

## ICE eCONFIRM AGREEMENT

This agreement (the "ICE eConfirm Agreement") sets out the terms on which ICE eConfirm, LLC ("ICE eConfirm"), which owns and operates an electronic platform (the "ICE eConfirm Platform") for (i) the matching ("Confirmation") of previously executed trades ("Trade Confirmations" or "Trades") with other participants, and (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"), has agreed to provide the party identified below ("Participant") with access to the ICE eConfirm Platform. All capitalized terms used in this ICE eConfirm Agreement shall have the meanings ascribed to them in this ICE eConfirm Agreement.

- 1) **ACCESS TO ICE eCONFIRM PLATFORM.** ICE eConfirm hereby grants Participant a non-exclusive, non-transferable, revocable license to access the ICE eConfirm Platform as it may exist from time to time and to utilize any hardware, software, systems and/or communications links furnished by ICE eConfirm to Participant from time to time (collectively, the "System") in accordance with the ICE eConfirm Terms (as defined below), solely for the purpose of allowing Participant to use the ICE eConfirm Service in the form offered by ICE eConfirm from time to time.
- 2) **TERMS OF ACCESS.** Participant's access to and use of the System and the ICE eConfirm Service will be governed by this ICE eConfirm Agreement, taken together with (i) the Service and Pricing Schedules (the "Schedules") available on ICE eConfirm's website at [www.icetradevault.com](http://www.icetradevault.com), (ii) the ICE eConfirm Confirmation Procedures Guide governing the ICE eConfirm Service, and (iii) any other applicable Annexes relating to this ICE eConfirm Agreement (collectively referred to herein as the "ICE eConfirm Terms"). ICE eConfirm may amend the ICE eConfirm Terms at any time by posting amendments on ICE eConfirm's website at [www.icetradevault.com](http://www.icetradevault.com) and any such amendments will be prospectively binding on Participant, provided that ICE eConfirm 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 eConfirm Platform after the effective date of any such amendment shall constitute its ratification of and agreement to any such amendment. If ICE eConfirm 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 eConfirm.
- 3) **PARTICIPANT'S REPRESENTATIONS, WARRANTIES AND COVENANTS.** Participant hereby represents, warrants and covenants as follows:
  - a) The ICE eConfirm Service, the System and ICE eConfirm Information (as defined below) are the exclusive proprietary property of ICE eConfirm constituting trade secrets. For purposes of this Agreement, "ICE eConfirm Information" means all information and content displayed or distributed on the System or as part of the ICE eConfirm Service 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"). Participant has been granted a limited license to use the System, the ICE eConfirm Service and the ICE eConfirm Information solely for the purposes set forth herein and Participant will have no other rights with respect to the System, the ICE eConfirm Service or the ICE eConfirm Information. Without limitation of the foregoing, Participant will access and utilize the System, the ICE eConfirm Service and the ICE eConfirm Information solely for its own internal business activities in accordance with the ICE eConfirm Terms. In accordance with the foregoing, Participant will not provide access to the System, the ICE eConfirm Service or the ICE eConfirm Information to any third party unless such third party is an affiliate of Participant or an ICE eConfirm 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 eConfirm Service or any of the ICE eConfirm Information displayed on the System; and that it will not distribute, rent, sell, retransmit, redistribute, release or license the System, the ICE eConfirm Service or any ICE eConfirm Information, or any part thereof to any third party (other than to its affiliates and agents subject to and in accordance with this ICE eConfirm Agreement). Participant further agrees that it will not, without limitation (other than for its own internal use in accordance with this ICE eConfirm Agreement), communicate, redistribute, or otherwise furnish, or permit to be communicated,

redistributed or otherwise furnished, all or any portion of the ICE eConfirm 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 eConfirm 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 shall be the non-exclusive property of ICE eConfirm 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. 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 eConfirm Terms and Applicable Law in connection with Participant's access to and use of the System, the ICE eConfirm Service and the ICE eConfirm 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 eConfirm Platform.
- d) Participant acknowledges that ICE eConfirm 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 eConfirm Information available or suspend, terminate or restrict Participant's access to and utilization of the ICE eConfirm Platform. Participant acknowledges that its access to and utilization of the ICE eConfirm Platform may be monitored by ICE eConfirm 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 may set forth additional terms and conditions under which ICE eConfirm may temporarily or permanently suspend the respective ICE eConfirm Service.
- e) Participant has all necessary power and authority to execute and perform this ICE eConfirm Agreement, and this ICE eConfirm 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 eConfirm 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 eConfirm with information related to Participant's use of the System and the ICE eConfirm Service that are reasonably requested by ICE eConfirm, if such information is reasonably necessary in order to enable ICE eConfirm to assess the identity of persons or entities accessing the System and the ICE eConfirm Service 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 eConfirm Agreement, then ICE eConfirm 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 eConfirm Agreement. ICE eConfirm may inspect, among other things, any use of the System, the ICE eConfirm Service and the ICE eConfirm Information. ICE eConfirm's right of inspection shall extend only so far as may be necessary to ensure compliance by Participant with the provisions of this ICE eConfirm Agreement.
- g) Participant acknowledges that the Services and related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations (EAR) and the requirements of the U.S. Department of the Treasury's Office of Foreign Assets Controls'

