

## RIGHTS AND OBLIGATIONS OF MEMBERS, AUTHORIZED PERSONS AND CLIENTS

### As prescribed by FMC and Commodity Exchanges

1. The client shall invest/trade in those commodities /contracts/other instruments admitted to dealings on the Exchanges as defined in the Rules, Byelaws and Business Rules/ Regulations of Exchanges/ Forward Markets Commission (FMC) and circulars/notices issued there under from time to time.
  2. The Member, Authorized Person and the client shall be bound by all the Rules, Byelaws and Business Rules of the Exchange and circulars/notices issued there under and Rules and Regulations of FMC and relevant notifications of Government authorities as may be in force from time to time.
  3. The client shall satisfy himself of the capacity of the Member to deal in commodities and/or deal in derivatives contracts and wishes to execute its orders through the Member and the client shall from time to time continue to satisfy itself of such capability of the Member before executing orders through the Member.
  4. The Member shall continuously satisfy itself about the genuineness and financial soundness of the client and investment objectives relevant to the services to be provided.
  5. The Member shall take steps to make the client aware of the precise nature of the Member's liability for business to be conducted, including any limitations, the liability and the capacity in which the Member acts.
  6. Requirements of professional diligence
    - a. The Member must exercise professional diligence while entering into a financial contract or discharging any obligations under it.
    - b. "professional diligence" means the standard of skill and care that a Member would be reasonably expected to exercise towards a Client, commensurate with.
      - i. honest market practice;
      - ii. the principle of good faith;
      - iii. the level of knowledge, experience and expertise of the Client;
      - iv. the nature and degree of risk embodied in the financial product\* or financial service being availed by the Client; and
      - v. the extent of dependence of the Client on the Member.
- \*Commodity derivative contract
7. The Authorized Person shall provide necessary assistance and co-operate with the Member in all its dealings with the client(s).

### CLIENT INFORMATION

8. The client shall furnish all such details in full as are required by the Member in "Account Opening Form" with supporting details, made mandatory by commodity exchanges/FMC from time to time.
  9. The client shall familiarize himself with all the mandatory provisions in the Account Opening documents. Any additional clauses or documents specified by the Member shall be non-mandatory; therefore, subject to specific acceptance by the client.
  10. The client shall immediately notify the Member in writing if there is any change in the information in the 'account opening form' as provided at the time of account opening and thereafter; including the information on winding up petition/insolvency petition or any litigation which may have material bearing on his capacity. The client shall provide/update the financial information to the Member on a periodic basis.
  - 11. A. Protection from unfair terms in financial contracts\*\***
    - a. An unfair term of a non-negotiated contract will be void.
    - b. A term is unfair if it –
      - i. causes a significant imbalance in the rights and obligations of the parties under the financial contract, to the detriment of the Client; and
      - ii. is not reasonably necessary to protect the legitimate interests of the Member.
    - c. The factors to be taken into account while determining whether a term is unfair, include –
      - i. the nature of the financial product or financial service dealt with under the financial contract;
      - ii. the extent of transparency of the term;
- \*\*contracts offered by commodity exchanges
- iii. the extent to which the term allows a Client to compare it with other financial contracts for similar financial products or financial services; and
  - iv. the financial contract as a whole and the terms of any other contract on which it is dependent.
  - d. A term is transparent if it –

- i. is expressed in reasonably plain language that is likely to be understood by the Client;
  - ii. is legible and presented clearly; and
  - iii. is readily available to the Client affected by the term.
- e. If a term of a financial contract is determined to be unfair under point 11.A.c, the parties will continue to be bound by the remaining terms of the financial contract to the extent that the financial contract is capable of enforcement without the unfair term.
11. B. a. “Non-negotiated contract” means a contract whose terms, other than the terms contained in point 11.C. (given below) are not negotiated between the parties to the financial contract and includes –
- i. a financial contract in which, relative to the Client, the Member has a substantially greater bargaining power in determining terms of the financial contract; and
  - ii. a standard form contract.
- b. “Standard form contract” means a financial contract that is substantially not negotiable for the Client, except for the terms contained in point 11.C.
- c. Even if some terms of a financial contract are negotiated in form, the financial contract may be regarded as a non-negotiated contract if so indicated by –
- i. an overall and substantial assessment of the financial contract; and
  - ii. the substantial circumstances surrounding the financial contract
- d. In a claim that a financial contract is a non-negotiated contract, the onus of demonstrating otherwise will be on the Member.
11. C. a. The above does not apply to a term of a financial contract if it –
- i. defines the subject matter of the financial contract;
  - ii. sets the price that is paid, or payable, for the provision of the financial product or financial service under the financial contract and has been clearly disclosed to the Client; or
  - iii. is required, or expressly permitted, under any law or regulations.
- b. The exemption under point 11.C does not apply to a term that deals with the payment of an amount which is contingent on the occurrence or non-occurrence of any particular event.
12. The Member and Authorized Person shall maintain all the details of the client as mentioned in the account opening form or any other information pertaining to the client, confidentially and that they shall not disclose the same to any person/authority except as required under any law/regulatory requirements. Provided however that the Member may so disclose information about his client to any person or authority with the express permission of the client.
13. A. Protection of personal information and confidentiality
- a. “Personal information” means any information that relates to a Client or allows a Client’s identity to be inferred, directly or indirectly, and includes –
- i. name and contact information;
  - ii. biometric information, in case of individuals
  - iii. information relating to transactions in, or holdings of, financial products
  - iv. information relating to the use of financial services; or
  - v. such other information as may be specified.
13. B. a. A Member must –
- i. not collect personal information relating to a Client in excess of what is required for the provision of a financial product or financial service;
  - ii. maintain the confidentiality of personal information relating to Clients and not disclose it to a third party, except in a manner expressly permitted under point 13.B.b.;
  - iii. make best efforts to ensure that any personal information relating to a Client that it holds is accurate, up to date and complete;
  - iv. ensure that Clients can obtain reasonable access to their personal information, subject to any exceptions that the Regulator may specify; and
  - v. allow Clients an effective opportunity to seek modifications to their personal information to ensure that the personal information held by the Member is accurate, up to date and complete.
- b. A Member may disclose personal information relating to a Client to a third party only if –
- i. it has obtained prior written informed consent of the Client for the disclosure, after giving the Client an effective opportunity to refuse consent;
  - ii. the Client has directed the disclosure to be made;
  - iii. the Regulator has approved or ordered the disclosure, and unless prohibited by the relevant law or regulations, the Client is given an opportunity to represent under such law or regulations against such disclosure;
  - iv. the disclosure is required under any law or regulations, and unless prohibited by such law or regulations, the Client is given an opportunity to represent under such law or regulations against such disclosure;
  - v. the disclosure is directly related to the provision of a financial product or financial service to the Client, if the Member
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1. informs the Client in advance that the personal information may be shared with a third party; and
  2. makes arrangements to ensure that the third party maintains the confidentiality of the personal information in the same manner as required under this Part; or
  - vi. the disclosure is made to protect against or prevent actual or potential fraud, unauthorised transactions or claims, if the Member arranges with the third party to maintain the confidentiality of the personal information in the manner required under this Part.-
  - c. "Third party" means any person other than the concerned Member, including a person belonging to the same group as the Member.
14. A Requirement of fair disclosure both initially and on continuing basis
- a. Member must ensure fair disclosure of information that is likely to be required by a Client to make an informed transactional decision.
  - b. In order to constitute fair disclosure, the information must be provided –
    - i. sufficiently before the Client enters into a financial contract, so as to allow the Client reasonable time to understand the information;
    - ii. in writing and in a manner that is likely to be understood by a Client belonging to a particular category; and
    - iii. in a manner that enables the Client to make reasonable comparison of the financial product or financial service with other similar financial products or financial services.
  - c. The types of information that must be disclosed to a Client in relation to a financial product or financial service, which may include information regarding –
    - i. main characteristics of the financial product or financial service, including its features, benefits and risks to the Client;
    - ii. consideration to be paid for the financial product or financial service or the manner in which the consideration is calculated;
    - iii. existence, exclusion or effect of any term in the financial product or financial contract;
    - iv. nature, attributes and rights of the Member, including its identity, regulatory status and affiliations;
    - v. contact details of the Member and the methods of communication to be used between the Member and the Client;
    - vi. rights of the Client to rescind a financial contract within a specified period; or
    - vii. rights of the Client under any law or regulations.
14. B. a. Member must provide a Client that is availing a financial product or financial service provided by it, with the following continuing disclosures –
  - i. any material change to the information that was required to be disclosed under point 14.A at the time when the Client initially availed the financial product or financial service;
  - ii. information relating to the status or performance of a financial product held by the Client, as may be required to assess the rights or interests in the financial product or financial service; and
  - iii. any other information that may be specified.
- b. A continuing disclosure must be made –
  - i. within a reasonable time-period from the occurrence of any material change or at reasonable periodic intervals , as applicable; and
  - ii. in writing and in a manner that is likely to be understood by a Client belonging to that category.

## **MARGINS**

15. The client shall pay applicable initial margins, withholding margins, special margins or such other margins as are considered necessary by the Member or the Exchange or as may be directed by FMC from time to time as applicable to the segment(s) in which the client trades. The Member is permitted in its sole and absolute discretion to collect additional margins (even though not required by the Exchange or FMC) and the client shall be obliged to pay such margins within the stipulated time.

16. The client understands that payment of margins by the client does not necessarily imply complete satisfaction of all dues. In spite of consistently having paid margins, the client may, on the settlement of its trade, be obliged to pay (or entitled to receive) such further sums as the contract may dictate/require.

## **TRANSACTIONS AND SETTLEMENTS**

17. The client shall give any order for buy or sell of commodities derivatives contract in writing or in such form or manner, as may be mutually agreed between the client and the Member however ensuring the regulatory requirements in this regard are complied with. The Member shall ensure to place orders and execute the trades of the client, only in the Unique Client Code assigned to that client.

18. The Member shall inform the client and keep him apprised about trading/settlement cycles, delivery/payment schedules, any changes therein from time to time, and it shall be the responsibility in turn of the client to comply with such schedules/procedures of the relevant commodity exchange where the trade is executed.

19. The Member shall ensure that the money deposited by the client shall be kept in a separate account, distinct from his/its own account or account of any other client and shall not be used by the Member for himself/itself or for any

other client or for any purpose other than the purposes mentioned in Rules, circulars, notices, guidelines of FMC and/or Rules, Business Rules, Bye-laws, circulars and notices of Exchange.

20. Where the Exchange(s) cancels trade(s) suo moto all such trades including the trade/s done on behalf of the client shall ipso facto stand cancelled, Member shall be entitled to cancel the respective contract(s) with client(s).

21. The transactions executed on the Exchange are subject to Rules, Byelaws and Business Rules and circulars/notices issued thereunder of the Exchanges where the trade is executed and all parties to such trade shall have submitted to the jurisdiction of such court as may be specified by the Byelaws and Business Rules of the Exchanges where the trade is executed for the purpose of giving effect to the provisions of the Rules, Byelaws and Business Rules of the Exchanges and the circulars/notices issued thereunder.

#### **BROKERAGE**

22. The Client shall pay to the Member brokerage and statutory levies as are prevailing from time to time and as they apply to the Client's account, transactions and to the services that Member renders to the Client. The Member shall not charge brokerage more than the maximum brokerage permissible as per the Rules, Business Rules and Bye-laws of the relevant commodity exchanges and/or Rules of FMC.

#### **LIQUIDATION AND CLOSE OUT OF POSITION**

23. Without prejudice to the Member's other rights (including the right to refer a matter to arbitration), the client understands that the Member shall be entitled to liquidate/close out all or any of the client's positions for non-payment of margins or other amounts, outstanding debts, etc. and adjust the proceeds of such liquidation/close out, if any, against the client's liabilities/obligations. Any and all losses and financial charges on account of such liquidation/closing-out shall be charged to and borne by the client.

24. In the event of death or insolvency of the client or his/its otherwise becoming incapable of receiving and paying for or delivering or transferring commodities which the client has ordered to be bought or sold, Member may close out the transaction of the client and claim losses, if any, against the estate of the client. The client or his nominees, successors, heirs and assignee shall be entitled to any surplus which may result there from. The client shall note that transfer of funds/commodities in favor of a Nominee shall be valid discharge by the Member against the legal heir.

#### **DISPUTE RESOLUTION**

25. The Member shall co-operate in redressing grievances of the client in respect of all transactions routed through it.

26. The client and the Member shall refer any claims and/or disputes with respect to deposits, margin money, etc., to arbitration as per the Rules, Byelaws and Business Rules of the Exchanges where the trade is executed and circulars/notices issued thereunder as may be in force from time to time.

27. The client/Member understands that the instructions issued by an authorized representative for dispute resolution, if any, of the client/Member shall be binding on the client/Member in accordance with the letter authorizing the said representative to deal on behalf of the said client/Member.

28. Requirement for each Member to have an effective grievance redress mechanism which is accessible to all its Clients

a. A Member must have in place an effective mechanism to receive and redress complaints from its Clients in relation to financial products or financial services provided by it, or on its behalf, in a prompt and fair manner.

b. A Member must inform a Client, at the commencement of relationship with the Client and at such other time when the information is likely to be required by the Client, of –

i. the Client's right to seek redress for any complaints; and

ii. the processes followed by the Member to receive and redress complaints from its Clients.

29. A. Suitability of advice for the Client Right to receive advice that is suitable taking into account the relevant personal circumstances of the Client, such as the Client's financial circumstances and needs. This obligation would apply to persons who render advice to Clients and the regulator may specify categories of financial products and service that necessarily require such advice to be given.

a. A Member must –

i. make all efforts to obtain correct and adequate information about the relevant personal circumstances of a Client; and

ii. ensure that the advice given is suitable for the Client after due consideration of the relevant personal circumstances of the Client.

b. If it is reasonably apparent to the Member that the available information regarding the relevant personal circumstances of a Client is incomplete or inaccurate, the Member must warn the Client of the consequences of proceeding on the basis of incomplete or inaccurate information.

c. If a Client intends to avail of a financial product or financial service that the Member determines unsuitable for the Client, the Member –

i. must clearly communicate its advice to the Client in writing and in a manner that is likely to be understood by the Client; and

ii. may provide the financial product or financial service requested by the Client only after complying with point

29.A.a and obtaining a written acknowledgement from the Client.

