

ICE Futures Canada, Inc.

Application for Trading Participant Privileges

(For Companies)

**TO: ICE Futures Canada, Inc.
400 – 360 Main Street
Winnipeg, Manitoba
R3C 3Z4**

The undersigned, (type the complete legal name and mailing address of the Applicant for Trading Participant Status)

(herein either the “Participant” or the “Applicant”), applies for Trading Participant Status with ICE Futures Canada, Inc., (the “Exchange”), and acknowledges that, upon acceptance by the Exchange, this application document shall constitute a binding agreement between the Exchange and the Participant upon the terms and subject to the conditions set forth herein. Unless stated otherwise, this agreement becomes effective at the Effective Time.

A. Questions

1. The Applicant applies for Trading Participant status in the following category: (check one)

- Merchant
- Futures Commission Merchant
- Liquidity Provider
- Market Maker
- General

If you mark “Market Maker” you will be required to negotiate terms of an additional agreement.

2. The Company is a (check one)

- General Partnership
- Limited Partnership
- Corporation
- Cooperative

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3. The Company (if a partnership) was registered under the laws of the Province/State of _____ in the country of _____ on the _____ day of _____, 200__.

4. The Company was incorporated (if a corporation) under the laws of the Province/State of _____ in the Country _____ on the _____ day of _____, 200__.

5. The Company is:

- a fully independent operation
- a wholly owned subsidiary of
(Full legal name of parent company)

Name of Parent Company

(Address if different from Head Office Address)

- Effective control of the company is exercised by:

(Name of Controlling Person/Company)

(Address if different from Head Office Address)

6. Has the Company ever had, used, operated under or carried on business under any name other than the name listed in this Application?

Yes No

If yes, list here and describe the circumstances surrounding the use of such name(s):

(If insufficient space, attach schedule)

7. The Participant appoints the following individual as its Authorized Representative. (If more than one Authorized Representative is appointed, attach a Schedule.)

Name of Individual

Title

Phone Number

Fax Number

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E-Mail

Cell Phone Number

N.B. An Authorized Representative, in accordance with Rule 4D.08 Appointment of Authorized Representative, shall be:

- **A Senior Officer; or**
- **A Director; or**
- **A Partner
of the Applicant**

The Authorized Representative shall:

- (1) **Represent the Participant in all dealings with the Exchange, with full authority to speak for and bind the Participant; and**
- (2) **Ensure that the Participant and its partners, shareholders, directors, officers and employees of the Participant comply with Exchange rules and requirements.**

PRIOR LICENSING, MEMBERSHIPS OR REGISTRATION

(Note: Attach schedules or Appendixes as necessary)

8. Has the Applicant ever been registered with, or a member of ICE Futures Canada Inc. or its predecessor company Winnipeg Commodity Exchange?

Yes

No

9. List all other commodity exchanges the applicant has been a member or participant of.

Exchange Name

Category

Exchange Name

Category

Exchange Name

Category

10. List all self-regulatory organizations that the Applicant is a member of.

SRO

Category of Registration (if applicable)

SRO

Category of Registration (if applicable)

SRO

Category of Registration (if applicable)

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11. List all statutory regulatory authorities (such as Provincial Securities Commissions, the CFTC, or the SEC) the Applicant is registered with.

Regulatory Authority	Category
Regulatory Authority	Category
Regulatory Authority	Category

REFUSAL, SUSPENSION, CANCELLATION OR DISCIPLINARY ACTIONS

12. Has the Applicant ever been rejected from membership or participant status on, or expelled or suspended from, any exchange?

If yes, state the date, reason and exchange.

Yes No

Date	Reason	Exchange
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13. Has the Applicant ever been subject to any disciplinary action taken by any exchange (commodity or securities) or regulatory authority?

Yes No

If yes, state the date, reason and exchange.

Date	Reason	Exchange
------	--------	----------

Date	Reason	Exchange
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BANKRUPTCY

14. Has the Applicant, and/or any of the partners (if a Partnership), ever failed in business or filed for or been petitioned into bankruptcy?

