

ITCM ID	
TM ID	

**INSTRUCTIONS TO FILL INSTITUTIONAL TRADING-CUM-CLEARING MEMBER - TRADING MEMBER AGREEMENT**

1. The INSTITUTIONAL TRADING-CUM-CLEARING MEMBER - TRADING MEMBER AGREEMENT has to be executed on a Non-Judicial Stamp Paper of Rs.300/- or the value prevailing in the state, whichever is higher.
2. Please ensure that each and every blank in the agreement is duly filled
3. Please ensure that each and every handwritten detail filled in the agreement is countersigned by the Authorized Signatories and Rubber stamp affixed thereon.
4. Members are requested to obtain the signature of the authorized signatories and rubber stamp on each and every page of the agreement
5. Obtain signature of two witnesses on the last page of agreement
6. Agreement has to be notarised
7. Please type the following on the stamp paper (as the First Page)

**INSTITUTIONAL TRADING-CUM-CLEARING MEMBER - TRADING MEMBER AGREEMENT**

This Non-Judicial Stamp paper of Rs.\_\_\_\_\_ forms part and parcel of this agreement submitted to Multi Commodity Exchange of India Limited executed between

Mr./Mrs./M/s. \_\_\_\_\_

and

Mr./Mrs./M/s. \_\_\_\_\_ on

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature 1 (ITCM) \_\_\_\_\_ Signature 1 (TM) \_\_\_\_\_

Signature 2 (ITCM) \_\_\_\_\_ Signature 2 (TM) \_\_\_\_\_

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**Institutional Trading-cum-Clearing Member - Trading Member Agreement of MCX**

This agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, between \_\_\_\_\_, a company/Association/partnership firm/individual having its registered office/office/residence at \_\_\_\_\_ (hereinafter called the Institutional Trading cum Clearing Member (ITCM) or the Clearing member) which expression shall unless repugnant to the context or meaning thereof include its successors, legal representatives and permitted assigns) and \_\_\_\_\_, a company/partnership firm/individual having its registered office/office/residence at \_\_\_\_\_ (hereinafter called the Trading Member or Trading cum Clearing Member, (who/which decides to clear their/its trade with the Clearing Member), which expression shall unless repugnant to the context or meaning thereof include its successors, legal representatives and permitted assigns).

**Whereas**

1. \_\_\_\_\_ has been admitted as Trading Member or Trading cum Clearing Member of Multi Commodity Exchange of India Limited [hereinafter referred to as "MCX"], by the ITCM. This Trading Member or Trading cum Clearing Member is required to clear and settle the deals executed by it /him through the ITCM of MCX with clearing rights in accordance with the Rules, Bye Laws and Regulations of MCX.
2. \_\_\_\_\_ has been admitted as an Institutional Trading cum Clearing Member of MCX and is authorised to carry on the activities of clearing and settlement of deals/trades (hereinafter referred to as deals) on behalf of Trading members or Trading cum Clearing Member who are registered as such by the ITCM with MCX or on behalf of Trading Members or Trading cum Clearing Members registered directly by MCX for Trading on MCX, the settlement of which shall happen through the ITCM.
3. The Trading Member or Trading cum Clearing Member desires to clear and settle the deals executed by it /him on the Trading System of MCX through the ITCM of MCX. The ITCM undertakes that it would clear & settle deals and discharge its duties & obligations towards MCX on behalf of the Trading Member or the Trading cum Clearing member and the Clearing Member has also agreed to do the same on the terms and conditions contained herein.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)**\_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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**4. Now, therefore, this agreement witnesseth as follows:**

1. In consideration of Trading Member or the Trading cum Clearing member agreeing to pay certain fees and charges mentioned herein and abide by the terms and conditions contained in this agreement, Rules, Bye Laws and Regulations of MCX, the Clearing Member undertakes upon itself /himself, to the total exclusion of the Trading Member or Trading cum Clearing Member, the obligation of clearing and settlement of the deals of the Trading Member or Trading cum Clearing Member executed/done on MCX and to do all the acts, deeds and activities incidental to the clearing and settlement of the deals.

**2. Rights of the Clearing Member**

(1) The Clearing Member shall be entitled to demand/receive from the Trading Member or Trading cum Clearing Member such deposits in such form as it/ he may specify from time to time. This deposit shall be collected by the ITCM from the Trading Member or Trading cum Clearing Member and paid to MCX for allocation of the trading limits.