30. Dealing with conflict of interest

In case of any conflict between the interests of a Client and that of the Member, preference must be given to the Client interests.

a. A member must –

i. provide a Client with information regarding any conflict of interests, including any conflicted remuneration that the Member has received or expects to receive for making the advice to the Client; and

ii. give priority to the interests of the Client if the Member knows, or reasonably ought to know, of a conflict between –

1. its own interests and the interests of the Client; or

2. the interests of the concerned Member and interests of the Client, in cases where the Member is a financial representative.

b. The information under point 16a.i. must be given to the Client in writing and in a manner that is likely to be understood by the Client and a written acknowledgement of the receipt of the information should be obtained from the Client.

c. In this section, “conflicted remuneration” means any benefit, whether monetary or non-monetary, derived by a Member from persons other than Clients, that could, under the circumstances, reasonably be expected to influence the advice given by the Member to a Client.

#### **TERMINATION OF RELATIONSHIP**

31. This relationship between the Member and the client shall be terminated; if the Member for any reason ceases to be a member of the commodity exchange including cessation of membership by reason of the Member's default, death, resignation or expulsion or if the certificate is cancelled by the Exchange.

32. The Member, Authorized Person and the client shall be entitled to terminate the relationship between them without giving any reasons to the other party, after giving notice in writing of not less than one month to the other parties.

Notwithstanding any such termination, all rights, liabilities and obligations of the parties arising out of or in respect of transactions entered into prior to the termination of this relationship shall continue to subsist and vest in/be binding on the respective parties or his/its respective heirs, executors, administrators, legal representatives or successors, as the case may be.

33. In the event of demise/insolvency of the Authorized Person or the cancellation of his/its registration with the Board or/withdrawal of recognition of the Authorized Person by the commodity exchange and/or termination of the agreement with the Authorized Person by the Member, for any reason whatsoever, the client shall be informed of such termination and the client shall be deemed to be the direct client of the Member and all clauses in the ‘Rights and Obligations’ document(s) governing the Member, Authorized Person and client shall continue to be in force as it is, unless the client intimates to the Member his/its intention to terminate their relationship by giving a notice in writing of not less than one month.

#### **ADDITIONAL RIGHTS AND OBLIGATIONS**

34. The Member and client shall reconcile and settle their accounts from time to time as per the Rules, Business Rules, Bye Laws, Circulars, Notices and Guidelines issued by FMC and the relevant Exchanges where the trade is executed.

35. The Member shall issue a contract note to his clients for trades executed in such format as may be prescribed by the Exchange from time to time containing records of all transactions including details of order number, trade number, trade time, trade price, trade quantity, details of the derivatives contract, client code, brokerage, all charges levied etc. and with all other relevant details as required therein to be filled in and issued in such manner and within such time as prescribed by the Exchange. The Member shall send contract notes to the investors within 24 hours of the execution of the trades in hard copy and/or in electronic form using digital signature.

36. The Member shall make pay out of funds or delivery of commodities as per the Exchange Rules, Bye-Laws, Business Rules and Circulars, as the case may be, to the Client on receipt of the payout from the relevant Exchange where the trade is executed unless otherwise specified by the client and subject to such terms and conditions as may be prescribed by the relevant Exchange from time to time where the trade is executed.

37. The Member shall send a complete ‘Statement of Accounts’ for both funds and commodities in respect of each of its clients in such periodicity and format within such time, as may be prescribed by the relevant Exchange, from time to time, where the trade is executed. The Statement shall also state that the client shall report errors, if any, in the Statement immediately but not later than 30 calendar days of receipt thereof, to the Member. A detailed statement of accounts must be sent every month to all the clients in physical form. The proof of delivery of the same should be preserved by the Member.

38. The Member shall send margin statements to the clients on monthly basis. Margin statement should include, inter-alia, details of collateral deposited, collateral utilized and collateral status (available balance/due from client) with break up in terms of cash, Fixed Deposit Receipts (FDRs), Bank Guarantee, warehouse receipts, securities etc.

39. The Client shall ensure that it has the required legal capacity to, and is authorized to, enter into the relationship with Member and is capable of performing his obligations and undertakings hereunder. All actions required to be taken to ensure compliance of all the transactions, which the Client may enter into shall be completed by the Client prior to such transaction being entered into.

40. In case, where a member surrenders his/ her/ its membership, Member gives a public notice inviting claims, if any, from investors. In case of a claim relating to transactions executed on the trading system of the Exchange, ensure that client lodge a claim with the Exchange within the stipulated period and with the supporting documents.

41. A. Protection from unfair conduct which includes misleading conduct & abusive conduct

a. Unfair conduct in relation to financial products or financial services is prohibited.

b. "Unfair conduct" means an act or omission by a Member or its financial representative that significantly impairs, or is likely to significantly impair, the ability of a Client to make an informed transactional decision and includes –

i. misleading conduct under point 41.B

ii. abusive conduct under point 41.C

iii. such other conduct as may be specified.

41.B. a. Conduct of a Member or its financial representative in relation to a determinative factor is misleading if it is likely to cause the Client to take a transactional decision that the Client would not have taken otherwise, and the conduct involves –

i. providing the Client with inaccurate information or information that the Member or financial representative does not believe to be true; or

ii. providing accurate information to the Client in a manner that is deceptive.

b. In determining whether a conduct is misleading under point 41.B.a, the following factors must be considered to be "determinative factors" –

i. the main characteristics of a financial product or financial service, including its features, benefits and risks to the Client;

ii. the Client's need for a particular financial product or financial service or its suitability for the Client;

iii. the consideration to be paid for the financial product or financial service or the manner in which the consideration is calculated;

iv. the existence, exclusion or effect of any term in a financial contract, which is material term in the context of that financial contract;

v. the nature, attributes and rights of the Member, including its identity, regulatory status and affiliations; and

vi. the rights of the Client under any law or regulations.

41.C. a. A conduct of a Member or its financial representative in relation to a financial product or financial service is abusive if it –

i. involves the use of coercion or undue influence; and

ii. causes or is likely to cause the Client to take a transactional decision that the Client would not have taken otherwise.

b. In determining whether a conduct uses coercion or undue influence, the following must be considered –

i. the timing, location, nature or persistence of the conduct;

ii. the use of threatening or abusive language or behaviour;

iii. the exploitation of any particular misfortune or circumstance of the Client, of which the Member is aware to influence the Client's decision with regard to a financial product or financial service;

iv. any non-contractual barriers imposed by the Member where the Client wishes to exercise rights under a financial contract, including –

v. the right to terminate the financial contract;

vi. the right to switch to another financial product or another Member and

vii. a threat to take any action, depending on the circumstances in which the threat is made.

#### **ELECTRONIC CONTRACT NOTES (ECN)**

42. In case, client opts to receive the contract note in electronic form, he shall provide an appropriate e-mail id (created by the client) to the Member (Kindly refer Electronic Contract Note (ECN) Declaration). Member shall ensure that all the rules/Business Rule/Bye-Laws/ circulars issued from time to time in this regard are complied with. The client shall communicate to the Member any change in the email-id through a physical letter. If the client has opted for internet trading, the request for change of email id may be made through the secured access by way of client specific user id and password.

43. The Member shall ensure that all ECNs sent through the e-mail shall be digitally signed, encrypted, non-tamperable and in compliance with the provisions of the IT Act, 2000. In case, ECN is sent through e-mail as an attachment, the attached file shall also be secured with the digital signature, encrypted and non-tamperable.

44. The client shall note that non-receipt of bounced mail notification by the Member shall amount to delivery of the contract note at the e-mail ID of the client.

45. The Member shall retain ECN and acknowledgement of the e-mail in a soft and non-tamperable form in the manner prescribed by the exchange in compliance with the provisions of the IT Act, 2000 and as per the extant rules/circulars/guidelines issued by FMC/Commodity exchanges from time to time. The proof of delivery i.e., log report generated by the system at the time of sending the contract notes shall be maintained by the Member for the specified period under the extant rules/circulars/guidelines issued by FMC/Commodity exchanges. The log report shall provide the details of the contract notes that are not delivered to the client/e-mails rejected or bounced back. The Member

shall take all possible steps to ensure receipt of notification of bounced mails by him at all times within the stipulated time period under the extant rules/circulars/guidelines issued by FMC/Commodity exchanges.

46. The Member shall continue to send contract notes in the physical mode to such clients who do not opt to receive the contract notes in the electronic form. Wherever the ECNs have not been delivered to the client or has been rejected (bouncing of mails) by the e-mail ID of the client, the Member shall send a physical contract note to the client within the stipulated time under the extant Regulations/ Rules, Bye-Laws, Business Rules and Circulars of FMC/commodity exchanges and maintain the proof of dispatch and delivery of such physical contract notes.

47. In addition to the e-mail communication of the ECNs to the client, the Member shall simultaneously publish the ECN on his designated web-site, if any, in a secured way and enable relevant access to the clients and for this purpose, shall allot a unique user name and password to the client, with an option to the client to save the contract note electronically and/or take a print out of the same.

48. The Electronic Contract Note (ECN) declaration form will be obtained from the Client who opts to receive the contract note in electronic form. This declaration will remain valid till it is revoked by the client.

#### **LAW AND JURISDICTION**

49. In addition to the specific rights set out in this document, the Member, Authorised Person and the client shall be entitled to exercise any other rights which the Member or the client may have under the Rules, Bye-laws and Business Rules of the Exchanges in which the client chooses to trade and circulars/notices issued thereunder or Rules of FMC.

50. The provisions of this document shall always be subject to Government notifications, any rules, guidelines and circulars/notices issued by FMC and Circulars, Rules, Business Rules and Bye laws of the relevant commodity exchanges, where the trade is executed, that may be in force from time to time.

51. The Member and the client shall abide by any award passed by the Arbitrator(s) under the Arbitration and Conciliation Act, 1996. However, there is also a provision of appeal, if either party is not satisfied with the arbitration award.

52. Words and expressions which are used in this document but which are not defined herein shall, unless the context otherwise requires, have the same meaning as assigned thereto in the Rules, Byelaws and Regulations/Business Rules and circulars/notices issued thereunder of the Exchanges/FMC.

53. All additional voluntary/non-mandatory clauses/document added by the Member should not be in contravention with Rules/ Business Rules/Notices/Circulars of Exchanges/FMC. Any changes in such voluntary clauses/document(s) need to be preceded by a notice of 15 days. Any changes in the rights and obligations which are specified by Exchanges/FMC shall also be brought to the notice of the clients.

54. If the rights and obligations of the parties hereto are altered by virtue of change in Rules of FMC or Bye-laws, Rules and Business Rules of the relevant commodity exchanges where the trade is executed, such changes shall be deemed to have been incorporated herein in modification of the rights and obligations of the parties mentioned in this document.

55. Members are required to send account statement to their clients every month in physical form.

#### **INTERNET & WIRELESS TECHNOLOGY BASED TRADING FACILITY PROVIDED BY MEMBERS TO CLIENT**

**(All the clauses mentioned in the 'Rights and Obligations' document(s) shall be applicable. Additionally, the clauses mentioned herein shall also be applicable.)**

1. Member is eligible for providing Internet based trading (IBT) and commodities trading through the use of wireless technology that shall include the use of devices such as mobile phone, laptop with data card, etc. which use Internet Protocol (IP). The Member shall comply with all requirements applicable to internet based trading/- commodities trading using wireless technology as may be specified by FMC & the Exchanges from time to time.

2. The client is desirous of investing/trading in commodities and for this purpose, the client is desirous of using either the internet based trading facility or the facility for commodities trading through use of wireless technology. The Member shall provide the Member's IBT Service to the Client, and the Client shall avail of the Member's IBT Service, on and subject to FMC/Exchanges Provisions and the terms and conditions specified on the Member's IBT Web Site provided that they are in line with the norms prescribed by Exchanges/FMC.

3. The Member shall bring to the notice of client the features, risks, responsibilities, obligations and liabilities associated with commodities trading through wireless technology/internet or any other technology should be brought to the notice of the client by the Member.

4. The Member shall make the client aware that the Member's IBT system itself generates the initial password and its password policy as stipulated in line with norms prescribed by Exchanges/FMC.

5. The Client shall be responsible for keeping the Username and Password confidential and secure and shall be solely responsible for all orders entered and transactions done by any person whosoever through the Member's IBT System using the Client's Username and/or Password whether or not such person was authorized to do so. Also the client is aware that authentication technologies and strict security measures are required for the internet trading/ commodities trading through wireless technology through order routed system and undertakes to ensure that the password of the client and/or his authorized representative are not revealed to any third party including employees and dealers of the Member.

6. The Client shall immediately notify the Member in writing if he forgets his password, discovers security flaw in Member's IBT System, discovers/suspects discrepancies/ unauthorized access through his username/password/account with full details of such unauthorized use, the date, the manner and the transactions effected pursuant to such unauthorized use, etc.
7. The Client is fully aware of and understands the risks associated with availing of a service for routing orders over the internet/ commodities trading through wireless technology and Client shall be fully liable and responsible for any and all acts done in the Client's Username/password in any manner whatsoever.
8. The Member shall send the order/trade confirmation through email to the client at his request. The client is aware that the order/ trade confirmation is also provided on the web portal. In case client is trading using wireless technology, the Member shall send the order/trade confirmation on the device of the client.
9. The client is aware that trading over the internet involves many uncertain factors and complex hardware, software, systems, communication lines, peripherals, etc. are susceptible to interruptions and dislocations. The Member and the Exchange do not make any representation or warranty that the Member's IBT Service will be available to the Client at all times without any interruption.
10. The Client shall not have any claim against the Exchange or the Member on account of any suspension, interruption, non-availability or malfunctioning of the Member's IBT System or Service or the Exchange's service or systems or non-execution of his orders due to any link/system failure at the Client/Members/Exchange end for any reason beyond the control of the Member/Exchanges.



## RISK DISCLOSURE DOCUMENT

The Exchange does not expressly or impliedly, guarantee nor make any representation concerning the completeness, the adequacy or accuracy of this disclosure documents nor has the Exchange endorsed or passed any merits of participating in the Commodity Derivatives /trading. This brief statement does not disclose all of the risks and other significant aspects of trading. You should, therefore, study derivatives trading carefully before becoming involved in it. In the light of the risks involved, you should undertake transactions only if you understand the nature of the contractual relationship into which you are entering and the extent of your exposure to risk.

