

## INTERFACE DEVELOPMENT AND TESTING AGREEMENT

This Interface Development and Testing Agreement (this "**Agreement**") is entered into between \_\_\_\_\_

\_\_\_\_\_ ("**Licensee**")

*[insert full legal name and address]*

and Chicago Mercantile Exchange Inc., a Delaware corporation, with its principal place of business at 20 South Wacker Drive, Chicago, Illinois 60606, U.S.A. ("**CME**").

This Agreement consists of the following Schedules:

Terms and Conditions	Schedule A
Certification Environment Access Request and Information Form	Schedule B

**BACKGROUND.** CME, its affiliates and subsidiaries, maintains and operates various electronic interfaces and systems (including those that are operationally and/or technologically managed by a third party on CME's behalf), including but not limited to: CME Globex; CME ClearPort; CME Direct; Risk Management Interface; Front End Clearing; Drop Copy; and CME Account Manager ("**CME Interfaces**") and allows entities to develop and test a Customer Interface (as defined below) and connect that Customer Interface to a CME Interface. This Agreement governs the relationship between CME and Licensee with respect to Licensee's development and/or testing of a Customer Interface and its subsequent connection to a CME Interface.

**IN WITNESS WHEREOF**, the parties have caused their duly authorized representatives to execute this Agreement which is effective as of the date this Agreement is accepted and executed by CME, as indicated below.

### LICENSEE

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

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

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

Date: \_\_\_\_\_

### CHICAGO MERCANTILE EXCHANGE INC.

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

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

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

Date: \_\_\_\_\_

("Effective Date")

*All personal information provided under this form will be used, distributed, and maintained in accordance with [CME Group's Privacy Policy](#). If completing this form on behalf of another individual, you will ensure that you have the required consent from those individuals to whom the personal information relates, or you satisfy an applicable legal basis for doing so, in compliance with all applicable laws, to enable CME Group to process such personal information.*

**The General Data Protection Regulation ("GDPR") (Regulation (EU) 2016/679).** Companies within the European Union acknowledge that CME collects, maintains, and processes data regarding its customers in one or more databases and, in the ordinary course of business, may transfer such data outside the European Union. Such customers hereby consent to the transfer of such data outside of the European Union.

**SCHEDULE A  
TO INTERFACE DEVELOPMENT AND TESTING AGREEMENT**

**TERMS AND CONDITIONS**

**1. DEFINITIONS.**

A. “**Certification Access Method**” means the manner in which Licensee and any Licensee Authorized Users access the Certification Environment, as selected by Licensee in **Schedule B**.

B. “**Certification Environment**” means the electronic environment provided by or on behalf of CME to develop, test, and maintain a Customer Interface to current or future versions of a CME Interface.

C. “**Clearing Firm**” means an entity that, in accordance with CME Rules (or, if applicable, the rules, policies and procedures of a Participating Venue), is authorized to clear trades entered into a CME Interface, and that is a member in good standing of CME’s (or, if applicable, a Participating Venue’s) Clearinghouse.

D. “**CME Interfaces**” has the meaning set forth in the **Background** section of this Agreement.

E. “**CME Materials**” has the meaning set forth in **Section 3.A** of this Agreement.

F. “**CME Rules**” means the rules, policies and procedures of CME, as such rules are established and modified by CME from time to time.

G. “**Customer**” means a customer of Licensee, if applicable, who is authorized to use the Customer Interface to access a CME Interface.

H. “**Customer Interface**” means the systems interface software or the front-end interface software (automated or otherwise) created by either Licensee or a third party that allows Licensee’s systems or Customers’ systems, if applicable, to interact with a CME Interface.

I. “**Drop Copy**” means a risk management application in which copies of CME Globex order entry responses are delivered to subscribing Customers via an alternate FIX connection.

J. “**Equipment**” means, if applicable, the computer terminals, micro-computers, software programs or other user interface devices used by either party as part of the Certification Access Method. Equipment provided by CME is “**CME Equipment**.” Equipment provided by Licensee is “**Licensee Equipment**.”

K. “**Fees**” means, if applicable, the fees payable by Licensee to CME for access to the Certification Environment, as

set forth in **Exhibit A.3**, and as such fees may be modified from time to time by CME in accordance with Section 8 of this Agreement.

L. “**GCC**” means the CME Global Command Center, the center in Chicago, Illinois and such other centers as shall from time to time be established by CME to support market operations and control trading and/or clearing through a CME Interface.

M. “**Installation Date**” means, for the applicable Premises and for the applicable Certification Access Method, the date that CME or its designee completes network service acceptance testing.

N. “**Licensee Authorized User**” means any authorized user who accesses the Certification Environment via the Certification Access Method.

O. “**Market Data**” means certain information and data pertaining to Products and other financial instruments, which Licensee may obtain access to via the Certification Environment. Market Data may include opening and closing range prices, high-low prices, settlement prices, current bid and ask prices, last sale prices, price limits, requests for quotations, estimated and actual contract volume data, text messages pertaining to market activity, contract specifications, fast or late messages, information respecting exchange-for-physical (EFP) and against actuals (AA) transactions, and any information and data that are derived from or substantially equivalent to the foregoing.