(OFAC) sanctions programs, including the Specially Designated Nationals List (collectively the "Controls"). Participant will: (i) comply with all legal requirements established under the Controls; (ii) cooperate fully with ICE in any official or unofficial audit or inspection that relates to the Controls; and (iii) 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 Controls. Participant further represents and warrants that as of the date of this Agreement, (x) neither Participant, Participant's Affiliates nor any of their respective affiliates, subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any OFAC sanctions, and (y) S Participant is not 50% or more owned or controlled, directly or indirectly, by any person or entity that is the subject of any OFAC sanctions. For so long as this Agreement is in effect, Participant will notify ICE as soon as is practicable, but in any event no later than forty-eight (48) hours after it determines that any of these circumstances change. Notwithstanding anything to the contrary in this Agreement, ICE reserves the right to immediately terminate this Agreement to the extent that Participant's access to or use of the Services would violate the Controls.

- h) Participant acknowledges and agrees that all fees and other charges incurred by Participant under this ICE eConfirm Agreement in any calendar month shall be invoiced by ICE eConfirm 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 eConfirm will make an invoice available to Participant within the ICE eConfirm System that 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. A Participant has 30 days from the date of invoice to reconcile and dispute any charges, after which the Participant will be deemed to have accepted all charges as correct.
  - i) Participant acknowledges that Participant shall be liable for all taxes and duties (other than franchise and income taxes owed by ICE eConfirm) arising out of this ICE eConfirm 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 System by Participant can negatively impact System performance, and acknowledges that ICE eConfirm reserves the right to, if deemed necessary by ICE eConfirm in its sole discretion, suspend Participant's access to the ICE eConfirm Service and the System pursuant to this Section 3(j). Following any suspension, ICE eConfirm will notify Participant of the remedial actions necessary in order to reinstate Participant's access to the ICE eConfirm Service.
  - k) [Reserved]
- 4) **USER IDs AND PASSWORDS.** ICE eConfirm 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 eConfirm-approved third party agents ("Authorized Agents") of Participant or a Participant affiliate that are properly authorized to access the ICE eConfirm Service on behalf of Participant. The initial Participant User Administrator(s) for the ICE eConfirm Service are identified at the end of this ICE eConfirm Agreement and Participant will notify ICE eConfirm 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 eConfirm of any unauthorized disclosure or use of the Passwords or access to the ICE eConfirm 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 eConfirm), 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 eConfirm and Participant and any notices or other communications sent to the Participant User Administrator by ICE eConfirm shall be binding on Participant. Upon issuance of Passwords to Participant, ICE eConfirm may include the Participant's name among any list of participants in promotional materials relating to the ICE eConfirm Service. Any use of the trademark, trade name or logo of Participant by ICE eConfirm in a press release or other promotional material will require the prior written consent of Participant.

- 5) **TERM.** This ICE eConfirm 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 eConfirm Agreement shall remain in effect with respect to any ICE eConfirm Service Data effected prior to such termination. Termination of this ICE eConfirm Agreement shall terminate the ICE eConfirm Service provided by ICE eConfirm to Participant. Each party's continuing obligations under this ICE eConfirm Agreement and the ICE eConfirm Terms, including, without limitation, those relating to "Indemnification" and "Confidentiality", will survive the termination of this ICE eConfirm 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 eCONFIRM SERVICE, EXPRESS OR IMPLIED, AND THAT THE SYSTEM AND THE ICE eCONFIRM SERVICE 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 eCONFIRM SERVICE OR (ii) FOR DELAYS, OMISSIONS OR INTERRUPTIONS THEREIN. PARTICIPANT ACKNOWLEDGES AND AGREES THAT THE ICE eCONFIRM SERVICE DOES 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 eConfirm Agreement, Participant shall indemnify, protect and hold harmless ICE eConfirm, its directors, officers, affiliates, employees and agents from and against any and all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, and costs (including attorneys' fees) resulting from or arising out of (i) any act or omission by any person obtaining access to the ICE eConfirm Platform through the Passwords (other than through the fault or negligence of ICE eConfirm), 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 eConfirm is determined to be liable to Participant for any cause, Participant expressly agrees that in entering into this ICE eConfirm Agreement, ICE eConfirm'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 eConfirm 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 eConfirm Service, including but not limited to trade secrets, processes, computer software and other proprietary data, research, information or documentation related thereto and ICE eConfirm 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 eConfirm 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 eConfirm 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 eConfirm 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 eConfirm 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 eConfirm 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 eConfirm Terms).
  - c) In the event that ICE eConfirm receives a subpoena, data request, or order of court in any private-party litigation requesting confidential information of Participant, ICE eConfirm will promptly notify Participant of such requirement or request to the extent it is legally permitted to do so. ICE eConfirm 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 eConfirm 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 eConfirm Information provided by ICE eConfirm to a corporate affiliate, whether pursuant to a license or otherwise, shall be allowed solely for the purposes set forth in the ICE eConfirm Terms and only with the affiliate's agreement to and compliance with ICE eConfirm's obligations with respect to ICE eConfirm Information under the ICE eConfirm Terms, except to the extent otherwise agreed directly between Participant and such affiliate.
- 8) **NOTICES.** All notices delivered with respect to this ICE eConfirm 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.** Except as otherwise expressly provided in this ICE eConfirm Agreement, nothing in this ICE eConfirm Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this ICE eConfirm Agreement or imposing any obligations on ICE eConfirm or Participant to persons not a party to this ICE eConfirm 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 eConfirm 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 eConfirm Agreement shall operate as a waiver of any continuing or future default, whether of a like or different character.
- 12) **ASSIGNMENT.** This ICE eConfirm 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 eConfirm 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 eConfirm Agreement (as it may be amended from time to time); and (B) ICE eConfirm may assign all or part of its rights and obligations under this ICE eConfirm Agreement to any entity (i) controlling, controlled by, or under common control with ICE eConfirm, or (ii) which succeeds to all or substantially all of the assets and business of ICE eConfirm, provided that, in the case of any such assignment by ICE eConfirm, the assignee agrees in writing to assume the obligations under, and to be bound by the provisions of, this ICE eConfirm 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 eConfirm Agreement or, in case of a partial assignment by ICE eConfirm, from all obligations and liabilities arising from the parts of this ICE eConfirm Agreement that have been assigned. This ICE eConfirm 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 eConfirm 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. The ICE eConfirm Service is a non-regulated service offered by ICE eConfirm.
- 14) **DISPUTE RESOLUTION.** Unless otherwise specified in an Annex, any dispute, claim or controversy between the parties relating to this ICE eConfirm 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 eConfirm and the Participant and does not apply to any disputes arising between participants or any other disputes between parties other than ICE eConfirm and the Participant. Notwithstanding the foregoing, each party acknowledges that a breach of this ICE eConfirm 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) **ADDITIONAL TERMS FOR EU PARTICIPANTS.** Where the Participant or one of more of its affiliates is incorporated in any member state of the European Economic Area, the additional terms available at [https://www.ice.com/publicdocs/Additional\\_Terms\\_EU\\_Subscribers.pdf](https://www.ice.com/publicdocs/Additional_Terms_EU_Subscribers.pdf) (the "Additional Terms") shall be incorporated into and form part of the Agreement under which ICE provides the Services to Participant, and, in the event of conflict with any other terms of the Agreement, these Additional Terms shall prevail.
- 16) **BROKER CONFIRMATION FEES.** From time to time, ICE eConfirm 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 eConfirm shall make available to Participant information regarding any rebates paid by ICE eConfirm 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
- 17) **HEADINGS.** The headings in this ICE eConfirm Agreement are intended for convenience of reference and shall not affect its interpretation.