You must know and appreciate that investment in commodity futures contracts/ derivatives or other instruments traded on the Commodity Exchange(s), which have varying element of risk, is generally not an appropriate avenue for someone of limited resources/ limited investment and/ or trading experience and low risk tolerance. You should, therefore, carefully consider whether such trading is suitable for you in the light of your financial condition. In case, you trade on the Exchange and suffer adverse consequences or loss, you shall be solely responsible for the same and the Exchange shall not be responsible, in any manner whatsoever, for the same and it will not be open for you to take the plea that no adequate disclosure regarding the risks involved was made or that you were not explained the full risk involved by the concerned member. The Client shall be solely responsible for the consequences and no contract can be rescinded on that account.

You must acknowledge and accept that there can be no guarantee of profits or no exception from losses while executing orders for purchase and/or sale of a commodity derivatives being traded on the Exchange.

It must be clearly understood by you that your dealings on the Exchange through a member shall be subject to your fulfilling certain formalities set out by the member, which may, *inter alia*, include your filing the know your client form and are subject to Rules, Byelaws and Business Rules of the Exchange guidelines prescribed by SEBI from time to time and circulars as may be issued by the Exchange from time to time.

The Exchange does not provide or purport to provide any advice and shall not be liable to any person who enters into any business relationship with any member of the Exchange and/ or third party based on any information contained in this document. Any information contained in this document must not be construed as business advice/investment advice. No consideration to trade should be made without thoroughly understanding and reviewing the risks involved in such trading. If you are unsure, you must seek professional advice on the same.

In considering whether to trade, you should be aware of or must get acquainted with the following:-

### **1. Basic Risks involved in the trading of Commodity Futures Contracts and other Commodity Derivatives Instruments on the Exchange.**

#### **i. Risk of Higher Volatility**

Volatility refers to the dynamic changes in price that commodity derivative contracts undergo when trading activity continues on the Commodity Exchange. Generally, higher the volatility of a commodity derivatives contract, greater is its price swings. There may be normally greater volatility in thinly traded commodity derivatives contracts than in actively traded commodities/ contracts. As a result of volatility, your order may only be partially executed or not executed at all, or the price at which your order got executed may be substantially different from the last traded price or change substantially thereafter, resulting in real losses.

#### **ii. Risk of Lower Liquidity**

a. Liquidity refers to the ability of market participants to buy and/ or sell commodity derivative contract expeditiously at a competitive price and with minimal price difference. Generally, it is assumed that more the number of orders available in a market, greater is the liquidity. Liquidity is important because with greater liquidity, it is easier for investors to buy and/ or sell commodity derivatives contracts swiftly and with minimal price difference and as a result, investors are more likely to pay or receive a competitive price for commodity derivative contracts purchased or sold. There may be a risk of lower liquidity in some commodity derivative contracts as compared to active commodity derivative contracts. As a result, your order may only be partially executed, or may be executed with relatively greater price difference or may not be executed at all.

b. Buying/ Selling without intention of giving and/ or taking delivery of certain commodities may also result into losses, because in such a situation, commodity derivative contracts may have to be squared-off at a low/ high prices, compared to the expected price levels, so as not to have any obligation to deliver/ receive such commodities.

#### **iii. Risk of Wider Spreads**

a. Spread refers to the difference in best buy price and best sell price. It represents the differential between the price of buying a commodity derivative and immediately selling it or *vice versa*. Lower liquidity and higher volatility may result in wider than normal spreads for less liquid or illiquid commodities/ commodity derivatives contracts. This in turn will hamper better price formation.

#### **iv. Risk-reducing orders**

a. Most of the Exchanges have a facility for investors to place "limit orders", "stop loss orders" etc. Placing of such orders (e.g. "stop loss" orders or "limit" orders) which are intended to limit losses to certain amounts may not be effective many a time because rapid movement in market conditions may make it impossible to execute such orders.

b. A "market" order will be executed promptly, subject to availability of orders on opposite side, without regard to price and that while the customer may receive a prompt execution of a "market" order, the execution may be at available prices of outstanding orders, which satisfy the order quantity, on price time priority. It may be understood that these prices may be significantly different from the last traded price or the best price in that commodity derivatives contract.

c. A "limit" order will be executed only at the "limit" price specified for the order or a better price. However, while the client received price protection, there is a possibility that the order may not be executed at all.

d. A stop loss order is generally placed "away" from the current price of a commodity derivatives contract, and such order gets activated if and when the contract reaches, or trades through, the stop price. Sell stop orders are entered ordinarily below the current price, and buy stop orders are entered ordinarily above the current price. When the contract approaches pre-determined price, or trades through such price, the stop loss order converts to a market/limit order and is executed at the limit or better. There is no assurance therefore that the limit order will be executable since a contract might penetrate the pre-determined price, in which case, the risk of such order not getting executed arises, just as with a regular limit order.

#### **v. Risk of News Announcements**

a. Traders/Manufacturers make news announcements that may impact the price of the commodities and/or commodity derivatives contracts. These announcements may occur during trading and when combined with lower liquidity and higher volatility may suddenly cause an unexpected positive or negative movement in the price of the commodity/ commodity derivatives contract.

#### **vi. Risk of Rumours**

a. Rumours about the price of a commodity at times float in the market through word of mouth, newspaper, websites or news agencies, etc., the investors should be wary of and should desist from acting on rumours.

#### **vii. System Risk**

a. High volume trading will frequently occur at the market opening and before market close. Such high volumes may also occur at any point in the day. These may cause delays in order execution or confirmation.

b. During periods of volatility, on account of market participants continuously modifying their order quantity or prices or placing fresh orders, there may be delays in execution of order and its confirmation.

c. Under certain market conditions, it may be difficult or impossible to liquidate a position in the market at a reasonable price or at all, when there are no outstanding orders either on the buy side or the sell side, or if trading is halted in a commodity due to any action on account of unusual trading activity or price hitting circuit filters or for any other reason.

#### **viii. System/ Network Congestion**

a. Trading on the Exchange is in electronic mode, based on satellite/ leased line communications, combination of technologies and computer systems to place and route orders. Thus, there exists a possibility of communication failure or system problems or slow or delayed response from system or trading halt, or any such other problem/glitch whereby not being able to establish access to the trading system/network, which may be beyond the control of and may result in delay in processing or not processing buy or sell orders either in part or in full. You are cautioned to note that although these problems may be temporary in nature, but when you have outstanding open positions or unexecuted orders, these represent a risk because of your obligations to settle all executed transactions.

**2. As far as Futures Commodity Derivatives are concerned, please note and get yourself acquainted with the following additional features:-**

##### **2.1 Effect of "Leverage" or "Gearing":**

a. The amount of margin is small relative to the value of the commodity derivatives contract so the transactions are 'leveraged' or 'geared'. Commodity Derivatives trading, which is conducted with a relatively small amount of margin, provides the possibility of great profit or loss in comparison with the principal investment amount. But transactions in commodity derivatives carry a high degree of risk. You should therefore completely understand the following statements before actually trading in commodity derivatives contracts and also trade with caution while taking into account one's circumstances, financial resources, etc.

b. Trading in Futures Commodity Derivatives involves daily settlement of all positions. Every day the open positions are marked to market based on the closing price. If the closing price has moved against you, you will be required to deposit

the amount of loss (notional) resulting from such movement. This margin will have to be paid within a stipulated time frame, generally before commencement of trading on the next day.

c. If you fail to deposit the additional margin by the deadline or if an outstanding debt occurs in your account, the Member of the Exchange may liquidate/square-up a part of or the whole position. In this case, you will be liable for any losses incurred due to such square-up/ Close Outs.

d. Under certain market conditions, an Investor may find it difficult or impossible to execute the transactions. For example, this situation can occur due to factors such as illiquidity i.e. when there are insufficient bids or offers or suspension of trading due to price limit or circuit breakers etc.

e. Steps, such as, changes in the margin rate, increase in the cash margin rate etc. may be adopted in order to maintain market stability. These new measures may be applied to the existing open interests. In such conditions, you will be required to put up additional margins or reduce your positions.

f. You must ask your Member of the Exchange to provide the full details of the commodity derivatives contracts you plan to trade i.e. the contract specifications and the associated obligations.

### **3. TRADING THROUGH WIRELESS TECHNOLOGY OR ANY OTHER TECHNOLOGY:**

Any additional provisions defining the features, risks, responsibilities, obligations and liabilities associated with commodities trading through wireless technology or any other technology should be brought to the notice of the client by the member.

## **4. General**

### **i. Deposited cash and property:**

You should familiarize yourself with the protections accorded to the money or other property you deposit particularly in the event of a firm become insolvent or bankrupt. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property, which has been specifically identifiable as your own, will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall. In case of any dispute with the Member of the Exchange, the same shall be subject to arbitration as per the Rules, Bye-laws and Business Rules of the Exchange.

### **ii. Commission and other charges:**

Before you begin to trade, you should obtain a clear explanation of all commissions, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

**iii.** For rights and obligations of the Members/Authorised Persons/ clients, please refer to *Annexure 3*

**iv.** The term 'Constituent' shall mean and include a Client, a Customer or an Investor, who deals with a member for the purpose of trading in the commodity derivatives through the mechanism provided by the Exchange.

**v.** The term 'member' shall mean and include a Trading Member or a Member/Broker, who has been admitted as such by the Exchange and got a registration certificate from SEBI.

## THE MEMBER AND CONSTITUENT AGREEMENT

This agreement ("Agreement") is made at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ by and between Indiabulls Commodities Limited, a company duly formed and registered under the Companies Act, 1956, having its registered office at M-62 & 63, First Floor, Connaught Place New Delhi -110001 and registered member of the commodity exchange(s), (hereinafter called "**Member**")

**And**

\_\_\_\_\_, a Company/trust/firm/co-operative society any other body duly formed and registered under the \_\_\_\_\_ Act, having its registered office at \_\_\_\_\_, \_\_\_\_\_ an individual, currently residing at \_\_\_\_\_ (hereinafter referred to as the "**Constituent**")

### Whereas:-

1. The Member is registered as Trading and Clearing Member of NCDEX (National Commodities and Derivatives Exchange Limited) /MCX (Multi Commodities Exchange of India Limited) and such other Commodities Exchange(s), if any, of which the Member becomes a Member and over which the Member agrees to offer its services to the Constituent, (hereinafter referred to as the "Exchange(s)").
2. The Constituent is registered with the Member and has read, understood and agreed to the General Terms and Conditions attached as Annexure herein, with the Member on the terms and conditions set out therein. The provisions of this Agreement are subject to, and are without prejudice to, the "General Terms and Conditions". The general terms and conditions are to be treated as a part of this Agreement.
3. **Interpretation:** Words and expression which are used in this Agreement, but which are not defined herein shall, unless the context otherwise requires, have the same meaning as assigned thereto in the rules, bye-laws and regulations of the relevant Exchange. Heading(s) are used for convenience only and shall not affect the interpretation of this Agreement. Any grammatical form of a defined term herein shall have the same meaning as that of such terms.

In consideration of the Member agreeing to handle the transaction on Exchange(s) on my/our behalf, I/We the Constituent hereby agree that:

- 1) I/We have read the Risk Disclosure Document appended hereto and understand the trading and risks involved in the trading of these instruments and am/are fully responsible for my/our dealings in these instruments.
- 2) I/We shall be wholly and exclusively responsible for all of my/our investment decision and dealings.
- 3) I/We shall deposit with you monies, securities/warehouse receipts or other property, which may be required to open and/or maintain my/our account.
- 4) I/We shall not, either acting alone or in concert with others, directly or indirectly, hold and control excess number of permitted contracts as fixed from time to time by the Exchange.
- 5) I/We will not exercise in excess of the limit of permitted contracts as may be fixed from time to time by the Exchange.
- 6) I/We hereby authorize you, should you deem it necessary for your protection to buy, sell or close out any part or all of the contracts held in my/our account with you, I/We will reimburse any or all such incidental expense(s) incurred by you. Any and all losses, financial charges and/or incidental expenses incurred by the Member, any agent or sub-broker of the Member and/or any other individual, partnership, corporation, company,

organization, association, trust or other entity acting for or on behalf of the Member, in doing the aforesaid shall be, at the discretion of the Member, reimbursed by the Constituent/charged to and borne by the Constituent/deductible by the Member from the monies and/or collateral/margin of the Constituent available with the Member .

- 7) I/We shall pay or receive applicable daily margins from time to time.
- 8) The failure by a Constituent to understand the risk involved or the failure of a Member to explain the risk to the Constituent shall not render a dealing void or voidable, and the Constituent shall be and shall continue to be responsible for all the risks and consequences for dealing in Derivatives.

**NOW THEREFORE**, in consideration of the mutual understanding as set forth in this agreement, the parties hereto have agreed to the terms and conditions, as follows:

### **1. Termination**

The agreement entered into between the Member and the Constituent shall stand terminated by either party giving at least one (1) month's prior written notice to the other party, without assigning any reason thereof. Such termination shall not have any effect on the transactions executed till the date of termination and the parties shall enjoy the same rights and shall have the same obligations in respect of such transactions. This Agreement shall automatically terminate upon the expiry of such one month period without any further action from either party. After the termination the collateral / margin deposited by the Constituent pursuant to this Agreement, will be refunded by the Member to the Constituent at the earliest possible time, after adjustment of all dues of the Constituent to or through the Member, an Exchange, a Clearing Corporation / Clearing House / any agent or sub-broker of the Member and / or any other individual, partnership, corporation, company, organization, association, trust or other entity acting for or on behalf of the Member.

### **2. Constituent Confidentiality**

The Member hereby undertakes to maintain the details of the Constituent as mentioned in the Constituent registration form or any other information pertaining to the Constituent, in confidence and that it shall not disclose the same to any person/entity except as required by the Exchange or as required under the law;

Provided, however that the Member shall be allowed to share the details of the Constituent as mentioned in the Constituent registration form or any other information pertaining to the Constituent with parties / entities other than required under law with the permission of the Constituent.

### **3. Statutory Provisions and Obligations**

The provisions of this Agreement and all dealings, trades, transactions, orders, contracts and/or business between the Member and the Constituent and any issues arising out of such dealing, trades, transactions, orders, contacts and/or business shall at all time be subject to all applicable law, government notifications, any rules, regulations and guidelines issued by FMC, the rules, bye-laws and regulations of the relevant exchanges, as well as the rules and regulations of the clearing houses/clearing corporations (as the case may be), that may be in force from time to time. Both the Member and the Constituent agree to be bound, and the abide, by all such applicable laws, government notifications, any rules, regulations and guidelines issued by FMC, the rules, bye-laws and regulations of the relevant Exchanges as well as the rules and regulations of the clearing house/clearing corporations (as the case may be). Neither party shall be responsible/liable, in any manner, for any violation(s) and/or breach committed by the other party in complying with its obligations under applicable law, government notifications, any rules, regulations and guidelines issued by FMC, the rules, bye-laws and regulations of relevant Exchange, as well as the rules and regulations of the clearing house/clearing corporation (as the case may be).