Yes No

If yes, state the date and detail the status of settlement.

Date	Details
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15. Has the Applicant and/or any of the partners (if a Partnership) ever made arrangements with creditors or taken advantage of the provisions of the Orderly Payment of Debts Act,

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the Bankruptcy and Insolvency Act, or the Company Creditors Arrangements Act or other legislation for the benefit of creditors?

Yes No

If yes, detail the status of matters:

Date	Details
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OFFENCES UNDER THE LAW

16. Has the Applicant been, or has any partner, officer or director of the Applicant held an office in this company or any other company at a time when it was, charged with a criminal offence or indicted under a federal, provincial, or state law in any country?

Yes No

If yes, state the date and details.

Date	Details
------	---------

17. Has any partner, officer, or director of the Applicant ever been personally charged with any criminal offenses, excluding minor traffic violations?

Yes No

If yes, state the dates and details of charges.

Date	Charges
------	---------

18. Are there any pending claims, complaints, litigation or outstanding or unsatisfied judgments against the Applicant or against any partner, officer, or director of the Applicant?

Yes No

If yes, state the date and details.

Date	Details
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19. Has the Applicant ever been refused a fidelity bond?

Yes No

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B. Agreement

WHEREAS

- (A) The Exchange is recognized as a commodity futures exchange under *The Commodity Futures Act (Manitoba)* (the Act) and as such is regulated by the Manitoba Securities Commission (MSC);
- (B) The Exchange, in collaboration with IntercontinentalExchange Inc. ("IntercontinentalExchange" or "ICE") administers a trading platform (the "Platform") as defined herein;
- (C) The Exchange and IntercontinentalExchange are the owners or licensees, as the case may be, of the software used in the Platform Software, as defined below;
- (D) The Applicant wishes to trade Exchange Contracts (as defined below) as a Customer of a Direct Access Trading Participant;
- (E) This Application / Agreement is for the purposes of enabling the Applicant to trade Exchange Contracts as a customer of a Direct Access Trading Participant registered in the category of Futures Commission Merchants and obtain such rights and privileges of Trading Participant status as are set out in the Exchange Rules;

1 Definitions and Interpretation

1.1 In this Agreement unless otherwise expressly stated to the contrary:

(a) the following terms shall have the following meanings:

- | | |
|--------------------------------------|--|
| "Act" | means <i>The Commodity Futures Act (Manitoba)</i> ; |
| "Affiliate" | means and includes any entity that directly or indirectly controls, is controlled by, or is under common control with, either the Applicant or the Exchange, as the case may be, where "control" means the (i) ownership of, or the power to vote, more than 50% of the voting stock, shares or interests of an entity or (ii) ability to direct the management or affairs of an entity; |
| "API" | means the open application program interface, transport software and additional functionality that facilitates order entry or placement to the Platform; |
| "Approved Direct Access User" | means a Direct Access User which is authorized by the Exchange and/or Intercontinental; |
| "Business Day" | shall have the meaning in the Exchange Rules; |

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“CFTC”	means the U.S. Commodity Futures Trading Commission;
“Clearing Participant”	means a registered participant of ICE Clear Canada, Inc.;
“Commission or MSC”	means The Manitoba Securities Commission;
"Compulsory Improvements"	means the improvements necessitated by regulatory or significant operational concerns which are mandatory for the Applicant to install;
"Customer"	means a customer of a DATP who is duly authorized by such DATP to conduct trades on the Trading Platform, either directly, or through an employee of the DATP;
“DATP”	means a Direct Access Trading Participant and has the meaning given in the Exchange Rules;
“Exchange Contract(s)”	means the Canola, and Western Barley futures and options on futures contracts, together with such other Commodity Contracts as the Exchange shall make available for trading on the Platform from time to time;
"ICE Interface"	means ICE’s proprietary API interface application software known as WebICE;
"Improvements"	means modifications, improvements or additions to the Platform, the Platform Software or any part or parts thereof as provided by the Exchange and/or ICE to the Applicant in accordance with Clause 5;
"Intellectual Property Rights"	means ICE’s and/or the Exchange’s patents (including all renewals, extensions or divisions thereof), copyright, trade marks, know how, design rights, registered designs, domain names, database rights and confidential information including any and all similar rights in any jurisdictions;
"ISV"	means an independent software vendor who has written software applications to facilitate connection to the Platform via the API;