**(2) Without prejudice to the generality of the above, the Trading Member or Trading cum Clearing Member shall place with the Clearing Member such amount as may be specified by ITCM or MCX from time to time as deposit which shall be maintained at any point of time. Subject to the provisions of Bye Laws, Rules and Regulations of MCX, in case of any shortfall in such deposit, the ITCM can initiate any action necessary to protect its /his interests in this regard against the Trading Member or Trading cum Clearing Member which may include restriction on further trading and close-out of open positions.**

(3) The Clearing Member shall be entitled to receive from the trading member or Trading cum Clearing Member such fees, charges, brokerage or commission in respect of various services which it /he renders or agrees to render to the Trading Member or Trading cum Clearing Member at such intervals as may be mutually agreed upon.

(4) The Clearing Member shall specify, subject to the requirements prescribed by MCX from time to time, the exposure limits upto which open positions can be taken by the Trading Member or Trading cum Clearing member. Such limits may be increased or reduced by the Clearing Member from time to time. The Clearing Member has the authority to initiate any action necessary to protect its /his interests in this regard which may, inter alia, include restriction on further trading and close-out of open positions of the Trading Member or Trading cum Clearing Member or withdrawal/disablement of trading facility of the Trading Member or Trading cum Clearing Member by making necessary requests to MCX for initiating such action.

**Signature 1 (ITCM) \_\_\_\_\_ Signature 1 (TM)\_\_\_\_\_**

**Signature 2 (ITCM) \_\_\_\_\_ Signature 2 (TM) \_\_\_\_\_**

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- (5) Clearing Member shall be entitled to collect from Trading Member or Trading cum Clearing Member margin(s) of such amounts of such kinds, as he may deem necessary, which at any point of time shall not be less than the amount stipulated by MCX from time to time. The Clearing Member shall have authority to collect such additional margin(s) as the Clearing Member may deem necessary or as per the requirement of MCX.
- (6) The Clearing Member shall be entitled to receive from the Trading Member or Trading cum Clearing Member such amounts as may be required to be paid towards daily mark to market settlement, final settlement or such other settlement as per the requirement of MCX at such intervals as may be mutually agreed upon by them.
- (7) The Clearing Member shall be entitled to receive from the Trading Member or Trading cum Clearing Member a statement containing (i) the details in respect of margin amount, due and paid by the Trading Member or Trading cum Clearing Member to the Clearing Member on his own account, which the Clearing Member had paid to MCX for the purpose of meeting margin requirements and (ii) a list of client codes, names of the clients, client-wise margin amount, collected by the Trading Member or Trading cum Clearing Member from his clients and paid to the Clearing Member, which the Clearing Member had paid to MCX for the purpose of meeting margin requirements. Such statements to be furnished by the Trading Member or Trading cum Clearing Member to the Clearing Member periodically as may be specified by MCX providing the amounts paid by the Trading Member or Trading cum Clearing Member on it /his own account and on behalf of it / his clients shall be conclusive and binding on itself / himself, his Clearing Member and all his clients unless the contrary is proved to the satisfaction of MCX.
- (8) The Clearing Member shall have authority to close out/liquidate the open positions of the Trading Member or Trading cum Clearing Member in accordance with the MCX Regulations, in the case of non-payment of dues by the Trading Member or Trading cum Clearing Member towards margins, daily mark to market settlement, final settlement or such other settlement, fees, brokerage, commission and/or charges, by making necessary requests to MCX for initiating such action. In such case, any loss arising due to the closing out of open positions will be recovered from the Trading Member or Trading cum Clearing Member.
- (9) Without prejudice to clause 8 above, in the event of non-payment of dues by the Trading Member or Trading cum Clearing Member towards margins, daily mark to market settlement, final settlement or such other settlement, fees, charges, brokerage and/or commission, the Clearing Member will have the authority to withdraw or disable the trading facility of the Trading Member or Trading cum Clearing Member by intimation to MCX.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)** \_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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- (10) The Clearing Member shall have the right to require the Trading Member or Trading cum Clearing Member to undertake registration of all his constituents and to comply with the requirements of `Constituent Registration Form' and `Risk Disclosure Document'. For this purpose, the Clearing Member shall be entitled to collect such information from the Trading Member or Trading cum Clearing Member about their constituents as the Clearing Member may require including the information pertaining to constituents' positions.
- (11) The Clearing Member shall have the right to require the Trading Member or Trading cum Clearing Member to allot each constituent a distinct constituent code.
- (12) The Clearing Member shall have the right to inspect the books of accounts, records, documents and computerised data of the Trading Member or Trading cum Clearing Member for which Clearing Member shall have free access to the premises occupied by Trading Member or Trading cum Clearing Member or by any other person on his behalf.