P. “**Participating Venue(s)**” means those exchanges or trading venues whose Products may be traded and/or cleared through a CME Interface, which includes (a) trading venues or exchanges operated by third parties; and (b) trading venues operated by CME’s affiliates to those affiliates’ customers (including the BrokerTec and EBS businesses). Those affiliates may include BrokerTec Americas LLC, BrokerTec Europe Limited, CME Amsterdam B.V., NEX SEF Limited or EBS Service Company Limited, or other entities, as set out in the Legal and Regulatory Structure Schedules for **EBS** and **BrokerTec**, as amended from time to time. Customers accessing such trading venues operated by CME affiliates do so in accordance with their customer agreements with those affiliates. CME acts as a technology provider to those affiliates and not as operator of those affiliates’ trading venues.

Q. “**Person**” means an individual, corporation, partnership, trustee, trust, regulatory body or agency, government or governmental agency or entity (however designated or constituted) or any unincorporated organization.

R. “**Premises**” means, if Licensee has a direct connection pursuant to **Schedule B**, the location(s) where Licensee has access to the Certification Environment.

S. “**Products**” means all financial products, financial instruments, contracts and other listed or over the counter traded items that may be traded or cleared through a CME Interface as determined by CME and any Participating Venues from time to time.

## 2. DEVELOPMENT AND TESTING OF CUSTOMER INTERFACE.

A. **License to Access Certification Environment.** Subject to the terms and conditions of this Agreement, CME grants to Licensee a non-exclusive, nontransferable, revocable license (without the right to grant sublicenses), during the term of this Agreement, to electronically connect to the Certification Environment solely for the purpose of developing, testing and/or maintaining a Customer Interface. Licensee’s right to access the Certification Environment hereunder is defined by the terms of this Agreement and Licensee shall not attempt to access the Certification Environment except as expressly permitted under this Agreement.

B. **License to Access Market Data.** Subject to the terms and conditions of this Agreement, CME grants to Licensee a non-exclusive, nontransferable, revocable license (without the right to grant sublicenses), during the term of this Agreement, to receive and use Market Data solely for purposes of developing, maintaining and/or testing the Customer Interface, but Licensee shall not otherwise distribute, sublicense or store the Market Data.

C. **Development Procedures.** This **Section 2(C)** shall not apply if a third party provides Customer Interface to Licensee.

(i) **Development Work.** Except for the services provided by CME that are expressly described in **Sections 2(C)(iii)** and **(iv)**, Licensee will be responsible, at its own expense, for conducting all design, development and maintenance work in connection with its Customer Interface. This work includes, but is not limited to, the purchase, installation and maintenance of all hardware and software necessary to design, develop, test and maintain the Customer Interface and the development and maintenance of any source or object code constituting or relating to the Customer Interface.

(ii) **Connectivity.** Licensee is required to install and maintain, at its expense and in accordance with instructions and specifications provided by CME from time to time, a VPN data connection through a local exchange carrier or network service provider. Licensee may use such data connection for development and development testing of the Customer Interface. Licensee is required to use such data connection to complete all portions of the certification testing of the Customer Interface described in **Section 2(E)**.

(iii) **System Administration.** CME will provide Licensee with IP addresses and user accounts for Licensee’s dedicated use

during the development and development testing of its Customer Interface and the certification testing described in **Section 2(E)**.

(iv) **Development Support.** CME will use commercially reasonable efforts to support Licensee’s development efforts by ensuring that CME staff members or consultants are reasonably available during CME’s regular business hours to answer questions and provide other reasonable assistance to Licensee. In addition, CME will provide, at no additional charge and subject to certain restrictions, an automated certification tool. Notwithstanding the foregoing, CME will not provide: (a) training on the use of a CME Interface, or (b) hot-line or other direct support for any Customers using the Customer Interface.

### D. **Customer Interface Requirements.**

(i) **Applicability of this Section.** This **Section 2(D)** shall apply in its entirety to Licensee; provided however, that **Sections 2(D)(iv)** and **2(D)(vi)** shall not apply if Licensee is developing the Customer Interface solely to receive Market Data or solely for purposes of supporting Drop Copy and provided further that **Section 2(D)** is not applicable if Licensee does not develop the Customer Interface.

(ii) **Technical Requirements.** The Customer Interface is required to meet all applicable technical requirements provided to Licensee by CME, as such requirements may be revised from time to time. CME will use commercially reasonable efforts to provide Licensee at least seven (7) calendar days’ prior notice of any Customer Interface technical requirements change. Licensee shall bear the sole responsibility and expense of making any changes to its Customer Interface required pursuant to this **Section 2(D)(ii)**.

