

AMEX Commodities Corporation  
Board of Trade of the City of Chicago, Inc.  
Board of Trade of Kansas City  
BrokerTec Futures Exchange, L.L.C.  
CBOE Futures Exchange, LLC  
Chicago Mercantile Exchange Inc.  
Coffee, Sugar & Cocoa Exchange, Inc.  
Commodity Exchange, Inc.  
Island Futures Exchange, L.L.C.  
Merchants' Exchange L.L.C.  
Minneapolis Grain Exchange  
NQLX, L.L.C.  
National Futures Association  
New York Cotton Exchange  
New York Mercantile Exchange, Inc.  
OneChicago, L.L.C.  
Philadelphia Board of Trade  
U.S. Futures Exchange L.L.C.

**DRAFT AMENDED AGREEMENT FOR SERVICES**

This Amended Agreement for Services ("Agreement") is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2004 by and among the AMEX Commodities Corporation, Board of Trade of the City of Chicago, Inc., Board of Trade of Kansas City, BrokerTec Futures Exchange, L.L.C., CBOE Futures Exchange, LLC, Chicago Mercantile Exchange Inc., Coffee, Sugar & Cocoa Exchange, Inc., Commodity Exchange, Inc., Island Futures Exchange, L.L.C., Merchants' Exchange L.L.C., Minneapolis Grain Exchange, NQLX, L.L.C., National Futures Association, New York Cotton Exchange, New York Mercantile Exchange, Inc., OneChicago, L.L.C., the Philadelphia Board of Trade, and U.S. Futures Exchange L.L.C. (individually a "Party" and collectively the "Parties"). This Agreement supercedes and replaces the Agreement for Services, dated May 1, 1984, and all amendments made thereto prior to the date of this Agreement.

WHEREAS, each of the Parties is a self-regulatory organization ("SRO") under the Commodity Exchange Act, as amended (the "ACT"), and is required to maintain a program to assure compliance with its own rules and regulations and with certain provisions of the ACT and certain provisions of the rules and regulations of the Commodity Futures Trading Commission ("CFTC"); and

WHEREAS, each of the Parties agrees to delegate to other appropriate Parties, as designated SROs ("DSROs") the responsibility of auditing and monitoring Futures Commission Merchants ("FCMs") which are members of one or more of the Parties, as permitted by CFTC Regulation §1.52;

NOW, THEREFORE, in consideration of the premises and covenants contained herein, it is mutually agreed as follows:

1. Effective Date. This Agreement shall become effective upon approval by the CFTC.
2. Term. This Agreement shall terminate with respect to any Party, six months after such Party gives written notice of termination to the other Parties, but the Agreement shall remain in effect with respect to all non-terminating Parties.
3. Joint Audit Committee. A Joint Audit Committee ("JAC") made up of one representative appointed by each of the Parties shall be constituted upon the effective date of this Agreement. If two or more of the Parties become commonly owned through a merger or acquisition, the surviving Party is entitled to one representative on the JAC; provided, however, that any Party which maintains a separate legal entity after an acquisition, will retain their representative on the JAC. Each representative may designate another individual to act on behalf of such representative at any JAC meeting.

The JAC shall elect its own officers, including a Chairperson. The JAC shall vote by majority of those present which are eligible to vote. Only those Parties which were members of the JAC prior to the year 2000 or which conduct their own auditing activities as a DSRO (rather than subcontracting such responsibilities) shall be eligible to vote. The Chairperson shall be permitted to vote (assuming such Chairperson is eligible to vote.) Meetings shall be called by the Chairperson or by any three members. A quorum shall consist of a majority of those members eligible to vote. Minutes of the proceedings of the JAC shall be promptly prepared and provided to each Party.

The JAC shall have the responsibility of overseeing the implementation and functioning of all terms and conditions of this Agreement and the DSRO members of the JAC shall determine the minimum practices and procedures to be followed by each DSRO in the conduct of audits and financial reviews of FCMs. Such practices and procedures shall be established to conform with the requirements of CFTC Regulation §1.52 and to the Commodity Futures Trading Commission's Division of Trading and Markets' Financial and Segregation Interpretations No. 4 - 1 and 4 - 2 and applicable amendments, 1 Comm. Fut. L. Rep. (CCH) ¶7114A, 7114C, 7114D and 7114E (July 29, 1985, September 3, 1993, October 31, 1995 and August 20, 1999), and any other CFTC requirements hereinafter in effect relating to audits and financial reviews.

Any extraordinary expenses approved by the JAC, which are incurred by a Party pursuant to the approval of the JAC, shall be shared equally by all Parties hereto and shall be reimbursed to the Party that bears such cost.

4. Services. The JAC may amend DSRO designation from time to time in order to further the purposes of this Agreement; provided, however, that no Party shall be designated as a DSRO for a particular FCM without the consent of the representative to the JAC of that Party. Any exchange which conducts its own auditing activities as a DSRO for any FCM will have the right of first refusal to be the DSRO for any existing or new member FCM of

such exchange, before any other Party will be permitted to become, or to continue to be, the DSRO for that existing or new member FCM. Exchanges will have the right of first refusal to be the DSRO for any FCM which is not a member of another exchange.

Each Party hereto shall monitor and audit the financial and operational condition of the FCMs for which it acts as DSRO and shall audit and enforce compliance with the CFTC's financial and NFA's sales practice requirements. Such activities shall conform to the practices and procedures established by the DSRO members of the JAC under Paragraph 3 of this Agreement.