**4. Types of Services Offered**

The Member agrees to provide, subject to the terms of this Agreement and General Terms and Conditions, such of the following services as the Member may in its discretion, from time to time determine to offer to the Constituent, and the Constituent agrees to avail of the services provided by the Member:

- a) trading facilities;
- b) clearing facilities;

Such other services as permitted by FMC and the Exchanges from time to time, and which the Member in its discretion may determine to offer its Constituents.

**5. Provisions in case of Non-confirmation/Rejection by PCM:**

The Professional Clearing Member (PCM), if opted for by the Constituent to settle his trades, shall confirm all trades executed as PCM trades on the day the order is executed. In the event of non-confirmation and /or rejection of the trade by such PCM, the Constituent shall be liable to pay forth with the applicable margin as enunciated by the Member on the same day.

**6. Utilization by Member of the Initial Deposit by the Constituent:**

The initial deposit so paid shall be first utilized towards initial margin requirement as calculated by the Exchange from time to time and the balance if any, after such adjustment against initial margin payments, will be available for adjustment against daily margin requirement, Mark to Market (MTM) loss on open positions created by the Constituent.

**7. Payment of Margins:**

The daily margin requirement can be adjusted against the collateral maintained by the Constituent with the Member. The Member shall accept from the Constituent further order, which, if executed, will add to the open positions, only if the balance collateral is adequate to meet the initial margin on such new positions. If the balance collateral is not adequate for adjusting the daily margin requirement, the Constituent shall deposit the additional margins as required by the Member. The Constituent shall also be obliged to pay the shortfall of the daily margin, if any, on the immediate succeeding business day when the Member raises such additional margin requirement. The Constituent shall not be permitted to create any new open positions, until receipt of such additional margin. If the Constituent defaults in paying the daily margin, the Member shall be entitled to liquidate / close out all or any of the Constituent's positions, without prejudice to the Member's right to refer the matter to arbitration. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent. The Member is permitted in its sole and absolute discretion to impose additional margin (even though not imposed by the Exchanges, the Clearing Corporation / Clearing House) and the Constituent shall be obliged to fulfill such additional margin requirements.

Furthermore, the Constituent is liable to pay (or receive) daily margins depending upon whether the price of the derivatives contract moves for or against the position taken. The Constituent shall also be liable to pay withholding margins, special margins or such other margins as are considered necessary by the Member or the relevant Exchanges from time to time. The Member shall be entitled to charge interest at such rate as may be determined by the Member in its sole discretion on the debit balance in the collateral/margin account of the Constituent. Without prejudice to the foregoing the Member shall be entitled to refuse to execute any orders of the Constituent until such time as the Constituent has deposited adequate collateral/margin to the satisfaction of the Member. The Constituent agrees that except for the first and exclusive interest created by the Constituent in favour of the Member without the prior written consent of the Member it shall not cause

and/or allow any collateral/margin deposited with the Member to be or become the subject matter of any lien or pledge or encumbrances of any nature whatsoever. All collateral/margin owned by the Constituent singly or jointly and deposited with the Member for the purpose of securing the dealings of the Constituent shall be subject to a continuing security lien and set off for the discharge and satisfaction of the obligations or liabilities of the Constituent to the Member, any agent or sub-broker of the Member and/or any other individual partnership, corporation, company, organization, association, trust or other entity acting for or on behalf of the Member. The Member may hold such collateral/margin until the dues and/or obligations of the Constituent as aforesaid are fully and duly discharged and the Constituent shall remain liable for any deficiency that may arise after applying the proceeds of such collateral/margin. The Member is authorized to deposit with any depository participant, Clearing House/Clearing Corporation (as the case may be), any custodian or any other such authority authorized for this purpose under applicable law, all or part of collaterals/margins placed by the Constituent with the Member as security for the Constituent's dealing or as collateral/margin for the purpose of operation of this Agreement, until such time as the Constituent becomes eligible for delivery or refund (as the case may be) of such collateral/margin. The Member reserves the right, in its sole and absolute discretion to collect additional margins (even though not imposed by the relevant Exchanges (as the case may be), the Clearing House/Clearing Corporations (as the case may be) and/or FMC), and the Constituent shall be obliged to pay such additional margins to the Member.

**8. Receipts & Payment of Premium MTM:**

The Member will block up-front from the collateral maintained with it the MTM loss on open positions. The Constituent shall be obliged to pay the amount of MTM loss blocked against the collateral before commencement of trading next day. The Member will adjust the Constituent's liability towards MTM loss against the initial deposit maintained in cash by the Constituent. ) If the Constituent defaults in paying in the MTM loss, the Member shall be entitled to liquidate/ close out all or any of the Constituent's positions, without prejudice to the Member's right to refer the matter to arbitration. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent. MTM profit (on derivative positions) shall be adjusted towards the collateral maintained with the Member. These adjustments pertaining to MTM profit shall be treated as additional collateral brought in by the Constituent and the Member shall reserve the mark up margin from this collateral, which shall not be utilized for margin requirements. The total collateral (inclusive of mark to market inflows) reduced by markup shall thereafter be utilized against creating and maintaining the position by the Constituent.

9. If the complete recovery is not possible then, the Member shall be entitled to liquidate / close out all or any of the Constituent's other outstanding positions, without prejudice to the Member's right to recover the damage from the Constituent. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent.

10. The Constituent acknowledges that all contracts culminating in delivery (which are not squared off and information for giving and taking delivery is given by the Constituents) would be transactions for purchase and sales between the Constituents inter-se and the Constituents would be personally liable to each other though the contract and relationships are governed and regulated by the Bye Laws, Rules and Regulations of the Exchange.

**11. Suspension or restriction of trading and pricing relationships**

The Constituent acknowledges that market conditions (e.g., illiquidity) and/or the operation of the rules of commodity markets (e.g. suspensions of trading in any contract or contact month because of price limits of "circuit breakers") may increase the risk of loss due to inability to liquidate/offset positions.

**12. Trading Facilities**

The Constituent acknowledges that the Exchange(s) offer(s) electronic trading facilities, which are computer-based systems for order-routing, execution, matching registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption and/or failure. The Constituent's ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or Member, who may vary such limits. The Constituent understands & acknowledges that Member shall not be liable for any loss(es), cost(s), expense (es), etc., whether actual or notional, direct or indirect, incurred in respect of the above.

**13. Trade Obligations:**

The Constituent shall accept all trades executed, resulting from the orders placed with the Member, irrespective of the fact that the order is executed partially or in full, on the Exchange. In the event of non-confirmation of custodial trades by PCM for any reason whatsoever, all exchange-levied margins, MTM losses (on open position), will be borne by the Member for the unconfirmed trades. In such case, the Constituent shall pay to the Member, all margins levied by the Exchange on the unconfirmed trades. In addition to the above, the Member shall have an option to call for collateral from the Constituent, to meet the subsequent daily margin obligation / MTM losses on the unconfirmed trades. The Constituent shall be obliged to pay the daily margin, MTM generally before commencement of trading next day, of the day when the Member raises such margin requirement. The Member shall not permit the Constituent to create any new open positions, until receipt of such additional margin requirement. If the Constituent defaults in paying the daily margin, MTM, if any, the Member shall be entitled to liquidate / close out all or any of the Constituent's positions, without prejudice to the Member's right to refer the matter to arbitration. Any and all losses and financial charges on account of such liquidation/closing out shall be charged to and borne by the Constituent.

**14. Deliveries:**

The Constituent will be responsible for providing information for the purposes of giving / taking delivery against his Net Open Position along-with information necessary for giving / taking delivery within stipulated period as specified by the Exchange from time to time. Member shall submit the same to the Exchange. The Exchange at the end of stipulated period shall match the information provided by the Member against Net Open Positions of the Constituent and shall confirm the Delivery / Receipt to be effected against Delivery information submitted by the Member. Constituent shall co-ordinate with the Member to ensure that all requirements for giving / taking delivery are fulfilled. The Constituent shall ensure that payment/ delivery of warehouse receipts is given well in advance to the Member prior to the date of pay-in announced by the Exchange or its Clearing Corporation/Clearing House. Payment should be made only by account payee cheque in favor of the Member and receipt or acknowledgement towards what such payment is made and receipt/ acknowledgement for warehouse receipts delivered to the Member, be obtained from the Member. Delivery of warehouse receipts in demat, is made to the pool account of the Member rather than to the beneficiary account of the Member. In case pay-out of money is not received within 48 hours after pay-out announced by Exchange or its Clearing House/ Clearing Corporation, the Constituent shall follow-up with the Member for its release. In case, pay-out is not released as above from the Member within five working days, the Constituent shall ensure that to lodge a complaint immediately with the Investor Grievances Division of the relevant Exchange. Constituent shall also ensure to comply with all statutory requirements laid down regarding Sale / Purchase of goods including payment of taxes, local levies and other statutory / regulatory charges as prescribed under applicable laws from time to time. Constituent shall submit documents such as Invoices, Sales Tax exemption or concession forms or any other documents as required under the prevalent laws and forward the same to the Counter-party Constituent or any other Member of the Exchange within stipulated period as specified by the Exchange from

time to time. Constituent shall be liable to pay sales tax under the local State sales tax law or the Central Sales Tax Act, 1956, as the case may be and will be solely responsible for complying with all the provisions and regulation of the applicable sales tax law and indemnify the Member from any consequences, loss or damage arising out of the non compliance of the aforesaid statutory requirements.

**15. Discharge of obligations and compliance by the Constituent**

- i) the Constituent hereby undertakes to discharge its obligations with respect to payment for the business done/dealings in a timely manner so as to enable to Member to meet its obligations to the relevant Exchange(s), the Clearing House/Clearing Corporation (as the case may be) and/or otherwise; and
- ii) the Constituent shall be liable for all such liabilities as may arise due to non-fulfillment of any obligation by the Member towards any Exchange or any other regulatory authority due to the non-compliance by the Constituent of its obligations or through the Member.

**16. Restrictions on Regulation of dealings**

The parties hereto shall mutually decide, from time to time, the volume of business which the Constituent may transact during any trading day on any Exchange. Notwithstanding such an Agreement/arrangement between the parties, the Member shall have absolute discretion to reduce the volume of business of the Constituent or restrict dealing by the Constituent without any prior notice to the Constituent inter alia in particular Derivatives, having regard to:

- i. the volatility in the market;
- ii. impending price sensitive announcements;
- iii. any restrictions in relation to volume of trading/outstanding business or margins stipulated by any exchange;
- iv. political instability in the country;
- v. Presence of any other price sensitive factors;
- vi. failure by the Constituent to maintain the applicable collateral/margin; and/or
- vii. delays by the Constituent in meeting its obligations/dues relating to the business/dealings done under this Agreement or pursuant to any other agreement between the Constituent and the Member, including but not limited to the General Terms and Conditions.

**17. Sharing of information**

The Constituent agrees to immediately furnish information to the Member in writing in the event that;

- a. Any winding up petition or order has been filed or passed against the Constituent.
- b. Any garnishee order has been served upon Constituent or in respect of the Constituent's obligations;
- c. Any litigation has been filed against the Constituent;
- d. Any order, decree or award is passed against the Constituent and/or
- e. Occurrence of any other event or circumstance that has or is likely to have an adverse effect on the financial position of the Constituent.

Upon receipt of information from the Constituent as aforesaid, the Member shall be entitled to take such action (in its absolute discretion) as it may consider necessary in order to protect its own interest, including without limitation, liquidation/closing out all outstanding positions of the Constituent. Any and all losses, financial charges and/or incidental expenses incurred by the Member on account of such liquidation/closing out shall (at the sole discretion of the Member), be reimbursed by the Constituent/charged to and borne by the Constituent/deductible by the Member from the monies and/or Constituent's collateral/margin available with the Member.

**18. Terms other than under the Agreement**

In addition to the specific terms and conditions stated above the Constituent and Member hereto agree to and declare that, they will be bound by such terms and conditions as may be agreed by and between them for the conduct of day to day working between them and such other things as may affect the execution of the dealings and activities contemplated hereunder and the incurring of costs for such dealings and activities. Without prejudice to the generality of the foregoing, the Member and the Constituent agree to be bound by the "General Terms and Conditions". The Member and the Constituent further agree that in the event of a conflict between the provisions of this Agreement and the General Terms and Conditions, the provisions of the General Terms and Conditions shall prevail.

**19. Effect of Attachment**

The Member shall not be liable for refusing to obey orders given by or for the Constituent with respect to its account(s) with the Member (including without limitation any Constituent Account) which has or have been subject to attachment in any legal proceeding or under any applicable law for the time being in force, against the Constituent, and the Member shall not be under any obligation to contest the validity of such attachment or sequestration. Further, the Constituent shall be liable to indemnify the Member from and against any loss(es) or expenses suffered and/or incurred by the Member as a result of such attachment.

**20. Severability**

In the event of any provisions of this Agreement being held to be or becoming invalid, unenforceable or illegal for any reason, such invalidity, unenforceability or illegality shall attach only to such provision or condition, and this Agreement shall remain otherwise in full force apart from the said provision, which will be deemed deleted. The validity of the remaining provisions and conditions shall not be affected thereby and this Agreement shall be carried out as if any such invalid or unenforceable provision or condition was not contained herein. The Member shall have the right to replace the deleted provision with a legally valid provision that reflects the same purpose as the deleted provision to the greatest extent possible.

**21. No waiver**

Any failure and / or delay on the part of the Member to insist on strict compliance / exercise with any of the terms, conditions, provisions, powers and / or rights contained in this Agreement or a continued course of such conduct shall at no time operate as waiver, in full / part, of such terms, conditions, provisions, powers and / or rights. All such powers, remedies and / or rights are cumulative and not exclusive to any other powers, remedies and / or right that the Member may otherwise have.

**22. Communications and Notices**

Any notice, communication or information, to be given or made by either the Member or the Constituent, to the other, under this Agreement, shall be made in accordance with, and subject to, the provisions of the General Terms and Conditions.