(iii) **Regulatory Requirements.** Throughout the term of this Agreement, Licensee shall ensure that its Customer Interface and Licensee Equipment and services provided by Licensee, are in full compliance with applicable laws and regulatory requirements.

(iv) **Credit Controls.** Other than where the Licensee is connecting to EBS and BrokerTec Certification Environments, Licensee shall use commercially reasonable efforts to ensure that the Customer Interface shall either (a) incorporate functionality to implement the credit controls, position limits and other risk management protections specified in **Exhibit A.1** (as amended from time to time) (collectively, the “**Credit Controls**”), or (b) be compatible with third party software designed to implement the credit controls that Customers using the Customer Interface are required to use by their Clearing Firms. CME will use commercially reasonable efforts to provide Licensee at least seven (7) calendar days’ prior written notice of any Credit Control changes. To the extent applicable, Licensee shall use commercially reasonable efforts to adhere to the regulatory certification requirements related to maintaining an audit trail, as detailed in **Exhibit A.2** hereto (as amended from time to time).

(v) **Changes Impacting Customer Interface.** Licensee acknowledges that during the term of this Agreement, CME, its

licensors or Persons working on CME's behalf, may change, modify, enhance or replace the Certification Environment, the CME Interfaces, or other related systems in a manner that impacts the Customer Interface. In the event such change is contemplated, CME will use commercially reasonable efforts to provide Licensee with prior notice of such changes so that Licensee has adequate time to: (a) update the Customer Interface; and (b) test and roll out Licensee's updated Customer Interface. CME will use commercially reasonable efforts to ensure that such notice is provided no less than thirty (30) calendar days in advance of any such changes, modifications, enhancements or replacements. Licensee shall bear the sole responsibility and expense of making any changes to its Customer Interface required pursuant to this **Section 2(D)(v)**.

(vi) **Stress-Testing for Certification Environment.** Licensee must obtain CME's written consent prior to conducting any stress-testing of the Customer Interface in the Certification Environment. By way of example and not limitation, if Licensee wishes to test the Customer Interface's ability to process more than five (5) transactions per second per Session ID (as defined below), Licensee is required to obtain CME's prior written consent. As used herein, "**Session ID**" means a CME-provided login identification code used to create a simulated trading session in the Certification Environment.

**E. Certification Testing/Market Data.**

(i) **Initial Testing.** At least ten (10) business days before Licensee initially plans to make its Customer Interface available for connection to a CME Interface, Licensee must successfully complete all tests required by CME on the version of the Customer Interface which will be used to access a CME Interface. CME shall oversee such Customer Interface testing. Licensee shall not, and if applicable, shall not allow its Customers to, access a CME Interface using its Customer Interface until CME certifies that all such required tests have been successfully completed. CME may suspend or terminate certification testing at any time.

(ii) **Re-Certification.** Licensee agrees to certify any New Version prior to making it available for connection to a CME Interface and shall test such New Version in accordance with **Section 2(E)(i)**. As used herein, "**New Version**" means any revision of, or modification to a certified Customer Interface that (a) adds new functionality to or modifies the existing functionality of such Customer Interface based on changes to the specifications of a CME Interface, or (b) results in changes made to Licensee's Customer Interface due to the change or addition of CME functionality. Further, upon written notice CME may, in its reasonable discretion, require Licensee's Customer Interface to successfully complete additional certification, or functional and stress testing. Licensee is not required to re-certify Customer Interface pursuant to this **Section 2(E)(ii)** unless specific changes were made to Customer Interface to support CME functionality. Any New Version certified by CME in accordance with this **Section 2(E)(ii)** shall be deemed to be a Customer Interface.

(iii) **Market Data.** If the Customer Interface, facilitates access to Market Data, Licensee shall use commercially reasonable efforts to ensure that such Customer Interface

developed by Licensee, attributes CME and/or its licensors as the source of Market Data, provided such source information is provided to Licensee. Furthermore, Licensee shall not knowingly introduce functionality into its Customer Interface, that causes Market Data to be displayed, or orders to be transmitted, in a misleading or unlawful manner. The following actions shall not be deemed to violate the foregoing restriction:

(a) variations in the way Licensee displays Market Data or orders are entered that are necessitated by technical constraints and that are disclosed in advance to Licensee's Customers and CME, and (b) offering to Licensee's Customers the ability to modify the manner in which Market Data is displayed or orders are entered on the screen.

**F. Technical Contact.** During the term of this Agreement, the following individual shall be Licensee's point of contact with respect to technical issues including, but not limited to, issues regarding testing and maintenance of the Customer Interface. Licensee may change its technical contact by providing written notice to CME.

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

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

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

**3. OWNERSHIP.**

**A. CME.** As between CME and Licensee, CME is the sole and exclusive owner of all right, title and interest in and to the Certification Environment, the CME Interfaces, Market Data and any other materials or information provided to Licensee by CME and any enhancements, adaptations, developments or modifications to the foregoing (collectively, the "**CME Materials**") to the extent protected by applicable laws. Other than in connection with the licenses granted in **Sections 2(A), 2(B)** and **4(B)**, no right, title or interest in or to the CME Materials is transferred to Licensee, and Licensee shall not make any claim of any ownership in the patents, copyrights or other intellectual property or proprietary rights in the CME Materials.