**3. Obligations of the Clearing Member**

- (1) The Clearing Member shall ensure that the Trading Member or Trading cum Clearing Member collects the margins from it / his constituents on such basis as may be prescribed by MCX from to time.
- (2) The money deposited by each Trading Member or Trading cum Clearing Member shall be kept in a separate account by the Clearing Member, distinct from his own account and shall provide the details to MCX.
- (3) The Clearing Member shall inform the Trading Member or Trading cum Clearing Member about the exposure limits (including any increase or reduction in such limits) upto which open positions can be taken by the Trading Member or Trading cum Clearing Member.
- (4) The Clearing Member shall be liable to pay to the Trading Member or Trading cum Clearing Member such amounts towards daily mark to market settlement, final settlement and such other settlement as per the requirements of MCX.
- (5) The Clearing Member shall be required to refund any excess margin money to the Trading Member or Trading cum Clearing Member as per mutual agreement.
- (6) The Clearing Member shall settle the accounts on a periodical basis as may be mutually agreed between the Clearing Member and the Trading Member or Trading cum Clearing Member which should be in accordance with the Byelaws, Rules & Regulations of MCX.**

Signature 1 (ITCM) \_\_\_\_\_ Signature 1 (TM) \_\_\_\_\_

Signature 2 (ITCM) \_\_\_\_\_ Signature 2 (TM) \_\_\_\_\_

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- (7) In the event of default by an ITCM or Clearing Member being declared a defaulter by MCX due to the default of its Trading member or otherwise, the money of the clearing member's constituents, trading members own account and trading members' constituents shall be appropriated by MCX towards the liability of the ITCM.
- (8) In the event of failure by the Clearing Member in the payment of any dues to the Trading Member or Trading cum Clearing Member, the Trading Member or Trading cum Clearing Member shall, with the prior approval of MCX, have the right to take up their matter with MCX.
- (9) The Clearing Member shall inform MCX in case the Trading Member or Trading cum Clearing Member has defaulted in his payments and similarly the Trading Member or Trading cum Clearing Member will inform MCX in case the Clearing Member has defaulted in making payment.
- (10) In case the Clearing Member is declared a defaulter by MCX and the Trading Member or Trading cum Clearing Member open positions have to be closed out then the Clearing Member shall be obliged to pay for any costs incurred for closing out the open positions.
- (11) If due to the default of the Clearing Member, the open position of the Trading Member or Trading cum Clearing Member is closed-out and any loss is incurred due to such close-out, the Clearing Member shall reimburse such loss to the Trading Member or Trading cum Clearing Member except to the Trading Member or Trading cum Clearing Member because of whom the Clearing Member has defaulted.
- (12) The Clearing Member shall treat the information pertaining to the Trading Member or Trading cum Clearing Member and of the constituents of such Trading Member or Trading cum Clearing Member as confidential. The Clearing Member shall not disclose the same to other Trading Members or Trading cum Clearing Member or any other person except to the governmental, statutory, regulatory or legal authorities on a request made by these authorities in writing.
- (13) The Clearing Member shall give a reasonable notice to the Trading Member or Trading cum Clearing Member before undertaking any inspection of books of accounts, records, documents of the Trading Member.**
- (14) The Clearing Member shall be required to provide reports/statements of mark to market settlement, final settlement or such other settlement, margin amounts and open positions to the Trading Member or Trading cum Clearing Member.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)**\_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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#### 4. Rights of the Trading Member

- (1) The Trading Member or Trading cum Clearing Member shall be entitled to have all the deals, entered into by him on MCX, cleared and settled through the Clearing Member.
- (2) The Trading Member or Trading cum Clearing Member shall be entitled to receive intimation from the Clearing Member about the exposure limits (including any increase or reduction in such limits) upto which open positions can be taken by the Trading Member or Trading cum Clearing Member.
- (3) The Trading Member or Trading cum Clearing Member shall be entitled to receive reports/statements of mark to market settlement, final settlement or such other settlement, margin amounts and open positions from the Clearing Member.
- (4) The Trading Member or Trading cum Clearing Member shall be entitled to receive from the Clearing Member such amounts towards daily mark to market settlement, final settlement and such other settlement as may required to be paid by the Clearing Member as per the requirement of MCX.
- (5) In the event of failure by the Clearing Member in the payment of any dues to MCX as well as Trading Member or Trading cum Clearing Member, the Trading Member or Trading cum Clearing Member shall, with the prior approval of MCX, have the right to transfer his own open positions as well as the open positions of his constituents immediately to another Clearing Member. The Trading Member or Trading cum Clearing Member shall also have the right to recover from Clearing Member any costs incurred for transfer of the open positions.
- (6) In case the open position of the Trading Member or Trading cum Clearing Member is closed-out due to the default of the Clearing Member, the Trading Member or Trading cum Clearing Member, except the Trading Member or Trading cum Clearing Member because of whom the Clearing Member has defaulted, shall be entitled to recover such loss from the Clearing Member.
- (7) The Trading Member or Trading cum Clearing Member shall be entitled to receive intimation from the Clearing Member before the Clearing Member undertakes inspecting books of accounts, records, documents of the Trading Member or Trading cum Clearing Member.