**23. Dispute Resolution**

**A.** Except for the claims/disputes which are subject to the Rules and Regulations of the respective Exchanges on which the trades have been executed, any and all claims and disputes arising out of or in connection with this Agreement or its performance shall be settled by arbitration by a single arbitrator to be appointed by the Member. The parties agree that the arbitration shall be held at such place within India as the

Member may in its sole discretion specify at the time of, or at any time prior or subsequent to, the reference to arbitration. The Courts at the place specified by the Member for holding the arbitration proceedings or, if law does not permit the same, the Courts at the city in which the Member's registered office is situated, shall have exclusive jurisdiction in relation to this Agreement, the arbitration and all matters arising in connection herewith and therewith. The arbitration shall be governed by the applicable law relating to Arbitration in India.

#### **24. Settlement of Claims**

In the event of any dispute between the Constituent and its Constituent(s), the Member shall not be responsible for any claims claimed by the Constituent's Constituent(s) and such disputes shall be settled by Constituent and the Constituent's Constituent(s).

I/We hereby acknowledge that I/We have read/explained in vernacular and have understood the contents of above agreement :

### **ANNEXURE: General Terms and Conditions**

**1.1** In this General Terms and Conditions, unless repugnant to the context or meaning thereof -

**"Account Opening Form"** means duly filled, standard format of Constituent registration application, submitted by the Constituent with the Member, to open a Constituent account and to permit the Constituent to avail the Member's services.

**"Associated Account"** includes the following two accounts, namely,

- i. **"Associated Bank Account"** means the current or saving bank account (s) or any funds account maintained by the Constituent (either solely or jointly with another or others) with any Bank(s) for the purpose of maintaining a funds account.
- ii. **"Associated Demat Account"** means the demat account(s) maintained by the Constituent (either solely or jointly with another or others) with any Depository(ies) for the purpose of maintaining dematerialized commodities.

**"Available Funds Balance"** means the amount of credit balance in the Constituent account with the Member which is not subject to any lien or any other encumbrance (except in favor of the Member pursuant to this Agreement) and which is freely available to the Member for ; blocking and appropriation towards the Constituent's current or possible future dues to the Member, an Exchange, a Clearing Corporation, Clearing house, a Business Associate(s) and / or any other individual, partnership, corporation, company, organization, association, trust or other entity.

**"Available Stock/Commodities Balance"** means the Commodities balance in the Associated Demat Account(s) or the Constituent Account with the Member which is not blocked or under any lien or other encumbrance and which is freely available to the Member for blocking and appropriation towards the Constituent's current or possible future obligations to deliver the concerned Commodities to the Member, to an Exchange, to a Clearing Corporation / house and/or to a Business Associate.

**"Brokerage"** means the amount charged by the Member from the Constituent as Brokerage for any market trade or dealing or for any other services. The term "Brokerage" does not include service tax or other taxes, trade / transaction or other fees (statutory or otherwise) and commission that may be applicable in respect of the services.

**"Business Associate(s)"** includes, the Designated Depository Participant and such other person, firms, entities etc. that are either directly or indirectly involved in facilitating the provision of the services and / or act as franchisees or agents of the Member in relation to the provision of the service.

**"Business Day"** means a day on which the concerned Exchange(s) and the Member are operational for trading.

**"Channel"** means the channels or modes through which the services may for the time being be accessed by Constituent, and through which the services is for the time being rendered by the Member.

**"Clearing House" or "Clearing Corporation"** means the clearing house or Clearing Corporation(as the case may be), maintained by the applicable Exchange, to act as the agency for the effecting delivery and settlement of contracts between clearing members of the Clearing House/ Clearing Corporation.

**"Constituent Account"** means an account opened with the Member in the name of the Constituent in the Member's records pursuant to these General Terms and Conditions and the Constituent Registration Application Form, which may, in the sole discretion of the Member, be an account in relation to a single product/service or an account in relation to more than one product/service.

**"Constituent Agreement"** means the Constituent agreements executed by the Constituent with the Member in the standard form in which the Member executes such Agreements with its Constituents.

**"Constituent ID"** means the unique identification number assigned by the Member to each Constituent.

**"FMC"** means the Forward Markets Commission.

**"Depository"** means a 'depository' within the meaning of the Depositories Act,1996, "Depository Participant" means a 'participant' within the meaning of Depositories Act, 1996.

**"Designated Depository Participant"** means such Depository Participant(s) as the Member may specify in this behalf from time to time.

**"Exchange"** means NCDEX/MCX and such other Commodities Exchange(s), if any, of which the Member becomes a Member and over which the Member agrees to offer its services to the Constituent; and "Exchange" shall be construed accordingly.

**"Exchange Provision"** means the rules, bye-laws, regulation, notice, circulars and resolution of the concerned Exchange (or any segment of any of the concerned Exchanges) or the concerned Depository in force from time to time and includes the Internet Trading provisions of the exchange.

**"Good Delivery"**, in relation to Commodities, shall mean the timely delivery of the freely transferable Commodities which are considered as good delivery Commodities by the concerned Exchange, FMC and the concerned Clearing Corporation/House.

**"IBT"** means Internet Based Trading ("IBT"), being a system approved by the Exchange for enabling Constituent to route their orders to their Member-Brokers over the internet.

**"IBT Account Application"** means the application submitted by the Constituent to the Member to permit the Constituent to avail of the Member's IBT.

**"IBT Service"** means the service offered by the Member to its Constituents through IBT where under the Constituents can route their orders for purchase, sale and other dealings in commodities through the Member's IBT System.

**"Long Purchase"** shall include a purchase order or trade given or entered into by the Constituent without sufficient Available Funds Balance.

**"MCX"** means Multi Commodity Exchange of India Limited

**"NCDEX"** means National Commodities and Derivatives Exchange Limited.

**"ORS"** means Internet based trading through Order Routing System, being a system approved by the concerned Exchange for enabling Constituent to route their orders to their Member-brokers over the Internet.

**"ORS Service"** means the service (being a part of the Service) offered by the Member to its Constituents through ORS where under the Constituent can route orders for trading dealing in Commodities through the Member Website.

**"Outstanding Position"** in a Commodity means the quantity and total value of that commodity purchased (or sold) less the quantity and total value of that Commodity sold (or purchased) by the Constituent and net settled.

**"Password"** means the unique code(s) used by the Constituent to access the service that he is entitled to receive. The nature and type of the "Password" may vary depending upon the Channel through which a Service is being accessed by the Constituent.

**"Username"** means an alphanumeric login identification used by the Constituent for accessing the Service.

**"Member's Service"** or **"Service"** means those services including IBT service that the Member (either itself and/or through its Business Associate(s)) may for time being be rendering of its Constituents (whether as a Member of an Exchange or not), and which the Member may agree to tender to the Constituent.

**"Member Web Site"** means the website at or such other web site as may be hosted by the Member for access through the Internet, through which the Member offers the services.

**"Commodities"** shall include;

- i. Precious Metals, Base Metals, Agro Commodities such as Edible Oil, Grain's Pulses, Oil seeds, their Feed meals, Fiber Such as Cotton, Hessian or any other commodity man made or otherwise that the exchange may permit / allow trading in from time to time. Soft commodities such as Coffee, Sugar, Cocoa, Rubber and any other resource, natural or otherwise;
- ii. Derivatives; and
- iii. Any other commodities or instruments that the Member may hereafter notify to is Constituents as being "Commodities" for the purposes of this General Terms and Conditions.

**"Short Sale"** shall include a sale order or trade given or entered into by the Constituent without sufficient Available Commodities Balance.

**"Squaring-off"** a position means executing a trade or order so that the outstanding position in Commodities is set-off in full or in part. **"Square-off"** and **"Squared-off"** shall be construed accordingly.

**"Stop Transfer"** means a stop-transfer or similar order lodged with the relevant issuer, registrar or fiscal or governmental body and **"Stop Order Notice"** shall be construed accordingly to include officially published notice of loss, theft, cancellation, opposition or nullification proceedings.

**"System"** includes;

- i. The system hosted by the Member and/or a Business Associatee(s) on the internet through which the ORS Service is offered;
- ii. The Member's system and the system of Business Associate(s), for accepting orders and providing any part of the Service through the Channels;
- iii. Any other system offered by the Member and/or its Business Associate(s) that provides or enables a Channel;

**"Trading Hours"** means such period of a Business Day during which the concerned Exchange offers trading facilities to its Members.

**"Username"** means login identification which may be used by the Constituent for accessing his Constituent Account(s) for availing the services through certain Channels.

**1.2** Annexure and Schedules to this General Terms and Conditions shall form an integral part of this General Terms and Conditions.

**1.3** In this General Terms and Conditions, unless repugnant to the context or meaning thereof:

- i. Reference to the singular includes a reference to the plural and vice-versa,
- ii. Reference to any gender includes a reference to all other genders.
- iii. References to Recitals, Clauses, schedules and Annexure shall be deemed to be a reference to the recitals, clauses, schedules and annexure of or to this General Terms and Conditions.
- iv. References to person shall include its personal representative; and
- v. References to any enactment are to be construed as referring also to any amendment or re-enactment thereof and to any rule, bye-laws, regulation, business requirement, specification, order or other provision made under it.

## **2. Agreement to provide and avail Member's Services**

**2.1** On and subject to the terms and conditions of this General Terms and Conditions, the Member Constituent Agreement(s), the Exchange Provisions, other applicable laws, the terms of the Member's Web Site, the Contract notes/confirmation notes (as applicable) and such other terms and conditions as may be issued by the Member to the Constituent from time to time:-

- i) The Member agrees to provide the Member's services to the Constituent, and
- ii) The Constituent agrees to avail of the Member's services.

**2.2** The Member reserves the sole and exclusive right to determine the Channels through which the Constituent may access/receive the services. Further, the Member reserves the right, from time to time, to discontinue the availability of any channel to the Constituent without any prior notice and without assigning any reason whatsoever for such discontinuance.

**2.3** Based on the Account Opening Form submitted by the Constituent, the Member may open a Constituent Account in the name of the Constituent. This Agreement shall become effective only upon the Member opening and activating such Constituent Account. The Constituent is aware and agrees that mere execution and / or acceptance of this General Terms and Conditions of Member Constituent Agreement(s) does not oblige the Member to open a Constituent Account and the Member reserves the right to accept an applicant as a Constituent. The Member is not obliged to disclose the reasons for not accepting the applicant as a Constituent.

**2.4** The Constituent Confirms that he has read and understood and agrees that he shall regularly continue to read and understand, the Exchange provisions, the guidelines, rules and regulations issued by FMC, all applicable laws and the terms and conditions updated on the Member's Web Site from time to time.

- 2.5 The Constituent is aware of and agrees that in the course of transacting on the exchange or otherwise, the Member acting itself and / or through its Business Associate(s), will be acting as a transaction facilitator & all deeds done shall be in pursuance to the instruction(s) of the Constituent.
- 2.6 The Constituent hereby authorizes the Member to take all such steps on the Constituent's behalf as may be required or advisable in the Member's opinion or discretion for compliance with the Exchange Provisions or any other law or provisions or to complete or settle any trades entered into through or with the Member and / or its Business Associate(s) or executed by the Member on behalf of the Constituent. However, nothing contained herein shall oblige the Member to take such steps.
- 2.7 Notwithstanding anything stated elsewhere in the General Terms and Conditions, the Member may at any time in its sole discretion, prohibit or restrict the Constituent's access to the use of the Member's Web Site or services and the Constituent's ability to trade, without any prior notice and without assigning any reasons whatsoever. For the avoidance of doubt it is further clarified that the Member may at any time discontinue the availability of, and /or refuse to render, any Service (whether previously rendered by the Member to the Constituent or not), whether generally to all of its Constituents, to a group or groups of Constituents or to the Constituent alone, & any loss(es), cost(s), expense (es), etc., whether actual or notional, direct or indirect, incurred or sought to arise in future owing to the aforesaid prohibition, discontinuation or restriction shall be solely borne by the Constituent & the Member shall not be held liable for the same under any circumstances.
- 2.8 For the avoidance of doubt, the Member hereby reserves the right to offer, make available, all or any of the services to the Constituent through a Business Associate(s). The Member shall be entitled to discontinue at its sole discretion and/or without any prior notice the provision of any Service through each Business Associate(s) and/or to replace such Business Associates.

### **3. Associated Account**

- 3.1 At all times during the subsistence of this General Terms and conditions and thereafter until all obligations of the Constituent towards the Member have been fulfilled; the Constituent shall maintain one or more Associated Bank Account and one or more Associated Demat Accounts for the purpose of facilitating the Constituent's trading and settlement pursuant to the General Terms and Conditions. Where any Depository Participant ceases to be a Designated Depository Participant, the Constituent shall be obliged and required to open and maintain one or more Associated Demat Account with a Depository Participant who is at that time a Designated Depository Participant as a condition precedent to the continuance of the services.
- 3.2 For the avoidance of doubt it is clarified that notwithstanding anything to the contrary contained in this General Terms and Conditions, the Member shall be entitled to require the Constituent to nominate only one Associated Bank Account and an Associated Demat Account as the preferred account for the purpose of facilitating the Constituent's trading and settlement pursuant to this General Terms and Conditions.
- 3.3 The Constituent shall at all times be the sole holder of each Associated Account. Provided that the Member may in its sole discretion in the future permit a Constituent to designate as his Associated Account(s) in which such Constituent is a joint account holder. Provided that where an Associated Account is a joint account in

accordance with the provision of this clause, the Member shall have the right to require that the Constituent should be the first joint account holder of such account.