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"Market Data"	means the data displayed by the Platform on a real time basis specifying the market prices of the Exchange Contracts;
"Password"	means each and every password, logon code, logon id, mnemonic or individual trading mnemonic or similar means of access or identification issued to the Applicant for one or more of its Responsible Individuals;
"Person"	includes an individual, partnership, limited liability corporation, corporation, cooperative or other entity.
"Platform"	means the trading platform as more particularly described in Part 1 of the Schedule;
"Platform Software"	means the software used to connect to the Platform as more particularly described in Part 2 of the Schedule. For the avoidance of doubt, Platform Software includes the API but does not include the ICE Interface;
"Purposes"	means the trading of the Exchange Contract(s) supported by the Platform and the Platform Software;
"Regulatory Authority"	means the MSC or any successor or other body in the Province of Manitoba, Canada, or in the United States or overseas, which has authority to regulate the business, operation and trading activities of the Exchange, any participant of the Exchange (whether registered or not), any user of the Trading System, a Clearing Participant, Customer or Responsible Individual;
"Related Documentation"	means such documents and materials as are made available to the Applicant by the Exchange or ICE, from time to time relating to the operation and use of the Platform or the Platform Software;
"Responsible Individual"	means an individual registered by a Direct Access Trading Participant with the Exchange as a Responsible Individual in accordance with the Exchange Rules;

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"Trade Capture Data"	means the data generated by the Platform specifying the details of trades by the DATP (whether on its own behalf or on behalf of any Customer) in the Exchange Contracts;
"Trading Participant"	means a Trading Participant and has the meaning in the Exchange Rules;
"User Interface"	means the DATP's own software (as provided by an ISV or another Direct Access User) conformed as appropriate and used to connect to the API; and
"Voluntary Improvements"	means the improvements other than Compulsory Improvements;
"Exchange Rules"	means, collectively, the Rules of the Exchange as approved by the Board of the Exchange from time to time; and

- (b) all other defined words and expressions shall have the meaning given to them in either the Exchange Rules, the Act and Regulations to the Act, CFTC Regulations, the Participant Agreements or within the body of this Agreement as the case may be.

1.2 Interpretation:

- (a) the headings in this Agreement shall not affect the interpretation of this Agreement;
- (b) any words or terms importing the singular shall, where the context permits, include the plural and vice versa;
- (c) any words or terms importing the masculine gender shall include the feminine gender and shall, where the context permits or requires, include a partnership, limited liability company incorporated company or any other association;
- (d) a reference to any statutory provisions shall be construed as references to those provisions as modified or re-enacted from time to time and to any subordinate legislation made under such provisions and shall include references to any repealed statutory provisions which have been so re-enacted (whether with or without modification);
- (e) a reference to a Clause or Schedule, unless the context otherwise requires, is a reference to a clause or a schedule to this Agreement.

Obligations of Trading Participant

1. Agreement of Trading Participant to be bound by Exchange Rules

- 1.1 The Applicant agrees that the Exchange By-laws, Exchange Rules and operational/procedural manuals are incorporated by reference into this Agreement, and shall form part of this Agreement as though they were reproduced herein in their entirety. The Exchange Rules are also incorporated by reference in each contract or transaction that the Participant conducts or is required to conduct through the facilities of the Exchange.
- 1.2 The Applicant acknowledges that it has no right or license, or sublicense to access or otherwise connect to the Trading System except as a Customer of a Direct Access Trading Participant.
- 1.3 The Applicant acknowledges receipt from the Exchange of a copy of the Exchange Rules, as in effect at the time of submission to the Exchange of this Application, and agrees to be bound by the provisions thereof. The Applicant will be provided with notice of amendments, changes or supplements to the Exchange; by-laws and operational/procedural manual, and Rules on a timely basis through the Exchange website.