#### 5. Obligations of the Trading Member

- (1) The Trading Member or Trading cum Clearing Member shall pay to the Clearing Member such deposits in such form as the Clearing Member may specify from time to time.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)**\_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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- (2) Without prejudice to the generality of the above, the Trading Member shall place with the Clearing Member an amount of Rs. \_\_\_\_\_ as deposit which shall be maintained at any point of time. Subject to the provisions of Bye Laws, Rules and Regulations of MCX, the Clearing Member can initiate any action necessary to protect it / his interest in this regard against the Trading Member or Trading cum Clearing Member which may include restriction on further trading and close-out of open positions.
- (3) The Trading Member or Trading cum Clearing Member shall pay to the Clearing Member such fees, charges, brokerage or commission in respect of various services which he renders or agrees to render to the trading member or Trading cum Clearing Member at such intervals as may be mutually agreed upon by them.
- (4) The Trading Member or Trading cum Clearing Member shall pay to the Clearing Member margins of such amounts as may be prescribed by MCX from time to time including additional margins, if any, or such higher amount of margins as may be mutually agreed with the Clearing Member. The margins shall be deposited by the Trading Member or Trading cum Clearing Member within such time and in such form as may be specified by the Clearing Member.
- (5) The Trading Member or Trading cum Clearing Member shall collect the margins from his constituents on a gross basis.
- (6) The Trading Member or Trading cum Clearing Member shall be liable to pay to the Clearing Member such amounts towards daily mark to market settlement, final settlement and such other settlement as per the requirement of MCX at such intervals as may be mutually agreed upon by them.
- (7) The Trading Member or Trading cum Clearing Member shall submit to the Clearing Member a statement containing (i) the details in respect of margin amount, due and paid by the Trading Member or Trading cum Clearing Member to the Clearing Member on his own account, which the Clearing Member had paid to MCX for the purpose of meeting margin requirements and (ii) a list of client codes, names of the clients, client-wise margin amount, collected by the Trading Member or Trading cum Clearing Member from his clients and paid to the Clearing Member, which the Clearing Member had paid to MCX for the purpose of meeting margin requirements. Such statements to be furnished by the Trading Member or Trading cum Clearing Member to the Clearing Member periodically as may be specified by MCX providing the amounts paid by the trading member on his own account and on behalf of his clients shall be conclusive and binding on himself, his Clearing Member and all his clients unless the contrary is proved to the satisfaction of MCX.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)** \_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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- (8) The accounts shall be settled on a periodical basis as may be mutually agreed between the Clearing Member and the Trading Member or Trading cum Clearing Member which should be in accordance with the Byelaws, Rules & Regulations of MCX.
- (9) The Trading Member or Trading cum Clearing Member shall be obliged to reimburse any loss caused due to the closing out / liquidation of his open positions by the Clearing Member, in the case of non-payment of dues by the Trading Member or Trading cum Clearing Member towards margins, daily mark to market settlement, final settlement or such other settlement, fees, charges, brokerage, commission, penalties and expenses.
- (10) The Trading Member or Trading cum Clearing Member shall do all such acts, deeds and activities which are necessary for the purpose of complying with the Rules, Bye Laws & Regulations of MCX by the Clearing Member.
- (11) The Trading Member or Trading cum Clearing Member shall issue a Constituent Registration Form and a Risk Disclosure Document before accepting or placing orders on behalf of the Constituents and provide such details to the Clearing Member.
- (12) The Trading Member or Trading cum Clearing Member shall allot each constituent a distinct constituent code.
- (13) The Trading Member or Trading cum Clearing Member shall provide such information about his constituents as the Clearing Member may require including the information pertaining to constituents' positions.
- (14) The Trading Member or Trading cum Clearing Member shall maintain separate bank accounts to distinguish the (i) moneys received from or on account of and moneys paid to or on account of each of his constituents; and (ii) the moneys received and paid on member's own account and provide such details to the Clearing Member. The moneys belonging to one constituent shall not be utilised for meeting the obligations of the Trading Member or Trading cum Clearing Member or some other constituent.
- (15) The Trading Member or Trading cum Clearing Member shall keep such books of accounts as will be necessary to distinguish the (i) moneys received from or on account of and moneys paid to or on account of each of his constituents; and (ii) the moneys received and paid on member's own account and provide such details to the Clearing Member.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)**\_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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- (16) The Trading Member or Trading cum Clearing Member hereby agrees and undertakes to do all things, which may be necessary in order to transfer his constituents positions to the clearing member or another Trading Member or Trading cum Clearing Member in the event of his default. The Trading Member shall be obliged to pay for any costs incurred for transfer of open positions. In the event of default due to failure of a specific constituent to fulfill his obligation, the money of other constituents shall remain safe and can not be utilized to meet the obligation of the defaulting constituent.
- (17) If due to the default of the Trading Member or Trading cum Clearing Member, the open position of the Trading Member or Trading cum Clearing Member is closed-out and any loss is incurred due to such close-out, the Trading Member shall reimburse such loss to the Clearing Member.
- (18) The Trading Member or Trading cum Clearing Member shall allow the Clearing Member to have free access to the premises occupied by him or by any other person on his behalf and also extend reasonable facilities for examining any books, records, documents and computerised data in his possession.

