

**BROKERAGE PAYMENT SYSTEM™
BROKER AGREEMENT**

This Agreement, effective as of _____, 20_____, is entered into by and between Chicago Mercantile Exchange Inc., ("CME"), having its principal place of business at 20 South Wacker Drive, Chicago, Illinois 60606 and _____, a New York Mercantile Exchange, Inc. ("NYMEX/COMEX") member, independent broker, broker association, or ("Broker"), broker association or CPC Broker (for OTC business) (collectively, "Brokers") conducting business at CME Group Inc. and any of its subsidiaries.

(PLEASE CHECK APPROPRIATE BOX(ES))

NYMEX AND/OR COMEX

RECITALS

WHEREAS, CME has developed certain software known as the Brokerage Payment System or "BPS," which calculates amounts owed by clearing members to brokers for trade execution services:

WHEREAS, CME has implemented a mandatory automatic brokerage billing system based upon the BPS, that calculates the amount of brokerage owed by clearing members to brokers, automatically debits and credits such amounts to the accounts of such clearing members and brokers and creates reports relating to such calculations and transfers ("Services"); and

WHEREAS, the undersigned Broker will receive and CME will provide such Services to the Broker;

NOW THEREFORE, in consideration of the mutual promises contained herein, CME and Broker hereby agree as follows:

1. Authorization of Services

Subject to the terms and conditions set forth herein, Broker hereby authorizes CME to initiate credit entries to the account specified in Exhibit A attached hereto ("Account"), in accordance with the policies for transmitting payments of brokerage fees that are owed to Broker by clearing members for which Broker provided trade execution services ("Clearing Members"). Further, Broker authorizes CME to initiate debit entries to the Account in the event of any mistake, error or omission by CME relating to any such credit entry. Broker authorizes CME to act on its behalf by instructing the Bank designated in Exhibit A attached hereto ("Bank"), to accept and act upon all credit and debit entries to the Account that are initiated by CME hereunder.

2. Calculation of Brokerage Payments

For the purposes of calculating Clearing Members' payment obligations to Broker, CME will provide such Clearing Members with the opportunity to establish, and CME will reply

upon, the brokerage rates that each such Clearing Member wishes to pay Broker for the performance of trade execution services. At the end of every month, CME will calculate the fees due to Broker for trade execution services provided to Clearing Members during such month. CME's calculations will be based upon the number of cleared contracts executed by Broker on behalf of such Clearing Members and/or their customers during such calendar month, as indicated by such Broker's Cleared Trades Report.

3. Transfer of Funds

CME will debit the Clearing Members accounts in the required amounts and will credit the Account by the amount calculated pursuant to the provisions of section 2 hereof, less the amount of service fees due in accordance with section 5 hereunder.

4. Reports

CME will provide reports on a periodic basis to Broker and such Clearing Members which contain a calculation of the cleared trades and the brokerage fees paid, and showing all pertinent data and related information.

5. Fees

Broker agrees to pay CME a monthly service fee of [twenty-five cents (\$.25)] for each Clearing Member from whom Broker receives a payment hereunder; provided, however, that no fee shall be paid for any month in which the payment of brokerage fees by any such Clearing Member to Broker is less than [\$25.00]. Broker agrees that CME shall deduct from the amount credited to Broker's account each month, all service fees incurred by Broker during such month.

CME shall also collect funds due from brokers of any kind through deduction in payments from the BPS application. Such funds include, but are not limited to, CME incurred brokerage fees, floor-related fees, electronic device charges and fines.

6. Compliance

Broker and CME will comply with and be bound by the policies and procedures as in effect from time to time relating to the Services as well as the policies and procedures of the Bank that relate to the Agreement.

7. Financial Institution Change

Broker agrees that it will provide a newly executed agreement at least twenty (20) days prior to any change in the Bank or account name or number identified in Exhibit A.

8. Termination

This Agreement may be terminated by CME or Broker at any time by giving twenty (20) days prior written notice to the other party. Notwithstanding such termination, this Agreement shall remain in full force and effect as to all transactions that have occurred prior to the date of termination.

9. **Confidentiality**

During the term of this Agreement and at all times thereafter, Broker shall keep and maintain any Confidential Information (defined hereafter) that Broker may receive in strictest confidence and shall not disclose such information to any third party except as required by order of a court of competent jurisdiction or pursuant to a government request. For purposes of the preceding sentence, the term Confidential Information shall include the elements of the BPS Software and all programming, systems, user documentation, technical information, know-how, technology, formulae, information, system designs, prototypes, ideas, inventions, improvements, and data and files relating thereto that are not generally known to the public.