2. Agreement with Direct Access Trading Participant

- 2.1 (a) The Applicant must have an agreement with a Direct Access Trading Participant in order to access the Trading System and/or trade Exchange Contracts. The Applicant will be a Customer of the Direct Access Trading Participant for both execution and clearing purposes. The name of the Applicant's registered Direct Access Trading Participant is:

(type full legal name)

The Applicant will not use the facilities of any entity other than the DATP set out above, for the purposes of accessing or connecting to the Trading System and/or trading Exchange Contracts. The applicant may be provided with User IDs and Passwords to access the Trading System by the Responsible Individual of a DATP and must use only those User IDs and Passwords. If the Applicant is an FCM, it will ensure that all its customers utilize only the User IDs and Passwords they are provided by the Responsible Individual of the DATP. Any attempts to access or connect to the Trading System and/or trade Exchange Contracts by any other means, including using the User IDs and Passwords of other market participants, is strictly forbidden and will result in termination of this Agreement.

3. Liability

- 3.1 Otherwise than as detailed in this Agreement, the Exchange does not guarantee the sequence, timeliness, accuracy or completeness of any of the Exchange's Market Data or Trade Capture Data nor guarantee the accuracy, responsiveness or completeness of the Platform, the Platform Software or the Related Documentation.
- 3.2 THE APPLICANT ACKNOWLEDGES THAT THE PLATFORM, PLATFORM SOFTWARE, RELATED DOCUMENTATION, ACCESS TO ANY INTERFACE AND ANY THE EXCHANGE SERVICES OR FACILITIES USED TO SUPPORT THEM, ARE PROVIDED "AS IS". EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, ICE FUTURES CANADA, INC., INTERCONTINENTALEXCHANGE, INC., AND THE RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS, AND LICENSORS OF EXCHANGE AND INTERCONTINENTALEXCHANGE (THE "**DISCLAIMING PARTIES**"), MAKE NO, AND HEREBY DISCLAIM ALL, WARRANTIES, CONDITIONS, UNDERTAKINGS, TERMS OR REPRESENTATIONS, EXPRESSED OR IMPLIED BY STATUTE, COMMON LAW OR OTHERWISE, IN RELATION TO THE PLATFORM, PLATFORM SOFTWARE, RELATED DOCUMENTATION AND ACCESS TO ANY INTERFACE OR ANY PARTS OR PARTS OF THE SAME. THE DISCLAIMING PARTIES SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT (EXCEPT AS OTHERWISE PROVIDED HEREIN). THE DISCLAIMING PARTIES FURTHER DISCLAIM ALL WARRANTIES, IMPLIED OR OTHERWISE, RELATING TO ANY THIRD PARTY MATERIALS (EXCEPT AS OTHERWISE PROVIDED HEREIN). NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY EXCHANGE SHALL CREATE A WARRANTY AND THE USER MAY NOT RELY UPON SUCH INFORMATION OR ADVICE EXCEPT TO THE EXTENT SPECIFIED IN THIS AGREEMENT.
- 3.3 NONE OF THE DISCLAIMING PARTIES SHALL BE LIABLE IN ANY WAY TO THE APPLICANT OR TO ANY OTHER PERSON OR ENTITY FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES, LOSS OF PROFITS, GOODWILL, LOSS OF USE OR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF THEY WERE FORESEEN, FORESEEABLE, KNOWN OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO:
- (a) ANY FAULTS WITH THE PLATFORM OR PLATFORM SOFTWARE, HOWEVER THOSE FAULTS MAY ARISE;
 - (b) THE SUSPENSION, TERMINATION OR INABILITY TO ACCESS OR USE THE PLATFORM OR PLATFORM SOFTWARE OR ANY INACCURACIES OR OMISSIONS IN ANY INFORMATION PROVIDED, HOWEVER SUCH SUSPENSION, TERMINATION, INABILITY TO ACCESS, INACCURACY OR OMISSION MAY ARISE;