**6. Termination of the Agreement**

The agreement entered into between the Clearing Member and the Trading member or Trading cum Clearing Member shall stand terminated by mutual consent of the parties by giving at least one month written notice. Such cancellation or termination shall not have any effect on transaction executed before the date of termination and the parties shall enjoy the same rights and shall have same obligations in respect of such transactions.

**7. Notice**

Any communication between the Clearing Member and Trading Member shall be made in any one or more of the following ways:

- (a) delivering it by post
- (b) sending it by registered post
- (c) sending it under certificate of posting
- (d) sending it by express delivery post / courier services.
- (e) sending it by telegram
- (f) affixing it on the door at the last known business or residential address
- (g) advertising it at least once in any prominent daily newspaper
- (h) sending a message through the Trading System
- (i) an electronic mail or fax

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)**\_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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**8. Force Majeure**

No liability shall result to either party for delay in performance or nonperformance of the obligations under the agreement caused or contributed to by any event of force majeure. For purposes of this Clause, "Force Majeure" means and includes wars, insurrections, revolution, fires, floods, epidemic, quarantine restrictions, declared general strikes in relevant industries, act of God, act of governmental, statutory, regulatory or legal authority and such other acts or events beyond the control of the non-performing party.

**9. No assignment**

Neither party shall be entitled to assign or otherwise transfer this agreement or any benefits, rights, obligations or interests herein whether in whole or in part to any other agency without the prior written consent of the other.

**10. Supersession**

This agreement shall supersede all previous communications between the Clearing Member and Trading Member or Trading cum Clearing Member with respect to clearing and settlement of deals, both oral or written, and the provisions herein contained shall not be omitted, added to, modified or amended in any manner except in writing and signed by both the parties hereof.

**11. Non-waiver**

No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no rights, powers, remedies herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each right, power or remedy shall be cumulative.

**12. Arbitration**

- (1) All disputes, differences or questions arising out of or in relation to the agreement including the interpretation of the terms contained herein or in the Rules, Bye Laws and Regulations of MCX or in regard to the obligations, failure or breach thereof by any of the parties and/or of any matter whatsoever arising out of the Agreement, shall in the first instance be resolved mutually by the parties.
- (2) If the parties fail to resolve the same mutually, then the same shall be referred to the arbitration in accordance with the Rules, Bye Laws and Regulations of MCX.

**13. Jurisdiction**

This agreement shall be subject to the exclusive jurisdiction of the courts in Mumbai.

**Signature 1 (ITCM)** \_\_\_\_\_ **Signature 1 (TM)**\_\_\_\_\_

**Signature 2 (ITCM)** \_\_\_\_\_ **Signature 2 (TM)** \_\_\_\_\_

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IN WITNESS THEREOF, the parties to agreement have caused these presents to be executed as of the day and year first above written.

Signed for and on behalf of

**Name of the Clearing Member (ITCM)**

**Signature 1**

**Signature 2**

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WITNESS

WITNESS

(1) Name :

2). Name :

Address :

Address :

Signature :

Signature :

Signed for and on behalf of

**Name of the Trading Member (TM)**

**Signature 1**

**Signature 2**

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WITNESS

WITNESS

(1) Name :

2). Name :

Address :

Address :

Signature :

Signature :