18) **SEVERABILITY.** If any provision of this ICE eConfirm Agreement (or any portion thereof) shall be invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of this ICE eConfirm Agreement shall not in any way be affected or impaired thereby.

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

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

**ICE eConfirm, LLC**

5660 New Northside Dr. NW 3<sup>rd</sup> Floor  
Atlanta, Georgia 30328, USA

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

Signature: \_\_\_\_\_

Name: Trabue Bland

Title: President

Signature: \_\_\_\_\_

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

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

**Participant User Administrator for ICE eConfirm:**

*(Required to gain access to the ICE eConfirm Service)*

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

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

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

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

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

Fax: \_\_\_\_\_

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

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

ICE eConfirm 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.



## ANNEX B

### ADDITIONAL TERMS FOR DATA PROVIDERS USING THE ICE eCONFIRM SERVICE

ICE eConfirm has published this Annex B to enable a Participant that uses the ICE eConfirm Service and wants to report transaction data to one of more price index developers (an "Index Developer"), to authorize ICE eConfirm to report relevant ICE eConfirm Service Data to the Index Developer(s) elected by Participant, subject to applicable fees in accordance with the relevant ICE Service and Pricing Schedule.

Capitalized terms used in this Annex without definition shall have the meanings given to such terms in this ICE eConfirm Agreement and the ICE eConfirm Confirmation Procedures Guide.

#### AGREEMENT

1. Participant hereby instructs ICE eConfirm to report to the Index Developer(s) selected in Exhibit 1 to this Annex B each of Participant's bilateral transactions in the markets specified in Exhibit 1 at all trading locations for which Participant has submitted an electronic trade through the ICE eConfirm Service, (each reportable transaction, a "Reportable Transaction"). Participant understands and agrees that the following information will be disclosed to the selected Index Developers for all Reportable Transactions: (a) price; (b) volume; (c) buy/sell indicator; (d) delivery/receipt location; (e) transaction date and time; (f) term; and (g) identity of Participant;. Such disclosures to Index Developers will not constitute a breach of the confidentiality provisions of Section 7 of this ICE eConfirm Agreement.

2. Participant understands that ICE eConfirm will only report Reportable Transactions; *provided, however*, that ICE eConfirm shall not report any natural gas or electricity transactions traded in the ICE NGX energy markets, to any Index Developer other than ICE NGX, but only if ICE NGX is selected in Exhibit 1.

3. Participant acknowledges that ICE eConfirm 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 report Participant's Reportable Transactions. Participant may revoke its election to have ICE eConfirm report Reportable Transactions on its behalf to any or all of its selected Index Developers by providing no less than fifteen (15) Business Days' notice of such revocation to ICE eConfirm.