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- (c) ANY FAILURE OR DELAY SUFFERED BY THE APPLICANT OR ANY RESPONSIBLE INDIVIDUAL THAT RECEIVES ACCESS TO THE PLATFORM THROUGH THE DATP'S INTERFACE OR THE ICE INTERFACE;
 - (d) ANY OTHER CAUSE IN CONNECTION WITH THE FURNISHING, PERFORMANCE, MAINTENANCE OR USE OF OR INABILITY TO USE ALL OR ANY PART OF THE PLATFORM OR PLATFORM SOFTWARE;
 - (e) ANY LOSSES RESULTING FROM UNAUTHORIZED ACCESS, ALTERATION, OR ANY OTHER MISUSE OF THE PLATFORM SOFTWARE OR THE PLATFORM; OR
 - (f) ANY INJURIOUS ACT, DEFAULT, OR OMISSION UNLESS SUCH ACT, DEFAULT OR OMISSION WAS THE RESULT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON THE PART OF THE DISCLAIMING PARTY OR PARTIES SOUGHT TO BE HELD LIABLE THEREFOR.
- 3.4 In no circumstances shall either the Exchange or ICE, nor any of its own officers, directors, employees, agents, or licensors be liable to the other party or any other person or entity for any indirect; incidental; consequential damages or punitive damages; or damages for loss of profits or goodwill, even if it has been advised of the possibility of these damages and even if the damages are due to the other party's error, omission or negligence.
- 3.5 Subject in all cases to the foregoing, the maximum aggregate liability of the Exchange to a market participant for any and all claims made by the market participant in relation to this Agreement in any calendar year shall be ten thousand dollars (\$10,000), however that liability arises, including (without limitation) breach of contract, tort, misrepresentation or breach of statutory duty.
- 3.6 Each Party shall notify the other of any claim arising under or in connection with this Agreement within one (1) calendar month of the date on which it becomes aware of the specific act, fact, circumstance or event which gave rise to the claim. Neither party shall have any liability to the other for any such claim notified after such one (1) month period.

4. The Applicant's Indemnification

The Applicant agrees to indemnify, protect and hold harmless the Disclaiming Parties for any and all losses, damages, expenses and costs, including reasonable legal fees, arising from a claim, suit or other proceeding made or instituted by any Regulatory Authority, person or entity arising from:

- (a) unauthorized access to, or use of the Trading System: or
- (b) unauthorized access to the Trading System that causes damage to the Platform, the Platform Software, any other market participant, or the Exchange.

5. Term and Termination

- 5.1 This Agreement shall take effect when signed by both parties and shall be for a period of one (1) calendar year and shall be renewed automatically upon the expiry of that period and each calendar year thereafter unless terminated in accordance with this Agreement.
- 5.2 A party shall have the right to terminate this Agreement forthwith by giving written notice to the other party if the other party makes any arrangement or composition with its creditors or if a bankruptcy petition is presented or if a receiving order is made against it or if, being a company, an order is made or a resolution is passed for the winding-up of the other party or an order is made for the appointment of an administrator to manage the other party's affairs, business and property, or if a receiver is appointed in respect of any of the other party's assets or undertaking, or if circumstances arise which entitle the Court or a creditor to appoint an administrative receiver, receiver or manager or which entitle the Court to make a winding-up order, or if the other party takes or suffers any similar or analogous action in consequence of debt in any part of the world.
- 5.3 The Exchange may terminate this Agreement at any time upon the occurrence of any of the events specified in subsections (i) through (vii) of this clause. Such action shall in all events be without liability to the Exchange as a consequence thereof. The Exchange's right to take such action pursuant to subsections (i) and (ii) shall take effect ten (10) days from notice by the Exchange that the event listed in such subsection has occurred, unless the Applicant cures such breach within such notice period. The Exchange's right to take such action pursuant to subsections (iii) through (x) shall be immediate and without prior notice by the Exchange. The Exchange may terminate this Agreement or suspend access to the Trading System if:
- (i) any fees or other amounts due to the Exchange hereunder or otherwise pursuant to the Exchange Rules are past due;
 - (ii) the Applicant breaches any material obligation of this Agreement;
 - (iii) such termination is required by applicable law or regulation or Court order;
 - (iv) such termination is provided by the Exchange Rules or by order of any applicable committee of the Exchange;
 - (v) the death of the Applicant (if an individual);
 - (vi) termination of Applicant's relationship with a DATP unless prior to, or simultaneously with such termination, the Applicant enters into a relationship to use the services of another Direct Access User and provides notice to the Exchange; and
 - (ix) pursuant to the provisions of clause 5.2 of this Agreement.