- 3.4 In case of the death, disability, dissolution, winding up or liquidation of any donor of any of the powers of attorney, if any, the Constituent (or in case of the Constituent's demise, disability, etc., the Constituent's legal representatives) shall forthwith, inform the Member and the Designated Depository Participant of the same in writing. In such an event the Constituent shall nominate a new Associated Account as replacement to the Associated Account of the Constituent, of which the deceased donor was a joint account holder.
- 3.5 The Constituent and / or the joint account holders (if applicable) of any Associated Demat Account (s) shall not, without prior written consent from the Member, close the Associated Demat Account or directly or indirectly operate or give instructions in respect of any Associated Demat Account which would prejudice the Member's rights hereunder or under the authority of the power of attorney, if any, issued in its favor or which would be contrary to the provisions of this General Terms and Conditions or any instructions given by the Constituent and / or the joint account holders (if any) or any acts by the Designated Depository Participant pursuant to the said power of attorney. If the Constituent and / or any joint account holder acts contrary hereto then, without prejudice to any other rights that the Member may have whether under this General Terms and Conditions or under applicable law or equity, the Member shall be entitled to recover all loss suffered by the Member directly or indirectly in relation to such acts from the funds and / or collateral / margin of the Constituent available with the Member.
- 3.6 The Constituent may with the prior written consent of the Member, change or substitute an Associated Account from time to time, as per applicable provisions. The provisions of this General Terms and Conditions relating to Associated Account shall apply also to such new Associated Account and the joint account holder of such new Associated Account.
- 3.7 It shall be the responsibility of the Constituent to ensure that the joint account holder of an Associated Account, as well as such joint account holder's heirs, executors, administrators and legal representatives comply with the provisions of this clause 3 as well as the other provisions of these General Terms and Conditions to the extent that such provisions are applicable to and / or require any act or forbearance on the part of such joint account holder. The Constituent shall indemnify, save, defend and hold harmless the Member, its directors, employees, partners, agents, affiliates and Business Associates from and against any and all losses, claims liabilities and / or expenses which may arise as a result of any failure by the Constituent to comply with the provisions of this clause 3 and other applicable provisions of this General Terms and Conditions. Without prejudice to the foregoing, all risks, costs, expenses and liabilities incurred by the Member, either directly or through another, as a result of a joint account holder of an Associated Account revoking a power of attorney, if any, or instruction made pursuant of this clause 3, shall be borne exclusively by the Constituent and the Constituent shall indemnify the Member, its directors, employees, partners, agents, affiliates and Business Associates in relation to the same.

#### **4. User Name and Password**

- 4.1 Where applicable, and depending upon the Channels through which any services including IBT Services is being rendered to the Constituent, the Constituent will be entitled to a User Name, password and / or such other identification or security code (by whatever name called) which will enable him to access the System. The

Constituent agrees and undertakes to immediately change his initial password upon receipt thereof and also to abide by the password policy that is communicated on the website of the Member. The Constituent also undertakes not to share his password with anyone. The Member shall not be liable for any loss or damage arising from the sharing of the password with anyone or from its consequent unauthorized use.

- 4.2 The Constituent is aware that the Member is agreeable to offer the ORS Service and the facility of certain Channels of Transmitting orders and instructions over the internet and telephone on the condition that the Constituent agrees to bear, the risk, responsibility and liability for misuse or Unauthorized use. The Constituent is also aware that he has the option of not availing the ORS Service and / or any other Channel that involves the transmission of orders and instructions over the telephone and internet, and has therefore opted for the ORS Service and the telephone and internet enabled Channels of his own free choice and is willing and agreeable to bear all associated risks, responsibility and liability.
- 4.3 The Constituent shall ensure that he is the only authorized user of the Username and / or Password, the Member shall be entitled to presume that any order or instructions entered or communicated using the Constituent's Username and / or Password is the Constituent's own order or instruction or that of the Constituent's duly authorized representative. The Constituent will be fully responsible and liable for, and will indemnify the Member its directors, employees, partners, agent, affiliates and Business Associate(s), against, access and / or use of the Constituent Account any Channel, the Channel, the System or services by any third party using the Constituent's Username and / or password. At no point in time shall the Member be liable for any loss, whether notional or actual, that may be suffered by the Constituent on account of the misuse of the Constituent's Username and password and the Constituent shall be liable and responsible for the same.
- 4.4 Where applicable, the Constituent shall log off from the ORS Service at any time the Constituent is not accessing or using the ORS Service and any liability incurred by the Constituent as a consequence of the Constituent not logging off the ORS Service shall be borne solely by the Constituent. Without prejudice to the aforesaid, the Member, in its sole discretion, reserves the right to time out a Constituent session and log off the Constituent from the ORS Service after a pre-determined time.
- 4.5 The Constituent agrees that orders, instructions and other communications given or made over the telephone, may be routed through the Member's interactive Voice Response Channel or other telephone System and may be recorded by the Member. The Constituent also agrees that such recording and the Member's records of any orders, instructions and communications given or made by the Constituent or the Member by electronic mail, fax or other electronic means shall be admissible as evidence and shall be final and binding upon the Constituent as evidence of the same.
- 4.6 The Constituent agrees to provide information relating to his identification and such other information as may be required while placing orders on the telephone to determine the identity of the Constituent.
- 4.7 The use and storage of any information including, without limitation, the Password, Username, Portfolio information, trade / transaction activity, account balances and any other information or orders on the Constituent's personal computer is at the Constituent's own risk and is the Constituent's sole responsibility

## **5. Order Routing and Execution**

- 5.1 The Constituent shall transmit his orders to the Member by such of the Channels, as the Member may, in its sole discretion, may specify from time to time,
- 5.2 As a precondition for execution of a purchase order, the Member may in its sole discretion
- i) require the Constituent to maintain, at the time of order placement by the Constituent, an Available Funds Balance in the Constituent Account with the Member and / or in the Associated Bank Account(s) for the full value of the order plus any Brokerage, service tax, transaction charges, associated costs and such mark-up as the Member may determine; and / or
  - ii) require the amount of margin for the purchase order as prescribed by The Member to be available in the Constituent's margin account, if any, with the Member;

5.3 As a precondition for execution of a sale order, the Member may in its sole discretion:

- i) require the Constituent, at the time of order placement by the Constituent to maintain an Available Commodities Balance in the Associated Demat Account(s) and also maintain funds required for margins, if any, determined by the Member in the Constituent Account with the Member ; and / or
- ii) require the Constituent to instruct the Designated Depository Participant to block / transfer the whole or a portion of the Commodities balance in one or more Associated Demat Account in order to secure the delivery of any Commodities sold or proposed to be sold by the Constituent, the payment of margin and / or the payment or performance of any other the current or possible future dues or other obligations of the Constituent; and / or
- iii) require the amount of cash margin for the sale order as prescribed by the Member to be available in the Constituent's margin account, if any, with the Member.

5.4 In case of any Commodities, which are subject of a stop transfer, the Constituent shall take steps to cause such transfer to be promptly lifted. Any loss and expense on account of a trade transaction with regard to such Security shall be borne by the Constituent and the Constituent hereby agrees to indemnify the Member, its directors, employees, partners, agents, affiliates and Business Associate(s), in this regard.

5.5 On the day of placement of any order and or any day thereafter the Member, in its sole discretion, shall be entitled to instruct the Designated Depository Participant to, the aforesaid instructions of the Member and / or the power of attorney mentioned above in clause 3.4, the Designated Depository Participant shall be entitled to, inter alia, block, debit and / or transfer the whole or a portion of the balance in or from one or more Associated Demat Accounts in order to secure or effect in favor of the Member the payment of the purchase price of commodities purchased or to be purchased by the Constituent, the delivery of any Commodities sold or proposed to be sold by the Constituent and / or the payment or performance of margin and any other then current or possible future dues or other obligations of the Constituent. In addition, the Member shall be entitled to, at any time, give such instructions to the Designated Depository Participant, as the Member may think fit and proper for securing the Member's rights and interests or for the payment or delivery of any amount or Commodities which are then or may thereafter become payable or deliverable by the Constituent to the Member, and the Constituent agrees that the Designated Depository Participant shall give effect to such instructions pursuant to the aforesaid power of attorney, if any, or otherwise and the Constituent shall not do or omit to do anything which may prevent the Designated Depository Participate from acting on the Member's instructions.

5.6 **The Constituent agrees that:-**

- i) instructions given by the Member to the Designated Depository Participant to block, debit and / or transfer Commodities and/or to debit or transfer from an Associated Demat Account in connection with a trade / transaction entered into or to be entered into by the Constituent with or through the Member will be given first priority over any prior or subsequent other instructions given or issued by the Constituent or any joint account holder by itself or through any other attorney of the Associated Demat Account.
- ii) Commodities once blocked on the instructions of the Constituent or the Member in connection with a trade / transaction entered into or to be entered into by the Constituent with or through the Member or any Business Associate(s) can be released only with the express written consent of the Member and / or the Designated Depository Participant; and
- iii) If the Constituent or the Member has given any blocking, holding debit or other instructions in respect of any Commodities in any Associated Demat Account in connection with a trade / transaction entered into or to be entered into by the Constituent with or through the Member or any of its Business Associate(s) and the Designated Depository Participant receives transfer, debit or other instructions in respect of such Commodities from the Constituent or any other person, then the the Designated Depository Participant shall first give effect to the first-mentioned instructions and shall also transfer the concerned Commodities as per the instructions of the Member.

- 5.7 Unless the Member otherwise determines, all orders for dealing or trading in Commodities and other instructions routed through the System via the Constituent's name or Constituent ID shall be given and / or deemed to have been given by the Constituent. The Constituent hereby authorizes the Member to rely and act on, and treat as fully authorized by and binding upon the Constituent, any order, instruction or communication (by whatever means transmitted and whether in writing or not) which purports to have been given and which the Member reasonably believes in good faith to have been given by the Constituent or a person duly authorized to act on behalf of the Constituent. The Constituent agrees that he/she/it shall be responsible to the Member for all commitments and obligations made or entered into in the Constituent's name whether in writing or orally and howsoever communicated or purported to be given as aforesaid.
- 5.8 All orders authorized by the Constituent for the purchase / sale of the Commodities, which may be listed on more than one exchange may be executed on any exchange by the Member at its sole discretion unless otherwise specifically directed by the Constituent at the time submitting the order.
- 5.9 The Constituent understands that placing an order with the Member including a market order, does not guarantee execution of the order. The Member has the absolute right to reject any order that may be made by the Constituent for any reason whatsoever including for the breach of the requirement of maintaining the prescribed Margin in the Constituent account or the bank account.
- 5.10 The Member shall not be deemed to have received an order unless and until it has actually received the order in the order-receiving module of the Channel concerned. The Constituent shall not be entitled to presume that any order transmitted by the Constituent has been received by the Member until the Member has confirmed receipt of such order in manner set out in clause 11. The Constituent is required to ascertain the status of his order (including any rejection of the same) which would be posted only on the relevant sections of the web site. Further the exchange may cancel the trades without giving any reason thereof. The Member shall be entitled to cancel relative contracts with the Constituent. The Member shall not be liable for any losses, damages or claims on account of such rejection or cancellation of any trade for any reason whatsoever.
- 5.11 The issue of a contract note / confirmation note by the Member (as prescribed in clause 11.1) will establish an enforceable obligation on the part of the Constituent, and the Constituent shall be and hereby agrees to be solely liable for, and agrees to indemnify, defend and hold harmless the Member, its officers, directors, employees agents and / or Business Associates from and against any and all claims, liability, damages and / or costs (including but not limited to legal fees) whether direct or indirect, actual or notional arising from, out of or in connection with any order given by the Constituent.
- 5.12 The Constituent shall be allowed to trade or deal only during Trading Hours, However, the Member may at its discretion, agree to receive orders even outside Trading Hours. The Member may accumulate such orders received outside Trading Hours and route such orders for possible execution when the concerned Exchange next opens for trading.
- 5.13 All orders duly received by the Member through the System or otherwise through any Channel may be executed in good faith and shall be valid as against the Constituent until separately cancelled in accordance with the provisions of this General Terms and Conditions or automatically cancelled by the concerned Exchanges.
- 5.14 The Constituent agrees to ensure that all orders and instructions which the Member receives from the Constituent are absolutely clear and unambiguous; and the Constituent agrees that if any instructions or orders or any details thereof are not absolutely clear and ambiguous, the Member, its employees or authorized representative shall be entitled to interpret the same as per his understanding and such understanding and interpretation shall be treated as final and binding upon the Constituent. The Constituent further agrees that the Member may refuse to execute an incomplete or ambiguous instruction. The Constituent shall be solely liable for any error he has made in composing or transmitting an instruction to the Member and for any loss or damage whether actual or notional arising as a consequence thereof.

- 5.15 The Constituent understands and agrees that with respect to a market order or any other order, the Constituent will receive the price at which the Constituent's order is actually executed by the Exchange's systems; and such price may be different from the price at which the Commodity is trading when the Constituent's order is entered into the System or duly received by the Member through a Channel. The Constituent shall not hold the Member liable for any loss or damage whether actual or notional, direct or indirect, suffered by the Constituent due to any price difference.
- 5.16 The Member may from time to time in its discretion impose and/or vary limits on the orders and trades which the Constituent can place and enter into through System and / or Service (including margin percentage, exposure limits, turnover limits, limits as to the number, value and / or kind of Commodities in respect of which orders can be placed. The Constituent is aware and agrees that the Member may need to urgently vary the limits or impose new limits or prohibit or restrict the Constituent's ability to place orders or trade in Commodities through the Member on the basis of the Member's risk perception and other factors considered relevant by the Member, and the Member may not necessarily inform the Constituent of the same. The Constituent agrees that the Member shall not be responsible or liable for the Constituent's inability to place any order, enter into any trade and / or square-off transaction that the Member may need to initiate on account of any such variation, imposition, restriction or prohibition.
- 5.17 The Member shall have the right to refuse or to accept the whole or a part of any order or instruction received by the Member from the Constituent, and / or refuse to execute the whole or a part of any accepted order or instruction without assigning any reasons thereof, in particular and without prejudice to generality of the foregoing, the Member may refuse to accept or execute the whole or a part of any order or instruction:-(i) based on the Member risk perception of such order; or instruction; or (ii) if the Member believes that to accept or execute such an order or instruction will or may contravene a law or regulation; (iii) if the order is out of the limits of the Available Fund Balance or the Available Commodities Balance of the Constituent.
- 5.18 The Constituent alone shall be responsible for complying with all international, federal, state, local and / or any and every other applicable law and regulation in respect of the Constituent's orders, instructions, trades and transactions at the Constituent's cost. The Member shall not be liable or responsible for any failure or default in respect thereof. The Constituent agrees to indemnify and hold the Member its directors, employees, partners, agents, affiliates and Business Associate(s) harmless from and against any and all losses, claim, liabilities and / or expenses which may arise as a result of any failure by the Constituent to comply with the provisions of this clause.
- 5.19 Though orders will generally be routed to the Exchange's systems within a few seconds from the time the order is placed by the Constituent on the System. The Member shall not be liable for any delay in the execution of any order for any reason whatsoever or for any resultant loss or damage whether notional or actual suffered by the Constituent on account of the delay.
- 5.20 The Constituent agrees that the Member may, at its sole discretion, subject any order placed by a Constituent to manual review and entry, which may cause delay in the processing of the Constituent's order or may result in rejection of such order. The Constituent agrees that the Member shall not be liable for any resultant loss or damage whether notional or actual suffered by the Constituent on account of delay.