10. **Warranties, Liability and Indemnification**

- a) BROKER ACKNOWLEDGES AND AGREES THAT THE BROKERAGE PAYMENT SYSTEM AND THE SERVICES ARE PROVIDED "AS IS" AND THAT CME DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS RELATING TO THE BROKERAGE PAYMENT SYSTEM AND THE SERVICES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- b) BROKER ACKNOWLEDGES AND AGREES THAT NEITHER CME GROUP INC., AND ANY OF ITS SUBSIDIARIES, NOR ANY OF ITS BOARD MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR AFFILIATES SHALL BE LIABLE UNDER ANY CIRCUMSTANCES WHATSOEVER TO BROKER, A SUCCESSOR OR REPRESENTATIVE THEREOF OR ANY PERSON OR ENTITY ASSOCIATED THEREWITH FOR ANY DIRECT DAMAGES, OR FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR COMMERCIAL LOSSES), ARISING OUT OF: (1) ANY DEFECT, ERROR, FAILURE OR MALFUNCTION IN THE BROKERAGE PAYMENT SYSTEM; (2) ANY FAULT, DELAY, ACT, OMISSION OR INACCURACY IN PROVIDING THE SERVICES OR ANY TERMINATION OF THE SERVICES; (3) ANY CLAIM ALLEGING THAT THE SERVICES OR ANY ACTIONS TAKEN BY CME IN CONNECTION WITH THIS AGREEMENT VIOLATE ANY RIGHTS OF BROKER, OR (4) FROM ANY OTHER CAUSE WHATSOEVER, REGARDLESS OF THE FORM(S) OF ACTION OF ANY OF THE FOREGOING, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, AND WHETHER OR NOT CME HAS RECEIVED NOTICE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES OR LOSSES.
- c) Broker hereby agrees to indemnify and hold CME and its Board members, directors, officers, employees, agents and affiliates harmless from and against any and all liabilities, losses, costs, damages, interest claims, and expenses, including court costs and attorneys' fees, which CME or any of its Board

members, directors, officer, employees, agents or affiliates sustains or incurs as a consequence of any claim, proceeding or action; (1) that relates directly or indirectly to Broker's use of or inability to use the Brokerage Payment System or the Services rendered or to be rendered pursuant to this Agreement; (2) alleging that CME's Services or other actions related to this Agreement violate any rights of Broker; (3) arising from any act or omission of Broker or Broker's affiliates, employees or agents; (4) arising from the misuse, disclosure or misappropriate by Broker of any Confidential Information obtained by Broker; (5) alleging any facts which, if true, would constitute a breach by Broker of any obligation, representation or warranty contained in this Agreement, or (6) claiming damages based on Broker's use of the Brokerage Payment System pursuant to this agreement.

- d) CME will promptly correct any errors or omissions caused by CME in any debit or credit entries initiated pursuant to this Agreement.
- e) The provisions of this section 10 shall survive any termination of this Agreement.

11. **Notices**

Any written notice or other written communication required or permitted to be given pursuant to this Agreement shall be hand delivered or sent by United States registered mail, postage prepaid, to the parties at the addresses indicated above and, if to the Broker, directed to his or her attention (unless another person or address is substituted by Broker in the following space): and, if to CME, directed to the attention of Associate Director, Shareholder Relations and Membership Services Department.

12. **Miscellaneous**

- a) Headings are used for reference purposes only, and shall not be deemed to a part of this Agreement.
- b) This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Illinois without regard to any provision of Illinois law that would apply the substantive law of a different jurisdiction. The parties agree that any action, suit or proceeding arising out of or related to this Agreement shall be commenced in the United States District Court for the Northern District of Illinois, or if no federal jurisdiction exists, then in the Circuit Court of Cook County, Illinois. Each party hereby agrees to submit to the jurisdiction of such courts and to waive any objections based on venue in any action, suit or proceeding arising out of or related to this Agreement.
- c) This Agreement embodies that entire agreement of the parties with respect to the subject matter hereof, and supersedes all previous negotiations, representations, and agreements with respect hereto, and shall be binding upon the parties hereto, and their respective successors and assigns. This Agreement may be amended only by a writing signed by both parties.

- d) No waiver or any breach hereof, of any of the terms and conditions hereof or any default hereunder, shall be deemed a waiver of any other breach or default or in any way affect any other terms or conditions hereof.
- e) If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions of the Agreement shall not be affected thereby and shall be binding upon the parties hereto, and shall be enforceable as though the invalid or unenforceable provision were not contained herein.
- f) Neither party shall bear any responsibility or liability to the other party for any losses arising out of any delay in or interruption of its performance of its obligations under this Agreement due to any act of God, fire, flood, severe or adverse weather conditions, act of governmental authority judicial decree, act of the public enemy or due to war, riot, civil commotion, insurrection, labor difficulties (including, without limitation, any strike or other work stoppage or slowdown), or other cause beyond the reasonable control of the party so affected.
- g) This Agreement shall not be assigned or transferred by Broker and any attempt to so assign or transfer this Agreement shall be null and void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

CHICAGO MERCANTILE EXCHANGE INC.

BROKER

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Address: _____

Telephone: _____

Email: _____

EXHIBIT A

The Account referred to in the Agreement is the following deposit Account maintained by Broker:

Financial Institution: _____

Branch Name: _____

Specific Name of Branch: _____

Bank Contact Person: _____

Telephone Number: _____

Account Name: _____

Check One: Savings _____ Checking _____

Account Number: _____

Bank Routing Number: _____

Tax ID #/Social Security Number: _____

Primary Clearing Member: _____

Telephone Number: _____

Broker's Designated Contact: _____

Telephone Number: _____

Broker Symbol: _____

ATTACH A VOIDED CHECK OR COPY THEREOF BELOW:

-VOIDED CHECK OR COPY THEREOF-