**B. Customer Interface.** CME hereby acknowledges and agrees that, other than any CME Materials incorporated in Licensee's Customer Interface, as between CME and Licensee, all right, title and interest in and to the Licensee's Customer Interface shall inure to and become the exclusive property of Licensee. If applicable, Licensee represents that its agreements with its Customers prohibit such Customers from reverse engineering or altering the gateway portion of Licensee's software that directly interfaces with the CME Interfaces.

**4. MARKETING OF THE CUSTOMER INTERFACE.**

**A. Applicability of this Section.** This Section 4 shall apply only to Licensees who distribute the Customer Interface to third

parties.

**B. Marketing Restrictions.** Licensee will not use the trade names, branding, logos, marks of CME its affiliates or subsidiaries, or otherwise refer to CME its affiliates or subsidiaries in any advertising, brochure or promotional or informational materials or other similar materials to the forgoing (whether in print, electronically or otherwise) (collectively, the “**Marketing Materials**”) without CME’s prior written consent, which CME is free to withhold at its sole discretion. During the term of this Agreement, Licensee shall not use any mark in connection with its Customer Interface or any other electronic trading system or product that is confusingly similar to any of CME’s or any of its affiliates’ trade names, service names, brand names, branding, logos or marks.

**C. Licensee Marketing Materials.** Licensee shall submit any Marketing Materials and any press releases referring to CME or the CME Interfaces (“**Press Releases**”) to CME’s Marketing Department for approval prior to the initial distribution of such Marketing Materials or Press Releases. CME may require Licensee to make reasonable changes or additions to the Marketing Materials or Licensee Press Releases that CME believes are appropriate to protect CME and its affiliates by providing Licensee with a detailed description of such changes and additions. Licensee will not distribute any Marketing Materials or Licensee Press Releases until it has (a) made any changes required by CME and (b) obtained CME’s prior written approval. If CME does not provide Licensee with any requested changes or additions within 15-business days, CME’s approval shall be deemed given.

**D. Customer Support.** Throughout the term of this Agreement, Licensee shall maintain a telephone hot-line or other service to provide support for the Licensee Authorized Users who are using Licensee’s Customer Interface. Licensee’s support services must be available during the hours of operation of the GCC. The GCC’s regular business hours are specified on CME’s website with a homepage located at <http://www.cmegroup.com>. Licensee shall provide each Customer that purchases, licenses or distributes its Customer Interface a written trouble shooting guide that sets forth processes to be followed (e.g., who should be called) in connection with various problems, including a list of the information that should be collected before calling the GCC. On CME’s request, Licensee shall provide such trouble shooting guide to CME for CME’s approval.

## 5. CONFIDENTIALITY.

**A. Non-disclosure.** As used herein, “**Confidential Information**” means the CME Interfaces, the Certification Environment, Market Data, Customer Interface and any other information, software, specifications, plans, drawings, hardware, trade information or other business or technical information exchanged between the parties in connection with this Agreement, regardless of medium, that should reasonably have been understood by the recipient (“**Recipient**”), because of legends or other markings, the circumstances of disclosure or the

nature of the information itself, to be proprietary and confidential to the owner (“**Owner**”). The Recipient will use the same care and discretion to avoid disclosure, publication, or dissemination of any Confidential Information as Recipient uses with its own similar information that it does not wish to disclose, publish or disseminate (but in no event less than a reasonable degree of care). Recipient will use the Confidential Information only in connection with the performance of its obligations under this Agreement or the full enjoyment of its rights hereunder. Recipient will not disclose the Confidential Information except to (i) its employees, agents or contractors who have a need to know such Confidential Information in connection with the performance of its obligations or the full enjoyment of its rights under this Agreement, or (ii) its attorneys, accountants and other professionals (the individuals described in (i) and (ii) are collectively referred to as “**Personnel**”). Notwithstanding the foregoing, Recipient will not disclose any Confidential Information to any of its Personnel unless such Personnel are obligated to maintain the confidentiality thereof. Recipient is liable for any unauthorized use or disclosure of Confidential Information by any of its Personnel.

**B. Exceptions to Confidential Treatment.** If, in the reasonable opinion of its legal counsel (including internal legal counsel), Recipient is required by law to disclose any Confidential Information in connection with any legal or regulatory proceeding, then Recipient may disclose such information; provided, however, that Recipient will, to the extent commercially practicable (i) notify the Owner a reasonable time prior to disclosure, and (ii) allow Owner a reasonable opportunity to seek appropriate protective measures prior to disclosure, and will disclose the minimum amount of such Confidential Information required by law.