4. PARTICIPANT ACKNOWLEDGES, UNDERSTANDS AND ACCEPTS THAT ICE TRADE VAULT IS NOT A DATA PROVIDER, AN ENERGY DATA HUB (AS SUCH TERMS ARE USED IN THE POLICY STATEMENT ON NATURAL GAS AND ELECTRIC PRICE INDICES ISSUED BY THE U.S. FEDERAL ENERGY REGULATORY COMMISSION IN DOCKET NO. PL03-3-000), OR AN INDEX DEVELOPER, AND THAT ICE TRADE VAULT MAKES NO WARRANTY WHATSOEVER TO PARTICIPANT AS TO ICE TRADE VAULT'S DATA PROVIDER REPORTING SERVICES, EXPRESS OR IMPLIED, AND THAT THESE REPORTING 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 TRADE VAULT 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 FOR, (i) THE ACCURACY, TIMELINESS, COMPLETENESS, RELIABILITY, PERFORMANCE OR CONTINUED AVAILABILITY OF THESE REPORTING SERVICES, OR (ii) DELAYS, OMISSIONS OR INTERRUPTIONS THEREIN. PARTICIPANT ACKNOWLEDGES AND AGREES THAT ICE TRADE VAULT IS NOT AN ADVISOR OR FIDUCIARY OF PARTICIPANT. WITHOUT LIMITATION OF THE FOREGOING, PARTICIPANT ACKNOWLEDGES, AGREES AND ACCEPTS THAT ICE TRADE VAULT SHALL HAVE NO LIABILITY OR RESPONSIBILITY WHATSOEVER FOR ANY MATTERS RELATED TO PARTICIPANT'S RELATIONSHIP OR DEALINGS WITH INDEX DEVELOPERS, INCLUDING BUT NOT LIMITED TO THE ACCURACY OF ANY INFORMATION SUBMITTED BY ICE TRADE VAULT ON THE PARTICIPANT'S BEHALF TO SUCH INDEX DEVELOPERS IN CONNECTION WITH PARTICIPANT'S ELECTION HEREUNDER, ALL OF WHICH SHALL BE THE SOLE RESPONSIBILITY OF PARTICIPANT.

In consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties below covenant and agree to the terms set out in this Annex B, and Participant authorizes ICE eConfirm to report Reportable Transactions to the Index Developers elected in Exhibit 1.

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

**PARTICIPANT:**

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

**ICE eConfirm, LLC**

5660 New Northside Dr. NW 3<sup>rd</sup> Floor  
Atlanta, Georgia 30328, USA

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

Signature: \_\_\_\_\_

Name: Trabue Bland

Title: President

Signature: \_\_\_\_\_

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

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

LEI: \_\_\_\_\_

**EXHIBIT 1 TO ANNEX B**  
**LIST OF AVAILABLE INDEX DEVELOPERS FOR DATA PROVIDERS**

INDEX DEVELOPERS	TRANSACTIONS TO BE REPORTED	CHECK TO ELECT
PLATTS - GAS DAILY	PHYSICAL GAS TRADES	<input type="checkbox"/>
ICE NGX	PHYSICAL GAS TRADES	<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

**ANNEX C – ADDITIONAL TERMS TO THE ICE eCONFIRM AGREEMENT  
FOR INVESTMENT MANAGERS**

If Participant is an investment manager acting on behalf of one or more counterparties to a swap that is matched and confirmed on the ICE eConfirm Platform, the following terms shall supplement, amend and be incorporated into and form part of the ICE eConfirm Agreement and, in the event of conflict with any other terms of the ICE eConfirm Agreement, shall prevail over such terms.

**INVESTMENT MANAGER TERMS**

This Annex shall amend and supplement the ICE eConfirm Agreement with respect to Investment Managers as Participants, as follows:

1. **First paragraph.** The first paragraph to the ICE eConfirm Agreement shall be amended by adding the following before the last sentence:

“Participant is the investment manager (the “Investment Manager”) for each of the entities listed in Exhibit 1 to this Annex C (as amended from time to time pursuant to Section 3(m) below), each of which is a “Client” of the Investment Manager.”
2. **Section 3. Participant’s Representations, Warranties and Covenants.** The following paragraphs shall be added as sections 3(l) and 3(m) of the ICE eConfirm Agreement:
  - “(l) Participant has been duly granted authority or a power of attorney (or both) enabling it to act on each Client’s behalf pursuant to this ICE eConfirm Agreement, and Participant has full power and legal authority, on each Client’s behalf and for each Client’s account, to use the ICE eConfirm Service and to accept (and, if appropriate, revoke) Annex D.
  - (m) Exhibit 1 to this Annex C contains a list of the Clients for which Participant will be using the ICE eConfirm Services. Exhibit 1 includes each Client’s full legal name, Legal Entity Identifier and account number. Participant will promptly update or modify the information contained in Exhibit 1 from time to time as necessary so that the information contained in Exhibit 1 remains current by delivering to ICE eConfirm at TradeVaultSupport@theice.com a revised version of Exhibit 1 that includes all information required by this Section 3(m). The representations and warranties contained in Section 3(l) above shall be deemed repeated by Participant on each date on which Participant delivers a revised Exhibit 1 to ICE eConfirm.”
3. **Section 6. Limitation of Liability.** Section 6(b) shall be amended by deleting in the sixth line thereof “and (ii)” and replacing it with the following:

“(ii) any act or omission by Participant that is outside the scope of the authority granted by a Client; and (iii)”
4. **Section 7. Confidentiality.** Section 7(b) shall be amended by adding “, Clients”, in subsection (vi) thereof between “will not identify Participant” and “or, if applicable, Broker”.
5. **Section 9. No Third Party Beneficiary.** Section 9 shall be amended by deleting the parenthetical in the fifth line altogether and replacing it with “(whether a Participant, a Client of a Participant or a Broker)”.
6. **Annex D.** Annex D shall be amended as follows:
  - a. The following shall be added before Section I. Purpose:

“Capitalized terms used in this Annex D without definition have the meanings given to such terms in the ICE eConfirm Agreement and ICE eConfirm Confirmation Procedures Guide, except that references to “Participant” in this Annex D (and solely for purposes of this Annex D) refer to the Client that is a party to the relevant Covered Master Agreement(s) (as defined below).”
  - b. **Section I. Purpose.** Paragraph D. of Section 1 shall be deleted in its entirety.
  - c. **Recitals.** shall be amended as follows:

- i. The word “Participant” found at the beginning of each of the first, second and third paragraphs of the Recitals shall be replaced with “Investment Manager”.
  - ii. The word “Participant” found at the beginning of the fourth paragraph of the Recitals shall be replaced with “Investment Manager acting on Participant’s behalf”.
- d. **Section III. Procedure for Accepting Annex D** shall be amended as follows:
  - i. Paragraph A shall be amended by deleting the term “Participant” and replacing it with “Participant’s Investment Manager, acting on Participant’s behalf”.
  - ii. Paragraph E shall be amended by adding after the word “Participant” in the first line thereof “or its Investment Manager, acting on Participant’s behalf”.
- e. **Section V. Limited Right to Revoke Annex D** shall be amended as follows:
  - i. Paragraph A shall be amended by adding after the word “Participant” in the first line thereof “or its Investment Manager, acting on Participant’s behalf”.
  - ii. Paragraph C shall be amended by adding after the word “Participant” in the first line thereof “or its Investment Manager, acting on Participant’s behalf”.

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In consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties below covenant and agree to the terms set out in the ICE eConfirm Agreement as supplemented and amended by this Annex C.

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

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

**ICE eConfirm, LLC**

5660 New Northside Drive NW, 3<sup>rd</sup> Floor  
Atlanta, Georgia 30328, USA

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

\_\_\_\_\_

Signature: \_\_\_\_\_

Name: Trabue Bland

Title: President

Signature: \_\_\_\_\_

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

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

**Participant User Administrator for ICE eConfirm:**

*(Required to gain access to the ICE eConfirm Service)*

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

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

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

\_\_\_\_\_

\_\_\_\_\_

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

Fax: \_\_\_\_\_

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

**EXHIBIT 1 - LIST OF INVESTMENT MANAGER'S CLIENTS**

<b>FULL LEGAL NAME OF CLIENT</b>	<b>LEGAL ENTITY IDENTIFIER</b>	<b>ACCOUNT NUMBER</b>

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**ANNEX D**

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

**I. PURPOSE**

- A. ICE eConfirm has published this Annex D to enable Participant and each counterparty of Participant that uses the ICE eConfirm Service (each, a "Counterparty" for the purpose of this Annex D) 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 D and agree to be bound by its terms by completing and delivering a letter in the form of Exhibit 1 to this Annex D (an "Acceptance Letter") to ICE eConfirm, as agent, as described in further detail in Section III below.
- C. Once Participant and a Counterparty have both accepted Annex D, 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 eConfirm Agreement and ICE eConfirm Confirmation Procedures Guide.

**II. AMENDMENTS TO COVERED MASTER AGREEMENT**

By accepting to be bound by this Annex D 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 D 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 an ICE eConfirm Agreement with ICE eConfirm 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 D for the limited purpose of recognizing the controlling legal status and effect of Controlling Confirmations and (ii) making the changes set out in paragraph H below;

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 D, a “Covered Master Agreement” shall be, for purposes of this Annex D, a Master Agreement between Participant and Counterparty (whether executed by the parties before, on or after the Annex D Effective Date (as defined below)) in respect of which both Participant and the Counterparty have matched a Trade by specifying such Master Agreement in the “Master Agreement Type” field in the eConfirm system.
- 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 D 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 D, 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 D 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 D shall be construed as affecting the legally binding nature and validity of any Trade.
- H. Sub-Annex A to the 2005 ISDA Commodity Definitions. Participant agrees that, in relation to any Trade under a Covered Master Agreement where the Relevant Price (as defined in the 2005 ISDA Commodity Definitions) is determined under Sub-Annex A to the 2005 ISDA Commodity Definitions (“Sub-Annex A”), such price will be determined in accordance with the Sub-Annex A in place when the Relevant Price is determined. This will be the case irrespective of whether the relevant Trade was entered into before or after the date on which any amendment to Sub-Annex A made by the International Swaps and Derivatives Association becomes effective.