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- 5.4 The Applicant may terminate this Agreement on giving thirty (30) days' written notice to the Exchange.

6. Amendments

- 6.1 The Exchange may in its sole discretion amend any provision of this Agreement by notice to the Applicant, where failure to do so will or would be likely to give rise to a breach of the rules and regulations of an applicable Regulatory Authority by the Exchange. The Applicant expressly acknowledges and agrees that this provision is a condition of the Agreement and is necessary to ensure that regulatory compliance is maintained by the Exchange at all times.
- 6.2 The Exchange may further amend the provisions of this Agreement by notice sent in accordance with Clause 10 to the listed recipient, who shall be referred to as the "Notice Recipient". The amendment to this Agreement contained within the notice sent to the Notice Recipient shall be effective one (1) month subsequent to receipt of the notice by the Notice Recipient ("the Amendment Effective Date"), unless the Notice Recipient raises a substantive objection to the amendment before the Amendment Effective Date. If a substantive objection is raised by the Notice Recipient prior to the Amendment Effective Date, then the Exchange shall have the discretion to suspend the Applicant's access to the Platform from the Amendment Effective Date until such time that the Applicant has confirmed its acceptance of the relevant amendment in writing to the Exchange. In the event that the Applicant has not signified its acceptance of the amendment in writing to the Exchange by the date two (2) months subsequent to the Amendment Effective Date, then the Exchange reserves the right to terminate this Agreement on one (1) month's notice to the Applicant.

7. Waiver

The failure of a party hereto to exercise or enforce any right conferred upon it by this Agreement shall not be deemed to be a waiver of any such right or operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

8. Assignment

- 8.1 The Applicant may not assign this Agreement without the prior written consent of the Exchange.
- 8.2 The Exchange may assign or transfer its rights, obligations and duties under this Agreement, without prior notice and in its absolute discretion, to any entity:
- (a) controlling, controlled by, or under common control with the Exchange; or
 - (b) which succeeds to all or substantially all of the assets and business of the Exchange

The Exchange may otherwise assign or transfer its rights, obligations and duties under this Agreement following no less than one (1) month prior written notice to the Applicant of its intention to do so.

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9. Severability

If, at any time, any provision of this Agreement, or any portion thereof, is or becomes invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of this Agreement shall not in any way be affected or impaired thereby.

10. Notices

All notices or communications to be delivered under or with respect to this Agreement shall be delivered to all parties and be in writing and either be:

- (a) hand delivered or forwarded by registered mail to the last known address of the Applicant; or
- (b) sent via electronic mail, in either case to the address set out as follows:

In the event of any notice being required to be sent to a party under the terms of this Agreement, then such notice shall be addressed as follows:

If to ICE Futures Canada, Inc.:

Name: Sheryl Silverberg. Participant Services
Address: 400-360 Main Street, Winnipeg, Manitoba R3C 3Z4
Telephone: (204) 925-5000 extension 5043
Fax No: (204) 925-5014
Email: sheryl.silverberg@theice.com

If to the Trading Participant: (NOTE: IF THIS IS NOT COMPLETED SERVICE MAY BE AFFECTED ON ANY ONE OF THE RESPONSIBLE INDIVIDUALS APPOINTED BY THE DATP.)

Name: _____
Address: _____
Telephone no: _____
Facsimile no: _____
Email: _____

In the event of a party's notice details changing, then it shall be the responsibility of such party to confirm details of such changes to the other party.