**C. Return or Destruction.** Upon the termination of this Agreement, all Confidential Information will be promptly, at the direction of Owner, returned to Owner or destroyed. Notwithstanding the foregoing, copies of Confidential Information that are required to be retained by law, regulation, bona fide document retention policy or audit requirements or that are created pursuant to any automated archiving or back-up procedures which cannot reasonably be deleted may be retained, but such Confidential Information shall continue to be subject to the terms of this Agreement.

**D. Injunctive Relief.** The parties recognize that a breach of this **Section 5** by Recipient may give rise to irreparable injury to Owner such that remedies other than injunctive relief may not be adequate. Accordingly, Owner has the right to seek, from an appropriate court, equitable and injunctive relief to prevent the threatened or actual unauthorized use of any Confidential Information.

## 6. WARRANTIES, DISCLAIMERS AND LIMITATIONS OF LIABILITY.

**A. Licensee Warranty.** Licensee warrants that it shall use commercially reasonable efforts to prevent: (i) incorporation of any harmful or malicious code into its Customer Interface,

including, but not limited to, code that would enable Licensee or, if applicable, its Customers to: (a) erase, destroy, corrupt, damage, or modify in an unauthorized manner any CME system (including the Certification Environment and the CME Interfaces), or (b) bypass any CME Interface security measure; or (ii) use of the Certification Environment in a manner that adversely impacts CME or any Licensee Authorized User (e.g., the stress testing of its Customer Interface in the Certification Environment without CME's prior written consent); or (iii) access or permit others to access the Certification Environment without CME's prior written consent.

**B. CME Warranty.** CME warrants that it has the authority to convey the licenses described in **Sections 2(A)** and **2(B)**. CME PROVIDES THE CME MATERIALS AND ALL SERVICES ON AN "AS IS" BASIS.

**C. Disclaimer.** EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CME OR LICENSEE SHALL CREATE A WARRANTY AND NEITHER CME NOR LICENSEE MAY RELY UPON SUCH INFORMATION OR ADVICE. CME MAKES NO GUARANTEES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF MARKET DATA. IN ADDITION TO THE FOREGOING, LICENSEE ACKNOWLEDGES (I) THAT IT SELECTS AND DEVELOPS ITS CUSTOMER INTERFACE AT ITS OWN RISK, AND (II) THAT CME'S PARTICIPATION IN THE TESTING OF LICENSEE'S CUSTOMER INTERFACE SHALL NOT BE DEEMED TO BE ACCEPTANCE OR APPROVAL OF SUCH CUSTOMER INTERFACE.

**D. Limitations of Liability.**

(i) Disclaimer of Liability. EXCEPT FOR ANY DIRECT LOSS OR DAMAGE INCURRED BY LICENSEE AS A RESULT OF THE WILLFUL OR WANTON BREACH OF THIS AGREEMENT BY CME, NEITHER CME NOR ITS OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AGENTS, CONSULTANTS OR LICENSORS SHALL BE LIABLE IN ANY WAY TO LICENSEE OR TO ANY OTHER PERSON OR ENTITY FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS AND LOSS OF USE) INCURRED BY LICENSEE OR ANY OTHER PERSON OR THIRD PARTY ARISING FROM: (A) THE USE OR PERFORMANCE OF THE CERTIFICATION ENVIRONMENT, THE CME INTERFACES, THE CME MATERIALS, THE CUSTOMER INTERFACE, OR THE EQUIPMENT; (B) THE SUSPENSION, TERMINATION OR INABILITY TO USE OR ACCESS THE CERTIFICATION ENVIRONMENT, THE CME INTERFACES, THE CME MATERIALS, THE CUSTOMER INTERFACE, OR THE EQUIPMENT, OR ANY INACCURACIES OR OMISSIONS IN ANY INFORMATION PROVIDED BY CME, HOWEVER

SUCH SUSPENSIONS, TERMINATIONS, MALFUNCTIONS, INACCURACIES OR OMISSIONS MAY ARISE; (C) ANY OTHER CAUSE IN CONNECTION WITH THE FURNISHING, PERFORMANCE, MAINTENANCE OR USE OF OR INABILITY TO USE ALL OR ANY PART OF THE EQUIPMENT, THE CERTIFICATION ENVIRONMENT, THE CUSTOMER INTERFACE, THE CME MATERIALS, OR THE CME INTERFACES; OR (D) ANY CONSULTING FEES INCURRED BY LICENSEE IN CONNECTION WITH THE DEVELOPMENT OF ITS CUSTOMER INTERFACE.

(ii) Indirect Damages. EXCEPT FOR LICENSEE'S OBLIGATIONS SET FORTH IN SECTION 6.E, WHICH ARE LIMITED AS DESCRIBED THEREIN, IN NO CIRCUMSTANCES SHALL EITHER PARTY (EACH A "LIMITED LIABILITY PARTY") BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, EVEN IF THE LIMITED LIABILITY PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF AND EVEN IF DUE TO THE LIMITED LIABILITY PARTY'S ERROR, OMISSION, OR NEGLIGENCE.

