty; and
- (f) Its relationship to and control over the Company is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Governing Law

This Guaranty shall be governed by and construed in accordance with the laws of the State of New York, without reference to its choice of law doctrines.

14. Headings

The headings used herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Guaranty.

IN WITNESS WHEREOF, Guarantor has duly signed and sealed this Guaranty as of this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_.

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_