## **6. Transactions and settlements**

- 6.1 The Constituent's orders and instructions and all contracts, trades and transactions entered into pursuant thereto and the settlement thereof will be in accordance with the Exchange Provisions and other applicable laws. The Constituent shall be responsible for paying and delivering to the Member the required funds to Good Delivery Commodities within such time as the Member may specify for fulfillment of the Constituent's payment and delivery obligations. If the Constituent fails to deliver to the Member any Commodities that have been sold by or for the Constituent, when required by the Member, then the Member shall be entitled, but not bound to, in its own discretion and at the risk and cost to the Constituent, borrow or otherwise obtain such Commodities

to enable the Member to make delivery to the relevant Clearing House / Clearing Corporation, as the case may be.

6.2 The Member may, but shall not be bound to, in its discretion and at the risk and cost to the Constituent, at any time Square-off all or any Outstanding Positions of the Constituent on any or all Exchange (s) and segment (s) in such manner as the Member thinks fit and without any prior notice to or approval of the Constituent. The Constituent agrees to bear and pay the losses arising from such Squaring-off in particular and without prejudice to the generality of the above:-

- (a) If the Constituent has entered into Short Sale or a Long Purchase then the Member shall be entitled to at any time before the Constituent has Squared-off his Short Sale or Long Purchase position, Square-off and / or carry forward the whole or part of the Short Sale or Long Purchase position on any day, at any place (Exchange), at the price determined by the Member or at market price and in any manner as the Member thinks fit, or permit the Exchange to close out of auction such position and the aforesaid shall be at the Constituents risk and cost including brokerage, trade transaction charges and penalty on Square-off / Close out.
- (b) Where any limit given to the Constituent has been breached or where the Constituent has defaulted on any existing obligation, the Member shall be entitled to Square-off the Constituent's Outstanding Position, inter alia, where, in the Member's opinion, the actual loss and /or the mark-to-market loss on the Outstanding Positions of the Constituent has breached or may breach the margins maintained by the Constituent with the Member where the margin or collateral placed by the Constituent and made available with the Member falls short of the Member's requirements,
- (c) The Member may square off any Outstanding Position (s) of the Constituent due to all or any of the following:
  - i. the volatility in the market;
  - ii. Impending price sensitive announcements;
  - iii. any restrictions in relation to volume of trading/ outstanding business or margin stipulated by any Exchange, Clearing Corporation/ Clearing House and / or the Member;
  - iv. political instability in the country;
  - v. presence of any other price sensitive factors; and / or
  - vi. delays by the Constituent in meeting his obligations / dues to the Member and / or the Clearing Corporation / Clearing House.

6.3 The Member shall have the right to retain and / or set-off and adjust any amounts payable to the Constituent against any present or future receivables from the Constituent (whether accrued or contingent) more particularly; the Member shall have the right to:

- i. set off and adjust all funds, receivables, collateral / margins of the Constituent lying with the Member and / or any amounts payable to the Constituent against all present and future dues and receivables, of and amount payable by the Constituent, across segments and / or Exchanges for the settlement of dues and/or for margin / collateral requirements of the Constituent, without any prior reference to the Constituent.
- ii. set off and adjust all Commodities of the Constituent lying with the Member or with the Designated Depository Participant across segments and/or Exchange for the settlement of the Constituent's Outstanding Positions in any segment or Exchange, without any prior reference to the Constituent.
- iii. set-off and adjust all funds, receivables, collateral/margin of the Constituent lying with the Member and / or any amount payable to the Constituent as well as Commodities of the Constituent lying with the Member and / or Designated Depository Participant in relation to a particular Service, against all present and future dues and receivables of, and amounts payable by the Constituent in relation to any other Service or, for the settlement of the Constituent's Outstanding Positions in relation to any other Service, without prior any reference to the Constituent.
- iv. Set-off all receivables, collateral / margins of the Constituent lying with the Member and / or any amount payable to the Constituent, as well as Commodities of the Constituent lying with the Member and / or the Designated Depository Participant in relation to a particular Service, against all present and future dues and receivables of and amounts payable by the Constituent to or through the Member in relation to any service (s) not covered by this General Terms and Conditions, that the Member may offer or make available (either itself or through any other Business Associate(s)) to the Constituent, without any prior reference to the Constituent.

- v. set-off and adjust all monies and/or Commodities owed to or through the Member, by the Constituent, against monies and/or Commodities owed to the Constituent by the Member, without any prior reference to the Constituent. This clause 6.3 (v) is irrevocable and shall continue to apply until all the obligations and dues of, the Constituent are completely fulfilled and settled to the satisfaction of the Member. .
- 6.4 Any order given by the Constituent to the Member shall be binding upon the Constituent or his legal representatives until actual notification of the death of the Constituent is communicated to the Member. Such communication shall not affect/prejudice the right of the Member hereunder.
- 6.5 All orders for purchases, sale or other dealings in commodities and other instructions routed through the Member's IBT System through the Constituent's username shall be deemed to have been given by the Constituent.
- 6.6 The Member may from time to time impose and vary limits on the orders which the Constituent can place through the Member IBT System (including exposure limits, turnover limits, limits as to the number, value and/or kind of commodities in respect of which orders can be placed,) without giving any prior notice to the Constituent.
- 6.7 All Commodities in the Associated Demat Accounts with the Designated Depository Participant or in the Constituent Account or otherwise with the Member (whether such accounts be single or joint) shall be subject to a lien for the discharge of any and all current or future indebtedness or any other obligation (including contingent indebtedness or any other obligation) that the Constituent may have towards or through the Member and or its Business Associate(s): and the same may be held by the Member as security for the discharge thereof.
- 6.8 The Constituent agrees that, in enforcing its set off, lien and/or other rights, the Member may, in its sole discretion, determine which Commodities are to be sold or appropriated, which account is to be debited or which outstanding positions are to be closed.

## **7. Collaterals & Margin**

- 7.1 The Constituent agrees and undertakes to immediately deposit with the Member such amount, and type of collateral and margins, as the Member may in its sole discretion from time to time require as and by way of an interest free collateral / margin. The manner in which the Constituent with the Member shall validly deposit such collateral margin is set out in clause 8 of General Terms and Conditions. The Member shall have the sole and absolute discretion to refuse any collateral / margin offered by a Constituent. The Member shall be entitled in its sole discretion to revise the amount of and/or modify or revise the type of collateral/margin it shall require from the Constituent from time to time. The Member shall also be entitled to prescribe haircut percentages from time to time in relation to any collateral/margin shall be provided by the Member on the it's Web Site and shall be otherwise available upon demand at the Member's office(s) and/or the offices of its Business Associate(s) and the Constituent agrees to keep himself updated in respect thereof.
- 7.2 The Constituent agrees that the Member shall be entitled in its sole discretion to require the Constituent to Deposit with the Member a higher collateral / margin than that prescribed by the Exchange or any other applicable law. The Member shall also be entitled to require the Constituent to keep permanently with the Member a deposit/collateral/margin of a value specified by the Member so long as the Constituent desires to avail of the Member's services. If any Commodities are found not to be of Good Delivery at any time after it's deposit with the Member, the Member is entitled to reduce the amount attributable to such Security in the Constituent Account and the Constituent shall immediately replace the same, failing which the Member is entitled to revise the limits of the Constituent and/or square-off all or any outstanding position(s) in the Constituent's account.
- 7.3 The Constituent hereby gives to the Member an irrevocable and unconditional right to appropriate any collateral or margin, without any prior reference to the Constituent in order to discharge any and all current or

future indebtedness or any other obligation (including contingent indebtedness or obligation) that the Constituent may have to or through the Member and/or Business Associate(s).

7.4 Without prejudice to the provisions of clause 7.2 & 7.3, in case the Constituent does not provide the required collateral/margin within the time frame specified by the Member, the Member shall have the right to:

- i. Appropriate and/or transfer and/or sell any Commodities or collateral in the Constituent Account and/or instruct the Designated Depository Participant to sell and/or transfer all or any Commodities thereof;
- ii. Square off all or any Outstanding Positions in the Constituent's account;
- iii. Prevent any new orders from being placed and/or executed by the Constituent; and/or;
- iv. Take such other action as the Member thinks fit and proper.

The Member may exercise all or any of the above rights in such manner as the Member thinks appropriate, without demand for additional margin or collateral, or advance notice or advertisement, on any Exchange or other market where such business can be transacted, at a public auction or by private sale and the Member and/or any of its Business Associate(s) may be the purchaser/seller for its own account. Any prior demand, call or notice given in this regard shall not be considered as a waiver of the Member right to exercise its rights without any such demand, call or notice.

7.5 The Member shall be entitled to debit all costs/expenses incurred by it in relation to or associated with the margins/collaterals of the Constituent to the Constituent Account. The Constituent agrees that the Member shall not be liable for any loss or damage whether actual or notional, direct or indirect, suffered by the Constituent as a consequence of clause 7.4 above.

## **8. Creation of charge-over collateral /margin.**

8.1 The Member shall from time to time prescribe and/or vary the manner in which any collateral/margin shall be secured, in favour of the Member.

(a)Commodities:

In the case of collateral/margin in the form of those Commodities as approved by the Member, from time to time, for deposit by a Constituent as collateral/margin the same shall be secured in favour of the Member in the following manner:

- i. The Constituent shall create a pledge over the Commodities that it proposes to secure in favour of the Member as collateral/margin, by issuing appropriate pledge instructions to the Associated Depository Participant, Warehouse Manager, Custodian, in the manner prescribed by the Depository, Warehouse Manager, and Custodian, concerned from time to time.
- ii. The Member shall treat such pledge as being valid collateral margin only when the Member is satisfied that the pledge instructions are irrevocable.
- iii. The pledge created shall be a continuing security and shall be invoked by the Member in the manner and in the circumstances set out in clause 7 of this General Terms and Conditions, without prejudice to the foregoing: the Member may invoke the pledge in part and/or in full.
- iv. Where a Constituent wishes to reduce its exposure or close all of its Constituent Accounts with the Member, the Member shall be obliged to close the whole or part of any pledge only after it has satisfied all dues referred to in clauses 7.
- v. All costs, changes and expenses incidental to or otherwise in relation to the creation, closure and / or invocation of a pledge shall be borne by the Constituent.

In the case of collateral/margin in the form of Commodities, other than those commodities, as approved by the Member from time to time for deposit by a Constituent, the same shall be secured in favor of the Member in the manner, that shall be prescribed by the Member from time to time, in relation to various types/forms of Commodities.

(b)Securities:

In the case of collateral/margin in the form of those securities such as Equities, Bonds, Mutual funds units etc. as approved by the Member from time to time for deposit by a Constituent as collateral / margin the same shall be secured in favour of the Member.

(c) Bank Guarantees:

In the case of collateral/margin, in the form of an irrevocable and unconditional bank guarantee, the Constituent shall procure a bank guarantee from a bank or other financial institution approved by the Member from time to time for this purpose, in favour of the Member in the standard format as prescribed by the Member from time to time.

(d) Fixed Deposit:

In the case of collateral / margin in the form of a fixed deposit, the Constituent shall create a fixed deposit held with a bank or with any other financial institution, as prescribed and approved by the Member, with such liquidation and pay out instructions as the Member shall prescribe from time to time.

(e)Cash:

In the case of collateral/margin in the form of cash, the Constituent shall deposit such cash with the Member in the manner prescribed by the Member from time to time.

(f) Others:

In case of collateral/margin of a nature, other than as previously mentioned in the General terms and conditions that the Member may from time to time prescribe. Collateral/margin, shall be validly deposited with the Member, as prescribed by the Member from time.

## 9. Cancellation/ Modification requests

9.1 The Cancellation or modification of an order pursuant to the Constituent's request is not guaranteed. The order shall be cancelled or modified only if the Constituent's request for cancellation or modification is duly received and the order is successfully cancelled or modified before it is executed. Market orders are subject to immediate execution wherever possible.

9.2 The Constituent shall not be entitled to presume, an order as having been executed, cancelled or modified, until a confirmation from the Member is received by the Constituent in that behalf, as the case may be. However, due to technical or other factors the confirmation may not be immediately transmitted to or received by the Constituent, and such delay shall not entitle the Constituent to presume that the order has not been executed, cancelled or modified, as the case may be, unless and until the Member has so confirmed in writing.

9.3 Unless otherwise specified by the Member, any order not executed at the end of the relevant Exchange's trading day shall stand cancelled. To remove any doubt, it is hereby clarified that an order placed prior to or during the trading day at the Exchanges, shall not remain valid for execution at any subsequent trading day at the exchanges.

## 10. Brokerage, commissions and fees

10.1 The Constituent agrees that the Member may from time to time in its sole discretion, but subject to the Exchange Provisions, determine and modify the amount of brokerage, commissions, fees, charges and other amounts payable by the Constituent. The above-mentioned information shall be otherwise available upon demand at the Member's office(s) and /or the office(s) of Business Associates notified by the Member for this purpose, the Constituent agrees to keep himself updated in respect thereof.

## 11. Confirmations

11.1 Confirmation of receipt of an order by the Member shall be communicated to the Constituent in the order-confirming module through any Channel as set up by the Member for placing an order. Details of the order-

confirming module of each Channel are available on the Member's Web Site and shall be otherwise available upon demand at the Member office(s), and the Constituent agrees to keep himself updated in respect thereof. Upon execution or cancellation of an order for which the Constituent has received a confirmation as previously mentioned, It is the responsibility of the Constituent to review, immediately upon first receipt whether delivered to him online, by postal mail, by electronic mail or any other electronic means, all confirmation notes/ contract notes of orders or trades. It is the responsibility of the Constituent to follow-up with the Member for all such confirmation notes/contract notes that contain discrepancies or are not received by him within the stipulated time.