(iii) Limitation of Liability. EXCEPT FOR LICENSEE'S OBLIGATIONS SET FORTH IN SECTION 6.E, WHICH ARE LIMITED AS DESCRIBED THEREIN, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY HEREUNDER FOR ANY AND ALL CAUSES WHATSOEVER EXCEED FIFTY THOUSAND DOLLARS (\$50,000). THIS LIMITATION OF LIABILITY SHALL APPLY WHETHER A CLAIM ARISES IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY. THIS LIMITATION SHALL SURVIVE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDIES THAT MAY BE PROVIDED IN THIS AGREEMENT.

**E. Licensee Indemnification.** Licensee shall indemnify, defend and hold CME, its affiliates and their officers, directors and employees harmless from and against, any and all costs (including reasonable attorneys' fees), losses, damages, expenses, liabilities and penalties (collectively, "**Costs**") directly arising from, or in connection with, a claim, suit, demand or other proceeding based upon or related to (i) any act or omission of Licensee in violation of this Agreement or, if applicable, of Licensee's agreement with any of its Customers, or (ii) a Person's unauthorized use of the Customer Interface to access the Certification Environment (each, an "**Occurrence**"). CME will promptly notify Licensee of any threatened or actual claim covered by this indemnification and will reasonably cooperate and assist Licensee in connection therewith, and will allow Licensee full control of the defense (including any compromise related thereto, provided no such settlement or compromise shall require CME to make any payments without CME's prior written consent thereto) on CME's behalf. Licensee's total liability for Costs arising from, or in connection with, any occurrence of breach shall be limited to Five Hundred Thousand dollars (\$500,000.00) per Occurrence, except that the foregoing limitation of liability does not apply to any claim, suit, demand, or other proceeding arising from Licensee's gross negligence, willful

misconduct, deceit or fraud. This indemnity shall not apply in respect of Costs resulting from the gross negligence, fraud or willful misconduct of CME.

## 7. TERM AND TERMINATION.

**A. Term.** This Agreement shall be effective as of the Effective Date and shall continue in effect until it is terminated pursuant to **Section 7(B)**.

**B. Termination.** The parties shall have the following rights to terminate this Agreement:

(i) **Termination for a Material Breach.** If either party materially breaches any material provision of this Agreement and fails to completely cure that breach within thirty (30) calendar days after receiving written notice of such, the non-breaching party may terminate this Agreement.

(ii) **Immediate Termination or Suspension.**

(a) CME may terminate or suspend this Agreement immediately if: (1) Licensee accesses or uses the Certification Environment or the CME Interfaces in a manner that breaches this Agreement; or (2) Licensee takes any action that materially adversely affects or damages the reputation of, CME, the Certification Environment, or the CME Interfaces.

(b) CME or Licensee may terminate or suspend this Agreement immediately if: (1) the other party ceases doing business as a going concern, or (2) the other party files any petition under the U.S. Bankruptcy Code or any state insolvency law, becomes insolvent, has an involuntary petition in bankruptcy filed against it or has a receiver appointed for it or its property.

(c) CME may terminate this Agreement immediately if necessary to comply with any applicable law, federal or state regulation, or any court order that materially impairs CME's ability to provide the licenses, services or access described in this Agreement.

(d) Licensee may terminate this Agreement immediately if necessary to comply with any applicable law, federal or state regulation, or any court order that materially impairs Licensee's ability to comply with this Agreement.

(iii) **Termination for Convenience.** Either party may terminate this Agreement, for any reason or no reason at all, by giving ninety (90) calendar days' prior written notice to the other party.

(iv) **Liability for Fees upon Termination.** In addition to Fees incurred by Licensee through the date of termination, Licensee will be liable for Fees associated with the remainder of any minimum commitment period, as indicated on **Exhibit A.3**, per connection.

**C. Rights Upon Termination.** Upon termination of this Agreement, each party shall return all of the other party's Confidential Information that it has in its possession and cease

using the other party's equipment, software, documentation and any other materials including, without limitation, the Certification Environment.

**8. FEES, TAXES AND OTHER CHARGES.** Payment of Fees commences on the first day of the calendar month following the Installation Date and is due either monthly or annually, depending on the type of network access requested, within 30 days following receipt of the invoice. Payments that are not received by CME within 45 days following invoice date will accrue interest at a rate of 1 ½ % per month, or the highest rate allowed by applicable law, whichever is lower. All payments shall be made in U.S. dollars. In addition to Fees, Licensee agrees to pay any applicable sales, use, value added, property, withholding or other taxes payable in respect of the Certification Access Method or this Agreement, except taxes based on CME's net income. CME may modify the Fees by sending at least 30 days' prior written notice of the modification to Licensee. If Licensee does not consent to the modification, Licensee may terminate either the Agreement or only with respect any Certification Access Method. CME may at any time decrease the Fees without notice.