III. PROCEDURE FOR ACCEPTING ANNEX D

- A. To accept Annex D, Participant must return to ICE eConfirm (i) a completed and duly executed Acceptance Letter, in the form of Exhibit 1 to this Annex D, 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 eConfirm 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 D and the Acceptance Letter, on the terms and subject to the conditions set forth in this Annex D, shall, as between Participant and a Counterparty, be effective on receipt by ICE eConfirm, as agent, of an Acceptance Letter from the later of the parties to accept Annex D (the "Annex D 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 D Effective Date) and any Trade governed by it and submitted to the ICE eConfirm Service on or after the Annex D Effective Date.
- D. In accepting Annex D, Participant may not specify additional provisions, conditions, modifications, deletions, or limitations in its Acceptance Letter or otherwise with respect to Annex D. Any purported acceptance of Annex D that ICE eConfirm, as agent, determines in good faith is not in compliance with this Section III will be void.
- E. Acceptance of Annex D 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 D to designate the next Annual Revocation Date as the last date on which any Counterparty may accept this Annex D 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 D and to perform each and every obligation imposed by this Annex D; and
  - 2. this Annex D represents a legally valid, binding and enforceable obligation of Participant.
- B. *Status of Master Agreements.* The sole purpose of this Annex D 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 D 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 D 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 D

- A. Participant may, during the Annual Revocation Period (as defined below), deliver a notice substantially in the form of Exhibit 2 to this Annex D (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 D in respect of any Covered Master Agreement then or in the future between the Participant and such Counterparty. Upon the effective revocation of Annex D on the next Annual Revocation Date, Annex D will not amend or otherwise affect any Covered Master Agreement between that Participant and a Counterparty that accepts Annex D 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 eConfirm’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 eConfirm’s Atlanta offices are open.
- B. Participant’s right to submit a Prospective Revocation Notice with respect to Annex D is without prejudice to (i) any amendment to any Covered Master Agreement between Participant and a Counterparty effected pursuant to this Annex D on or prior to the Annual Revocation Date, and (ii) any amendment effected pursuant to this Annex D to any Covered Master Agreement entered into after the Annual Revocation Date between Participant and a Counterparty that accepted Annex D on or before the Annual Revocation Date, which in each case will be (or continue to be) effective.
- C. To revoke Annex D, Participant must return to ICE eConfirm 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 D, 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 D**

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

**[Date]**

Ladies and Gentlemen:

**Annex D to the ICE eConfirm Agreement  
- Binding Acceptance**

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

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

The entirety of provisions contained in Annex D is incorporated by reference into this Acceptance Letter. Pursuant to the terms of Annex D, 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 D with respect to the Covered Master Agreement.

**2. Appointment of ICE eConfirm as Agent and Release**

Participant hereby appoints ICE eConfirm as its agent for the limited purposes of administering acceptances of Annex D, and accordingly waives and hereby releases ICE eConfirm from any rights, claims, actions or causes of action whatsoever (whether in contract, tort or otherwise) against ICE eConfirm arising out of or in any way relating to ICE eConfirm's role as agent with respect hereto.

**3. Contact Details**

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

Name:

Address:

Telephone:

E-mail:

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

Participant consents to the publication of the conformed copy of this letter by ICE eConfirm and to the disclosure by ICE eConfirm of the contents of this letter as contemplated by Annex D.

Yours faithfully,

*[Legal Name of Participant]*

Participant

By:

Name:
Title:
Signature:

Form of Prospective Revocation Notice for Annex D

---

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

**[Date]**

Ladies and Gentlemen:

**Annex D to the ICE eConfirm 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 D to the ICE eConfirm Agreement as published by ICE eConfirm, LLC ("ICE eConfirm"), as amended from time to time ("Annex D") 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 D.

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

Yours faithfully,

*[Legal Name of Participant]*

## ANNEX E – ADDITIONAL TERMS FOR THIRD PARTY REPORTERS

If Participant submits Trades to the ICE eConfirm Service on behalf of a trading platform or one or more counterparties to a Trade and is neither a counterparty nor an Investment Manager (as defined in Annex I) with respect to such Trades (such Participant, a “Third Party Reporter”), the following terms shall supplement, amend and be incorporated into and form part of the ICE eConfirm Agreement and, in the event of conflict with any other terms of the ICE eConfirm Agreement, shall prevail over such terms.

### **THIRD PARTY REPORTER TERMS**

This Annex shall amend and supplement the ICE eConfirm Agreement with respect to Third Party Reporters as Participants, as follows:

1. **First paragraph.** The first paragraph to the ICE eConfirm Agreement shall be amended by adding the following before the last sentence:

“Participant is the Third Party Reporter for each of the entities listed in Exhibit 1 to this Annex E (as amended from time to time pursuant to Section 3(m) below), each of which is a “Client” of the Third Party Reporter.”
2. **Section 3. Participant’s Representations, Warranties and Covenants.** The following paragraphs shall be added as sections 3(l) and 3(m) of the ICE eConfirm Agreement:
  - (l) Participant has been duly granted authority enabling it to act on each Client’s behalf pursuant to this ICE eConfirm Agreement, and Participant has full power and legal authority, on each Client’s behalf and for each Client’s account, to use the ICE eConfirm Service and to accept (and, if appropriate, revoke) Annex D.
  - (m) Exhibit 1 to this Annex E contains a list of the Clients for which Participant will be using the ICE eConfirm Service. Exhibit 1 includes each Client’s full legal name and Legal Entity Identifier. Participant will promptly update or modify the information contained in Exhibit 1 from time to time as necessary so that the information contained in Exhibit 1 remains current by delivering to ICE eConfirm at [econfirmSupport@theice.com](mailto:econfirmSupport@theice.com) a revised version of Exhibit 1 that includes all information required by this Section 3(m). The representations and warranties contained in Section 3(l) above shall be deemed repeated by Participant on each date on which Participant delivers a revised Exhibit 1 to ICE eConfirm.”
3. **Section 6. Limitation of Liability.** Section 6(b) shall be amended by deleting in the sixth line thereof “and (ii)” and replacing it with the following:

“(ii) any act or omission by Participant that is outside the scope of the authority granted by a Client; and (iii)”
4. **Section 7. Confidentiality.** Section 7(b) shall be amended by adding “Clients”, in subsection (vi) thereof between “will not identify Participant,” and “or, if applicable, Broker”.
5. **Section 9. No Third Party Beneficiary.** Section 9 shall be amended by deleting the parenthetical in the fifth line altogether and replacing it with “(whether a Participant, a Client of a Participant or a Broker)”.
6. **Annex D.** Annex D shall be amended as follows:
  - a. The following shall be added before Section I. Purpose:

“Capitalized terms used in this Annex D without definition have the meanings given to such terms in the ICE eConfirm Agreement and ICE eConfirm Confirmation Procedures Guide, except that references to “Participant” in this Annex D (and solely for purposes of this Annex D) refer to the Client that is a party to the relevant Covered Master Agreement(s) (as defined below).”
  - b. **Section I. Purpose.** Paragraph D. of Section I shall be deleted in its entirety.

- c. **Section II. The recitals** shall be amended as follows:

The word “Participant” found at the beginning of each of the first, second and third paragraphs of the Recitals shall be replaced with “Third Party Reporter”.

The word “Participant” found at the beginning of the fourth paragraph of the Recitals shall be replaced with “Third Party Reporter acting on Participant’s behalf”.

- d. **Section III. Procedure for Accepting Annex D** shall be amended as follows:

Paragraph A shall be amended by deleting the term “Participant” and replacing it with “Participant’s Third Party Reporter, acting on Participant’s behalf”.

Paragraph E shall be amended by adding after the word “Participant” in the first line thereof “or its Third Party Reporter, acting on Participant’s behalf”.

- e. **Section V. Limited Right to Revoke Annex D** shall be amended as follows:

Paragraph A shall be amended by adding after the word “Participant” in the first line thereof “or its Third Party Reporter, acting on Participant’s behalf”.

Paragraph C shall be amended by adding after the word “Participant” in the first line thereof “or its Third Party Reporter, acting on Participant’s behalf”.



In consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties below covenant and agree to the terms set out in the ICE eConfirm Agreement as supplemented and amended by this Annex E.

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

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

**ICE eConfirm, LLC**

5660 New Northside Drive NW, 3<sup>rd</sup> Floor  
Atlanta, Georgia 30328, USA

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

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

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

**Participant User Administrator for ICE eConfirm:**

*(Required to gain access to the ICE eConfirm Service)*

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

**EXHIBIT 1 TO ANNEX E - LIST OF THIRD PARTY REPORTER'S CLIENTS**

FULL LEGAL NAME OF CLIENT	LEGAL ENTITY IDENTIFIER

## **ANNEX F - ICE eCONFIRM TRADE VAULT REPORTING CONNECTIVITY**

ICE eConfirm Trade Vault Reporting Connectivity is a proprietary connectivity and electronic messaging system that provides two-way communication of ICE eConfirm Service Data in respect of certain trade data to ICE Trade Vault, LCC (“ICE Trade Vault”) for the purpose of meeting a Participant’s regulatory reporting obligations as required under Applicable Law. The term “ICE eConfirm Trade Vault Reporting Connectivity” includes all written documentation and specifications related thereto.

This Annex F (a) addresses Participant’s access to additional functionality available within the ICE eConfirm Service for the purpose of submitting Participant’s ICE eConfirm Reporting Service Data to an electronic platform (the “ICE Trade Vault Platform”) for the collection, storage and regulatory reporting of a comprehensive range of trade data in respect of swaps or mixed swaps that have been approved by relevant governmental authorities for reporting to ICE Trade Vault (the “ICE SDR Service”), and (b) establishes the authority for ICE eConfirm Trade Vault Reporting Connectivity to provide the Participant’s ICE eConfirm Service Data to ICE Trade Vault in connection with the ICE SDR Service. This Annex F supplements the ICE eConfirm Agreement by setting forth the terms governing Participant’s use of and access to the ICE eConfirm Trade Vault Reporting Connectivity. Unless amended in this Annex F, all terms and conditions contained in the ICE eConfirm Agreement shall remain in effect.

### **ICE’s Provision of TRADE VAULT Reporting Connectivity**

- a. If Participant indicates when submitting Trade Data to the ICE eConfirm Service, that the Trade details are to be automatically reported to the ICE SDR Service, Participant hereby authorizes ICE eConfirm Trade Vault Reporting Connectivity to act on Participant’s behalf in reporting such Trade details (the “ICE SDR Service Data”).
- b. Participant understands that ICE eConfirm Trade Vault Reporting Connectivity will only report the Trade details required under Applicable Law. Participant agrees to comply with its obligations under Applicable Law to verify the ICE SDR Service Data submitted to the ICE SDR Service on its behalf by ICE eConfirm Trade Vault Reporting Connectivity. Participant further agrees that it will report to ICE Trade Vault 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.