Notices shall be deemed to have been served at 9 am in Winnipeg, Manitoba on the Business Day following the date of sending where the notice is sent by hand or electronic mail, or 9 am in Winnipeg, Manitoba on the third Business Day following the date of sending where the notice is sent by registered mail.

Notices served on an Applicant shall be deemed effective on any Customer, Responsible Individual or Approved Affiliate of such User.

11. Remedies Not Exclusive

No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy including without limitation any remedy or rights under the Exchange Rules, except as expressly provided in this Agreement, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise.

12. Third Party Rights

IntercontinentalExchange shall be a third party beneficiary of this Agreement, thereby entitled to receive the rights of the Exchange and enforce the provisions of this Agreement against the Applicant or any other Person, to the same extent as if ICE had been a signatory to this Agreement, in the courts and under the laws of the Province of Manitoba, without giving effect to the principles of conflicts of laws thereof. Notwithstanding the foregoing, nothing in this Agreement will impose directly upon ICE any of the obligations of the Exchange set forth herein.

13. Regulatory Requirements

- 13.1 It shall not be the responsibility of the Exchange to inform Applicants or their employees or Customers of regulatory requirements including without limitation, all regulatory, audit trail, record keeping and record retention requirements to which they may be subject (in any jurisdiction) and no such inference or interpretation shall be drawn from the terms and conditions of this Agreement. The Applicant shall assume all responsibility for keeping itself fully informed of all such Exchange Rules, rules requirements, policies and laws.
- 13.2 In particular, the Applicant acknowledges that portions of the Platform Software and related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. The Applicant will:
- (a) comply with all legal requirements established under these controls;
 - (b) co-operate fully with ICE in any official or unofficial audit or inspection that relates to these controls; and
 - (c) not export, re-export, divert or transfer, directly or indirectly, any such item or direct products thereof to the countries of Cuba, Iran, Iraq, Libya, Sudan, Syria, or Afghanistan ("**Prohibited Countries**") (as such list of Prohibited Countries may be amended from time to time in accordance with the Office of Foreign Asset Control Restrictions published by the US Department of Treasury), or any national thereof or to any country or national thereof that is embargoed by Executive Order.

The Applicant represents and warrants that it will not use the Platform Software in any such country nor will it permit any national of any such country to use the Platform Software for any purpose at any time.

14. Governing Law and Jurisdiction

- 14.1 This Agreement is deemed entered into, and shall be governed by and construed in accordance with, the laws of the Province of Manitoba without giving effect to principles of conflicts of laws thereof, and the laws of Canada, as applicable. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement and is hereby disclaimed.
- 14.2 The Applicant consents and agrees, and hereby submits to the general and exclusive jurisdiction of the federal and provincial courts of the Province of Manitoba and agrees to commence any action, suit or proceeding in the Court of Queen's Bench in the City of Winnipeg, Manitoba and waives any objection to venue in any such jurisdiction in the event any action, suit or proceeding is commenced in such courts under or with respect to any matters in connection with this Agreement. Nothing contained in this clause 20.2 shall limit the right of the Exchange to commence any action, suit or proceeding against a non-US Applicant in any other court of competent jurisdiction in which such non-US Applicant is located.

THE PARTIES HEREBY WAIVE THE RIGHT TO A TRIAL BY JURY.

15. Applicant to Pay all Charges Levied by the Exchange

- 15.1 The Applicant agrees to pay all fees and transactions for business conducted by it, or on its request and acknowledges that the transaction fees charged by the Exchange may change from time to time.
- 15.2 The Applicant agrees to pay all invoices presented by the Exchange when due. Failure to pay any invoices when and as they become due will result in a penalty of interest at Prime plus 5% per annum, which penalty will compound monthly.
- 15.3 In the event of late payment or non-payment of any invoice, the Exchange may take whatever action it deems appropriate including the immediate suspension of trading privileges. Suspension of trading privileges would be in addition to another recourse at law that the Exchange may have.
- 15.4 The Applicant agrees to pay all fines or other penalties and costs assessed against it pursuant to the Rules of the Exchange.