## 9. EQUIPMENT LEASING AND MAINTENANCE SERVICES.

**A. Installation and Maintenance of CME Equipment.** With the exception of software programs, any CME Equipment shall be installed at the Premises by CME or a subcontractor appointed by CME, and shall be maintained only by CME or such subcontractor. Licensee shall allow CME or its appointed subcontractor access to CME Equipment on reasonable notice for inspection, maintenance, repair, replacement, or removal. The frequency of maintenance services to be provided with respect to any such CME Equipment shall be determined in a commercially reasonable manner by CME. CME may at any time on reasonable notice change CME Equipment for similar equipment as long as there is no material adverse impact to Licensee. Subject to the execution of the applicable Schedule, Licensee shall not remove CME Equipment from the Premises or, after its installation, move CME Equipment within the Premises.

**B. Liability for Damage to CME Equipment.** Licensee is financially responsible for any damage to CME Equipment incurred while CME Equipment is on the Premises, unless such damage is caused by some defect in CME Equipment or normal wear and tear. Licensee agrees to treat CME Equipment at all times with the care customarily accorded computer equipment in a business environment.

**C. Ownership of CME Equipment.** CME Equipment at all times remains the personal property of CME, its licensors and/or subcontractors, regardless of the manner in which it is installed on the Premises, and at no time shall Licensee allow CME Equipment to become subject to any liens, claims, or encumbrances.

**D. Modification of CME Equipment by Licensee.** Licensee shall not, without the prior written consent of CME, which shall not be unreasonably withheld, make any alteration, addition, or connection to CME Equipment or to any CME

Interface.

**10. MISCELLANEOUS.**

**A. Assignment.** Except with CME’s prior written consent, which shall not be unreasonably withheld, this Agreement may not be assigned or transferred by Licensee to any other Person and any purported assignment or transfer is void and unenforceable. Provided that Licensee notifies CME in writing in advance, an assignment or transfer of this Agreement by Licensee to a successor-in-interest is hereby authorized and approved unless such successor-in-interest is a competitor of CME, in which case Licensee must first obtain CME’s prior written consent thereto. CME in its discretion may assign this Agreement in whole or in part at any time to any affiliate of CME. In the event of a permitted assignment or transfer, each party agrees that it will look only to such assignee or transferee and not to the original party for the performance of any assigned obligations hereunder.

**B. Waiver.** Either party’s acceptance of the other’s default on any obligation under this Agreement shall be regarded as a mere forbearance, and shall not imply a waiver, alteration or

novation regarding any obligation under this Agreement.

**C. Entire Agreement.** This Agreement, together with its Schedules and Exhibits, contains the entire agreement between the parties with respect to its subject matter, superseding any other communications or understandings between the parties. Any amendment or change to any of the provisions of this Agreement may only be made by a written agreement signed by both parties. If there is a conflict between any provision of the Schedules and any Exhibit, the terms of this Schedule A shall prevail; if there is a conflict between this Agreement and the CME Rules, this Agreement shall prevail.

**D. Notice.** Any written notice and other communication given or made in accordance with this Agreement shall be made by (i) email (ii) personal delivery, (iii) overnight delivery through a reputable delivery service such as DHL or Federal Express, or (iv) registered first class mail, postage prepaid, and shall be forwarded to the address set forth below or to such other address designated in writing by the applicable party in accordance with this **Section 10(D)**. Notices shall be deemed to have been duly given if and when delivered in accordance with this **Section 10(D)**.

**To CME:**  
20 South Wacker Drive  
Chicago, Illinois 60606  
Attn: Legal Department, General Counsel email  
[globalaccountmanagement@cmegroup.com](mailto:globalaccountmanagement@cmegroup.com) with a  
copy to [legalnotices@cmegroup.com](mailto:legalnotices@cmegroup.com)

**To Licensee:**

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

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

Attn: \_\_\_\_\_

email \_\_\_\_\_



**E. Force Majeure.** Neither party will be liable for any failure or delay in performing any obligation under this Agreement that is due to causes beyond its reasonable control, such as natural catastrophes, governmental acts or omissions, laws or regulations, labor strikes or disputes, transportation unavailability, stoppages or slowdowns, provided that the affected party gives prompt notice to the other of the nature of the event and its estimated duration and resumes performance as soon as possible after the event ends.

**F. Section Headings.** The Section headings contained in this Agreement are solely for the convenience of the parties and shall not affect the meaning or interpretation of this Agreement.

**G. Severability.** Each part of this Agreement is a distinct undertaking. In the event any part of this Agreement shall be determined to be unlawful or otherwise unenforceable, that part shall be deemed severed from this Agreement and of no effect; every other part of this Agreement not so severed shall remain in full force and effect. The parties expressly authorize a court of competent jurisdiction to modify any term of this Agreement to the extent necessary to comply with existing law and to enforce this Agreement as so modified.

**H. Continuing Obligations. Sections 3, 5, 6, 7(B)(iv), 7(C)** and **10** shall survive the completion, expiration or termination of this Agreement.