### **1. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY; INDEMNITY**

a) PARTICIPANT ACKNOWLEDGES, UNDERSTANDS AND ACCEPTS THAT NEITHER ICE NOR ICE TRADE VAULT MAKES ANY WARRANTY WHATSOEVER TO PARTICIPANT AS TO THE ICE eCONFIRM TRADE VAULT REPORTING CONNECTIVITY, EXPRESS OR IMPLIED, AND THAT THE ICE eCONFIRM TRADE VAULT REPORTING CONNECTIVITY IS PROVIDED ON AN “AS IS” BASIS AT PARTICIPANT’S SOLE RISK. BOTH ICE AND ICE TRADE VAULT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ICE, ICE TRADE VAULT AND THEIR RESPECTIVE MANAGERS, OFFICERS, AFFILIATES, SUBSIDIARIES, SHAREHOLDERS, EMPLOYEES OR AGENTS MAKE NO WARRANTY WITH RESPECT TO, AND NO SUCH PARTY SHALL HAVE ANY LIABILITY TO PARTICIPANT FOR, (i) THE ACCURACY, TIMELINESS, COMPLETENESS, RELIABILITY, PERFORMANCE OR CONTINUED AVAILABILITY OF THE ICE eCONFIRM TRADE VAULT REPORTING CONNECTIVITY, OR (ii) DELAYS, OMISSIONS OR INTERRUPTIONS THEREIN. ICE SHALL HAVE NO DUTY OR OBLIGATION TO VERIFY ANY INFORMATION SUBMITTED TO OR DISPLAYED VIA THE ICE SDR SERVICE. PARTICIPANT ACKNOWLEDGES AND AGREES THAT ICE IS NOT AN ADVISOR OR FIDUCIARY OF PARTICIPANT. WITHOUT LIMITATION OF THE FOREGOING, PARTICIPANT ACKNOWLEDGES, AGREES AND ACCEPTS THAT ICE SHALL HAVE NO LIABILITY OR RESPONSIBILITY WHATSOEVER FOR ANY MATTERS RELATED TO PARTICIPANT’S RELATIONSHIP OR DEALINGS WITH ICE TRADE VAULT, INCLUDING BUT NOT LIMITED TO THE ACCURACY OF ANY INFORMATION SUBMITTED BY ICE ON THE PARTICIPANT’S BEHALF TO ICE TRADE VAULT IN CONNECTION WITH PARTICIPANT’S USE OF THE ICE SDR SERVICE, ALL OF WHICH SHALL BE THE SOLE RESPONSIBILITY OF PARTICIPANT.

b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER ICE NOR ICE TRADE VAULT SHALL BE RESPONSIBLE OR LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER LOSSES OR DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, LOSS OF BUSINESS, USE, DATA OR OTHER INTANGIBLE DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE AND STRICT LIABILITY) OR OTHER LEGAL THEORY, HOWSOEVER CAUSED, ARISING OUT OF OR RELATING IN ANY WAY TO ICE eCONFIRM TRADE VAULT REPORTING CONNECTIVITY AND/OR PARTICIPANT'S USE OF, OR INABILITY TO USE, OR RELIANCE ON, THE ICE eCONFIRM TRADE VAULT REPORTING CONNECTIVITY.

c) With respect to Participant's use of the ICE eConfirm Trade Vault Reporting Connectivity, Participant agrees that it shall indemnify, protect, and hold harmless ICE, its directors, officers, affiliates, employees and agents, from and against any and all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, or costs (including attorneys' fees) resulting from or arising out of any act or omission by any person obtaining access to the ICE eConfirm Trade Vault Reporting Connectivity (other than through the fault or negligence of ICE), whether or not Participant has authorized such access.

d) Participant acknowledges and agrees that any and all information submitted by Participant to ICE Trade Vault utilizing the ICE eConfirm Trade Vault Reporting Connectivity may be disclosed to applicable regulators or other entities, including but not limited to relevant derivatives clearing organizations, as reasonably necessary to satisfy applicable regulatory reporting obligations.

e) Notwithstanding anything to the contrary in the ICE eConfirm Service Agreement, in no event shall ICE's aggregate liability to the Participant or any other person or entity for damages under any provision of this Annex F, and regardless of the form of action, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed ten thousand dollars (\$10,000). The foregoing limitations shall apply even if the Participant's remedies under this Annex F fail of their essential purpose.

2. **DISPUTE RESOLUTION.** Any dispute, claim or controversy between the parties relating to or in connection with ICE's provision of, and Participant's use of and access to, the ICE eConfirm Trade Vault Reporting Connectivity 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. This arbitration clause only applies to ICE and the Participant solely with respect to the ICE eConfirm Trade Vault Reporting Connectivity and does not apply to any disputes arising between a Participant and ICE Trade Vault, which shall be resolved in accordance with Section 14 of the ICE Trade Vault Agreement, or any other disputes between parties other than ICE and the Participant. Notwithstanding the foregoing, each party acknowledges that a breach of the terms of this Annex F 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 Participant 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.
3. **ICE AS THIRD-PARTY BENEFICIARY.** Participant acknowledges and agrees that ICE is a third-party beneficiary of the terms of this Annex F.