16. Regulated Status of the Exchange, Clearing House and Trading Participants

- 16.1 The Applicant acknowledges that the trading in derivatives contracts and the operation of a commodities/futures exchange in Manitoba is regulated pursuant to the provisions of *The Commodity Futures Act* S.M. 1996, c. 73 (the "Act") and the regulations and rules promulgated pursuant to the Act.
- 16.2 The Applicant agrees to advise the Exchange immediately upon any one or more of the following events occurring:

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- a) knowledge of an investigation by the Commission, any provincial or state or government regulatory authority, any other regulatory authority, the Investment Dealers Association or any other self-regulatory organization to which the Applicant is or was a member of;
- b) a charge or conviction under the laws of any province, territory, state or country, excepting only minor traffic violations;
- c) the Applicant filing a petition in bankruptcy, having a petition in bankruptcy filed against it, becoming insolvent or bankrupt, making an arrangement for the benefit of creditors, or going into liquidation or receivership;

16.3 The Applicant hereby authorizes the Exchange to make all enquiries of any other regulatory entity, statutory regulators, SROs and/or exchanges or clearinghouses relative to the Information contained in this Application.

17. Counterparts

This Agreement may be executed in counterparts by the Parties, each of which when so executed and delivered shall be an original, but all of which together shall constitute but one and the same instrument. A complete set of counterparts shall be lodged with each Party.

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DATED at the City of _____ Province/State of _____

this _____ day of _____, 20____.

(Type Full Legal Name of Trading
Participant Applicant)

per: _____
(Authorized Signatory)

(Type Full Name of Authorized Signatory)

(Type Address of Authorized Signatory)

(Type Phone Number)

(Type Fax Number)

(Type Main Switchboard Number)

(Type E-Mail)

Accepted and agreed to this _____ day of _____, 20____.

ICE Futures Canada, Inc.

Per: _____

(Name and Title of Authorized Representative)

Certified Copy of a Resolution of the Trading Participant's Board of Directors

Re: Trading Participant status on ICE Futures Canada, Inc.

It has been resolved that;

The Corporation be and is hereby authorized to apply to become a Trading Participant on ICE Futures Canada, Inc. ("ICE Futures Canada") and to complete the Application/Agreement and forms prescribed by ICE Futures Canada.

Any one director or officer of the Corporation shall be and is hereby authorized to execute for, in the name of, and on behalf of the Corporation, the Application/Agreement required by ICE Futures Canada and is authorized to execute such other agreements, documents or instruments as are necessary for the purposes of the Corporation becoming a Trading Participant on ICE Futures Canada; and

Upon acceptance, execution and delivery of the Application/Agreement by ICE Futures Canada, same will constitute a binding and enforceable agreement of the Corporation pursuant to its terms and conditions.

The undersigned, _____, being the _____ ("Title") of _____ (the "Corporation") hereby certifies that the foregoing is a true and correct copy of the resolution passed by the Board of Directors of the Corporation at a meeting duly called and held on _____, 20 _____ at which a quorum was present and acting throughout, and that such resolution remains in full force and effect, unchanged.

Dated the _____ day of _____, 20 _____ .

(Signature)

(Name – Please Print)

(Title)

**ICE Futures Canada, Inc.
Partnership Certificate**

The undersigned, a general partner of _____, a partnership duly organized and validly existing under the laws of the Province (State) of _____, (Country) _____ (the "Partnership") hereby certified to ICE Futures Canada, Inc.

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
_____	_____
_____	_____
_____	_____
_____	_____

2. 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 registered Trading Participant of ICE Futures Canada, Inc. including, without limitation:
 - a) Executing and delivering a Trading Participant Application/Agreement on behalf of the Partnership, in the form provided by ICE Futures Canada, 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 be deemed necessary or appropriate in connection with obtaining Trading Participant status in ICE Futures Canada, Inc.

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

General Partner