**I. Choice of Law/Jurisdiction/Venue.** This Agreement shall be governed by the laws of the State of Illinois, and the Federal laws of the United States of America. Licensee consents and agrees, and hereby submits to, the general and exclusive jurisdiction of the Federal and State courts in Chicago, Illinois, agrees to commence actions, suits, and proceedings only in such courts, and waives any objection to venue in any such jurisdiction in the event any action, suit, or proceeding is commenced in such courts under or with respect to any matters in connection with this Agreement. No action arising out of any claimed breach of this Agreement or transactions under this Agreement may be brought by either party more than two (2) years after the cause of action has accrued.

**J. Export.** Certain of the CME Materials may be subject to U.S. export control laws and export or import regulations in other countries. Licensee agrees to comply strictly with all such laws and regulations and acknowledges that it has the sole responsibility to obtain such licenses to export, re-export or import as may be required should such exportation, re-exportation or importation be permitted pursuant to the terms of this Agreement.

## EXHIBIT A.1

### **CME CREDIT CONTROL STANDARDS FOR SYSTEMS ROUTING ORDERS TO THE GLOBEX PLATFORM**

Each Customer Interface (other than those relating to the EBS and BrokerTec platforms) must satisfy all three (3) of the following major criteria.

#### **1. Separation Between Trading and Credit Control Functions.**

The Customer Interface must support strict separation between trading and credit control functions.

The credit control function must reside with an authorized administrator that is separate from the traders. Traders must not be able to adjust or control the credit control parameters and they must not be able to adjust calculated gains, losses, exposures or position size amounts (except through trading activity).

#### **2. Clearing Firm Control.**

The Clearing Firm (CF) must be able to control the credit control parameters.

- A. The CF must be able to set the credit control parameters, such as trade quantity limits, position limits, exposure limits, loss limits and eligible products and instruments.
- B. The CF must either be able to set credit control parameters directly through its own terminals, or it must be able to monitor such parameters in detail, in real time, and on demand through its own terminals.
- C. The CF must be able to adjust credit control parameters in real time during a trading session.

#### **3. Pre-Execution Controls.**

The CF must be able to set credit controls to accept or reject a trader's or account's orders before the Globex Interface passes those orders to the Globex Platform. The credit controls must:

- A. Allow the CF to apply its own credit evaluation policies and parameters to each trader and/or account.
- B. Allow the CF to set pre-execution limits based on all of the following criteria:
  - Permission for a trader or account to access only selected products and/or instruments.
  - Trade size.
  - The trader's or account's resulting position size and/or exposure.

Where relevant, these criteria must be able to account for pre-existing positions and working orders.

- C. Operate without significantly affecting trade execution response times.

## **EXHIBIT A.2**

### **AUDIT TRAIL REQUIREMENTS FOR CUSTOMER INTERFACES**

By establishing connectivity to certain CME Interfaces, including CME Globex and CME ClearPort, Licensee acknowledges that it is responsible for maintaining or causing to be maintained an electronic audit trail for all orders and transactions that are designated for submission to CME for trading and clearing. For voice executed orders entered into an affirmation platform or other post-trade service, this includes all details of the transaction entered into and captured by the platform. Additionally, for all transactions that are consummated electronically on the platform, the electronic audit trail must include all price request/response, order entry, modification, cancellation and responses to such messages. This information is collectively referred to as the "electronic audit trail." In each case, these electronic audit trails must be maintained for a minimum of 5 years, and Licensee must have the ability to produce this data in a standard format.

With respect to the above, the electronic audit trail must contain all applicable order receipt, order entry, order modification, and response receipt times to the highest level of precision achievable by the operating system. All timing information captured by the platform must not be able to be modified or altered by the persons responsible for entering the information.

For purposes of the above, the electronic audit trail must contain, as applicable, the following information and fields: A record of all applicable fields (noting that certain fields are not relevant to the CME Interfaces for the EBS or BrokerTec platforms) relating to price request, price response, order entry, transaction date/time, product, Exchange code, expiration month, quantity, order type, order qualifier, transaction price, buy/sell indicator, stop/trigger price, order number, unique transaction number, account identifier, trader order number, clearing member, counterparty, type of action, action status code, customer type indicator, origin, and all timestamps, and, for options, put or call indicator and strike price. For executed orders the audit trail must record the execution time of the trade along with all fill information. For block trades submitted via CME ClearPort, in addition to the above, the time of execution to the nearest minute must also be recorded, entered into CME ClearPort and maintained as part of the electronic audit trail.

**EXHIBIT A.3**

**FEE SCHEDULE  
OF INTERFACE DEVELOPMENT AND TESTING AGREEMENT**

<b>CLIENT-MANAGED CERT ACCESS CHARGES</b>
<b>CERT Data Center*, CERT VPN and HTTP</b>
No Charge *There is a one-time charge for cross connects at the CME Aurora data center. Charges at the other data centers are subject to the service provider fees.

**Contact GAM**

For questions, assistance or upon completion, contact [CME Global Account Management](#).