- 11.2 Without prejudice to the forgoing, the Constituent agrees and understands that due to technical or other factors, an order, which has been received by the Member, may not be immediately confirmed to the Constituent. Such delay in confirmation shall not entitle the Constituent to presume that the Member has not received the order, and the Constituent shall remain liable to the Member for every order of the Constituent duly received by the Member.
- 11.3 The Constituent shall bring any errors in any report/communication, contract note or confirmation note of executed trades (including execution prices, commodities or quantities) to the Member's notice in writing, through electronic mail or fax within 48 hours of receipt of the concerned report, contract note or confirmation note. Any other discrepancy in a report, contract note or confirmation note shall be notified by the Constituent to the Member in writing, via electronic mail or fax within 48 hours from the receipt of the report, contract note or confirmation note (as the case may be), In all cases, the Member shall have the right to accept or reject the Constituent's objection. In case the objection is not received by the Member within a period of 48 hours, the report statement, contract note or confirmation note sent by the Member shall be deemed to have been accepted by the Constituent.
- 11.4 There may be a delay in the Member receiving the reports of a trade/transaction status from the respective Exchanges. Accordingly, the Member may forward to the Constituent, late reports, contract notes or confirmation notes in respect of such trades/transactions that were previously unreported to him or were incorrectly reported to him as being expired, cancelled or executed. The Constituent shall not hold the Member responsible for any losses suffered by the Constituent because of any late reports/statements, contract notes or confirmation notes computed by or received from any Exchange/ Member.

## **12. Investment Advice**

- 12.1 The Member does not intend to give and the Constituent acknowledges that the Member shall not be liable to provide to the Constituent, any tax, legal or investment advice of any kind, or any advice or opinion with respect to the nature, potential value or suitability of any particular Commodity, trade, transaction, investment or investment strategy. The Constituent understands and agrees that in the event the Constituent receives or accesses any investment research report, any investment or other recommendations or advice from the Member, and / or any Business Associate(s) (or any employees or official of the Member or a Business Associate(s)) or on the Member's Web Site or that of any Business Associate(s), the same is on a no-liability, no guarantee, no solicitation and no-obligation basis and any decision, action or omission thereon by the Constituent shall be entirely at the Constituent's risk and should be based solely on the Constituent's own verification of all the relevant facts, financial and circumstantial, a proper evaluation thereof and the Constituent's investment objectives. The Member shall not be responsible or liable for the same for any reason whatsoever.
- 12.2 The Constituent also acknowledges that the Member employees, Business Associate(s) and/or any employee of any Business Associate(s) are not authorized to give any such advice and that the Constituent will not solicit or rely upon any such advice from the Member, a Business Associate(s) and/or any of the Employees of the Member and/or a Business Associate(s). The Constituent agrees that in the event of the Member, any employee or official of the Member, any Business Associate(s) and/ or any employee of any Business Associate(s)

providing any information, recommendation or advice to the Constituent, the Constituent may act upon the same, at his sole risk and cost, and the Member shall not be liable or responsible for any loss or damage, whether actual or notional, direct or indirect, suffered by the Constituent for the same.

12.3 The Constituent agrees and undertakes to assume full responsibility for all its investment decisions and trades. The Member, its officers, directors, partners and employees, Business Associate(s), agents and affiliate(s) will have no liability with respect to any investment decisions, trade or losses of the Constituent.

13. **Proprietary Trading:** The Member discloses herewith that it undertake Proprietary trading in addition to Client based trading.

14. **Tape Recording of Conversation:** The Constituent is aware that the Member tape-records the conversations between the Constituent/Constituent's representative and the Member, either personally or over the telephone without an automatic tone warning device, and hereby specifically permits the Member to do so. The Member as and when required to resolve disputes in connection with the trading transactions may rely upon such recordings. The Constituent agrees to accept the contents of any such recording as final and conclusive evidence of communications from the Constituent given by the Constituent or on behalf of the Constituent in case of dispute.

The Member endeavors to record all the conversation between the Member and the Constituent, however the Constituent understands that certain transactions may not be captured/recorded due to technical defects, certain unforeseen events and non-availability of the said facility on the concerned phone line, non-availability of the said facility in the concerned branch therefore non-availability of any one or all of the voice recording do not render the transactions invalid & same shall be binding on the Constituent.

## 15. Documents

The Constituent agrees to receive via electronic mode other documents including but not limited to the statement of accounts for commodities, statement of account, trade confirmation(s) of the trade(s) executed, bills, notices, STT statement(s) & any other communication sent on client's registered Email ID by the Member. All the aforesaid information/communication/documents including the Statement of Account(s) etc. will be deemed to have been delivered, at the designated location (specified from time to time) where the Constituent logs into the internet site using his/its username password. The Constituent accepts the same as a valid delivery of the said information/communication. Further, the Member and the Constituent hereby agrees to abide by the amendment required if any, for complying with any statute, regulation or with the requirements of any competent authority.

## 16. Representations and Warranties of the Constituent

16.1 The Constituent represents and warrants to the Member that all the information provided and statements made in the "Account Opening Form", or any other document provided by the Constituent to the Member and / or any Business Associate(s) (whether before or at any time after the date hereof) in relation to the provision of the services to the Constituent ("other documents") are true and correct and or nothing false and/or misleading statement/information(s) has been made (whether by reason of omission to state a material fact or otherwise). The Constituent is aware that the Member has agreed to provide the Member's services to the Constituent on the basis, inter alia, of the statements/information made in the "Account Opening Form" and other documents.

- 16.2 All personal details provided by the Constituent shall be deemed to be true and correct and in case of any dispute shall be relied upon. The Constituent undertakes not to dispute and keep the Member indemnified in the event if any of the information is found to be incorrect or incomplete.
- 16.3 The Constituent shall abide by the Exchange provisions, the guidelines, rules and regulations of FMC and the Clearing Corporation/House and any other pertinent regulatory authority and the terms that the Member and the Member's Web Site in force may prescribe from time to time for use of the services.
- 16.4 Any instructions given by an authorized representative of the Constituent to the Member (or to the Member representative) or any of its Business Associates shall be absolutely binding on the Constituent.
- 16.5 The Constituent agrees and understands that the use of the Service by Constituents, resident or situated outside India, may attract international, federal, state and/or local laws and regulations applicable to such Constituents. It shall be the sole responsibility of such Constituents, to ensure and comply, at all times with such applicable international, federal, state and/or local laws and regulations. The Constituent indemnifies the Member, its directors, employees, partners, Business Associates, agents and affiliates from and against any and all losses, claims, liabilities and/or expenses which may arise as a result of any failure by the Constituent to comply with the provisions of this clause 17.5
- 16.6 The Constituent hereby agrees and represents that he/she/it has understood and fully appreciates the risk involved in, dealing in Commodities and availing of the services, and agrees to be solely responsible for the investments and trade made by the Member on his behalf, pursuant to any order of instruction from the Constituent.

## **17. Other Data**

- 17.1 The Constituent's understands that the Exchange and any other supplier of data (including without limitation, a Business Associate) asserts a proprietary interest in all of the market and other data it furnishes, directly, through the Member or otherwise. The Constituent understands that the Exchange, such supplier and the Member do not guarantee the timeliness, sequence, accuracy or completeness of the data or any other information, or any messages disseminated by it. The Member and/or its supplier shall not be liable in any way for incorrect, misleading, incomplete or outdated data or information and, if the Constituent acts on the basis of the same, he shall do so at his own risk and cost
- 17.2 The Constituent shall not furnish market information provided by the Exchange, the Member and/or a Business Associate to any other person or entity whomsoever for consideration or otherwise and in the event the Constituent users such information, he shall do so at his own risk and cost.
- 17.3 The Constituent is authorized to use, at the Constituent's risk, materials which are made available by the Member services for the Constituent's own needs only, and the Constituent is not authorized to resell or permit access to any such materials or to make copies of any such materials for sale or supply to or use by others. The Constituent will not delete Registered Trademarks, copyright or any other intellectual property rights notices from any such materials.

## **18. Limitation of Liability**

- 18.1 The Member does not warrant that the Service will be uninterrupted or error free. Constituent's use of the services is at the Constituent's sole risk. The Services are offered to the Constituent are on an "as is" and "as

available" basis. The Member does not make, expressly and specifically disclaims any representations or warranties of any kind, express or implied regarding the Member's services or the System, including without limitation, those of uninterrupted availability, merchantability or fitness for a particular purpose of the services. Without limiting the generality of the foregoing, the Member specifically disclaims any guarantee or warranties that:

- a) the ORS Service and the Channels will be secure, uninterrupted or error free.
- b) that defects in ORS Service and the Channels will be corrected;
- c) that there are no viruses or harmful content on or in the ORS service, and/or the Member's Web Site; or
- d) that the content on the Member's Web Site is correct, accurate, reliable, timely, legal and of any specific quality.

18.2 The Constituent agrees that, under no circumstances, including negligence, shall the Member or anyone involved in creating, producing, delivering or managing the Member's services or System be liable, for any direct, indirect, incidental, special, general, remote, actual, notional or consequential loss and/or damages, arising out of the use or inability to use or the availability or non-availability of the services, including but not limited to loss or damage in relation to:

- a) lost profits, trading losses, loss of opportunity or damages that result from interruption, delay or loss of the use of the Service; inability to trade for whatsoever reason
- b) any claim, loss or damage attributable to errors, omissions or other inaccuracies in the content or data on The Member's Web Site or the ORS Service;
- c) any unauthorized use, access or alteration or discontinuance of any services; or,
- d) any other matter relating to the services.

18.3 The Constituent agrees that the Member, its directors, employees, partners, agents, affiliates and Business Associates shall not be liable or responsible for any loss or liability caused or incurred directly or indirectly due to any act or omission of the Constituent, any "lost opportunity" viz. notional profits on squared off transactions, executed due to any reason whatsoever, actual or perceived, caused directly or indirectly, by government restriction, change in law, Act of God, Exchange or market rulings or regulation, suspension of trading, war, earthquakes, flood, accident, strikes, power failure, communication line failure, system or telephone failure, security failure on the internet, equipment or software malfunction, hacking, unauthorized access, theft, strikes or any problem, technological or otherwise, that might prevent the Constituent from entering, or the Member from executing an order, or any other conditions beyond the Member's control.

18.4 The Member shall not be liable for any error or delay in, or omission from, any date, information, or message on the Member's Web Site, the ORS Service and/or the services generally; delayed interrupted or improper transmission or delivery of any date, information, or message: or any loss or damage arising, from or occasioned by the above. Further, the Member shall not be liable for any failure to execute an invalid, incomplete or inaccurate Constituent order.

18.5 The Constituent understands and agrees that the services are being provided by the Member, with the assistance and technology of some of its Business Associates. The Member disclaims liability and responsibility, and the Constituent agrees and accepts that the Member shall not be liable or responsible, for and in relation to any and all loss or damage (real or notional), direct or indirect incurred or suffered by the Constituent or anyone else as result of any action, advice, failure or default attributable to a Business Associate(s).

## **19. Indemnity**

19.1 The Constituent agrees to indemnify and hold the Member, its directors, employees, officials, representatives, partners, Business Associates, agents and affiliates, harmless from and against any and all claims, losses, liability, costs, expenses (including but not limited) to lawyer's fees and penalties or costs imposed by any exchange and proceeding) arising from, out of, or in connection or in relation to:

- i. The breach of any obligation by the Constituent under, or any representation, warranty and/or covenant made by the Constituent in this Agreement;
- ii. any third party's right arising out of the services rendered by the Member pursuant to this Agreement; and
- iii. any other wrongful act on the part of the Constituent.

## **20. Notices**

- 20.1 Any notice, information or other communication to be given by the Constituent to the Member in connection with this General Terms and Conditions shall be in writing and shall be deemed duly served if delivered personally or by prepaid registered post to the address, and for the attention of the person, set out below: to,
- The Compliance Officer, Indiabulls Commodities Limited, F-60, 2<sup>nd</sup> Floor, Malhotra Building, Connaught Place, New Delhi-110001
- 20.2 Any notice, information or other communication, to be given by the Member to the Constituent in connection with this General Terms and Conditions shall be in writing and shall be deemed duly served if sent, by prepaid registered post to the address, or to the e-mail address, (as applicable) specified by the Constituent, in the " Account Opening Form", as the address and mode of service for all communication to the Constituent.
- 20.3 Either the Member or the Constituent, may change their addresses, and/or the mode by which notices, communications and information is to be delivered to them by the other, as specified aforesaid, by giving notice of such change to the other respectively, in the manner prescribed for service of notice to the other by clause 21.1 and 21.2 (as applicable).
- 210.4 Notwithstanding anything stated above, Communication relating to orders, margins/collateral, maintenance calls and other similar matters by the Member to the Constituent may, at the option of the Member be communicated orally and/or by facsimile to the Constituents or its representative by the Member or any of its Business Associates.

## **21. Amendment & Suspension**

- 21.1 The Constituent understands and agrees that the Member may suspend or discontinue its services in part or in its entirety and change the terms of the Service (including the terms on the Member's Web Site) or this General Terms and Conditions at any time and from time to time, by giving fifteen (15) days prior notice, and the same shall bind the Constituent.
- 21.2 Without prejudice to the generality of the aforesaid, the Member may suspend or terminate, the services, without prior notice to the Constituent if the Constituent has breached any terms or conditions or if the Member comes to know, of the death, disability, bankruptcy or lack of legal capacity of the Constituent, or where in the perception of the Member, the continuation of the services could increase the risks to the Member, a Business Associate, Exchanges or any other authority.
- 21.3 The Member may at any time amend this General Terms and Conditions (and related agreements/ documents entered into by the Constituent with the Member), by modifying or rescinding any of its existing provisions or conditions, or by adding any new provisions or conditions and upload the aforesaid amended General Terms and Conditions (and related agreements/ documents) on the Member's Web Site thereby informing the Constituent of the said amendments. The Constituent agrees that the continued use of the Member's services after such notice will constitute acknowledgement and acceptance of such amendment

## **22. Extraordinary events**

The Member and/or its agents will not be liable for losses, whether actual or notional, caused directly or indirectly by government restriction, Exchange or market rulings, suspension of trading, computer, communication, telephone or system failure, war, earthquakes, flood, accident, power failure, equipment or software malfunction, strikes or any other conditions beyond the Member's control.

**23. Assignment**

The Constituent shall not assign any right and obligations hereunder without obtaining prior written consent from the Member.

In witness thereof, the parties to the agreement have caused these additional presents to be executed as of the day and year first above written. I hereby also acknowledge that I have read/ explained in vernacular and have understood the above Annexure which contains The General Terms & Conditions

<b>Client Name</b>		Witness Name:						
<b>Client Address</b>		Witness Address:						
<b>Client Signature</b> 		Witness Signature 						
For <b><u>Indiabulls Commodities Limited</u></b>		Witness Name:						
Authorized Signatory		Witness Address:						
Place								
Date	D	D	M	M	Y	Y	Y	Y
		Witness Signature 						