A report of each risk based examination shall be furnished to each of the Parties of which the audited FCM is a member and each of the Parties may rely on the report.

Any Party to this Agreement may require, on a routine basis, supplemental schedules and additional financial filings from its member FCMs. Such supplemental schedules and financial filings shall be submitted by each of the Party's member FCMs to the FCM's DSRO; provided, however, that the DSRO is not required to analyze such supplemental schedules and additional financial filings.

Nothing in this Agreement requires any Party to conduct in-field examinations of any branch office or guaranteed introducing broker of any FCM. If an in-field examination is performed, however, the Party shall notify the other Parties of which the FCM is a member and shall provide those Parties with a copy of the examination report or other document that describes the examination results.

5. Access to Documents. In addition to reports provided under paragraph 4, a DSRO shall, upon written request, provide to each of the Parties of which the audited FCM is a member, full access to the working papers generated during the audit of an FCM.

The employees of the Parties shall cooperate in the exchange of information regarding the financial and operational condition and the segregation and sales practices of their common members.

6. Retention of Right of Inspection and Right to Request Information. Nothing contained herein shall be deemed a waiver of, or a limitation on, the right of any Party to inspect the books and records of any of its members or to request information directly from any of its members.
7. Payment. Notwithstanding Paragraph 3, each of the Parties will bear its own costs and expenses associated with its activities as a DSRO. However, any of the Parties may agree among themselves to share costs or expenses related to DSRO activities involving their common members.

8. Confidentiality. All reports, working papers, summary sheets, financial filings, and other documents ("Information") generated or received by the DSRO pursuant to its functions under this Agreement hereinafter shall be confidential and shall not be disclosed by the DSRO or by any other Party to this Agreement except as set forth in Sections 4 and 5 of this Agreement and as provided herein:
- (a) Such Information may be disclosed to any registered futures association or contract market of which the FCM is a member.
  - (b) Such Information may be disclosed to any Clearing House/Association/Corporation ("Clearing Entity") which clears trades affected on any contract market of which the FCM is a member. The sharing of Information between an SRO and its Clearing Entity is recognized as a normal and necessary adjunct to self-regulation and the cooperative sharing of such Information shall not be a violation of the disclosure or confidentiality provisions of this Agreement.
  - (c) Such Information may be disclosed:
    - i) to any Party of which the FCM is a member in connection with disciplinary proceedings or other formal proceedings or actions of and/or before a duly authorized committee or governing body of the DSRO or any Party of which the FCM is a member;
    - ii) in response to a duly authorized demand by an administrative or legislative body of government having jurisdiction of the subject matter and authority to obtain the Information requested;
    - iii) or, as otherwise required by law.
  - (d) Provided, however, such Information shall not be disclosed in response to a civil subpoena or summons until five (5) business days after the DSRO and all Parties of which the FCM is a member and the FCM itself have been notified of the subpoena or for such shorter period of time as may be provided pursuant to an order issued by a court of competent jurisdiction, and in no event shall be disclosed in violation of Section 8c of the ACT.

The provisions of this Paragraph 8 shall survive termination of this Agreement.

9. Limitations on Liability. Neither the DSRO nor any of its directors, officers, employees, or subcontractors shall be liable to any Party or any of its directors, officers, employees, or subcontractors for any liability, loss or damage resulting from or claimed to have resulted from:

- (a) Any delays, inaccuracies, errors, or omissions with respect to any audit or review conducted by the DSRO or with respect to any performance by the DSRO of any other term or condition of the Agreement with respect to a particular FCM;
- (b) The nonperformance or delay or interruption in the performance of any term or condition of this Agreement due to acts of God, the public enemy, war (including civil war), acts of any government, delays in performing or failure to perform by a public utility, communications failures, equipment or software malfunctions, fires, explosions, the elements, epidemics, quarantines, strikes, labor disputes, embargoes, and other causes of a similar nature;
- (c) The inadequacy or insufficiency of the programs or procedures adopted by the JAC; or
- (d) The failure of a Party to enforce compliance by member FCMs of the Party with its financial standards, bylaws, rules or regulations.

Nothing herein shall affect the right of any Party to bring an action, subject to Paragraph 12 below, against the DSRO for breach of this Agreement or affect the right of any Party to hold the DSRO responsible for any action, claim or controversy arising from the acts and/or omissions of the DSRO which are caused by the bad faith acts or omissions of the DSRO.

The provisions of this Paragraph 9 shall survive termination of this Agreement.

- 10. Rights, Benefits or Remedies. This Agreement is solely and exclusively for the benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to or will confer on any other person or entity, any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.
- 11. Subcontracting. A DSRO shall not subcontract or assign its obligations respecting any FCM to any entity not a Party to this Agreement without the written consent of all Parties to this Agreement of which that FCM is a member. However, those subcontract agreements in effect at the effective date of this Agreement will continue in full force notwithstanding the aforementioned.
- 12. Arbitration. All disputes or controversies between or among any of the Parties which arise out of or relate to this Agreement or its validity or interpretation or any breach or alleged breach hereof shall be submitted to and settled by arbitration in the City of Claimant's choice (New York or Chicago) administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment may be entered upon the award rendered by the arbitrator(s) in any court of appropriate jurisdiction.

Notwithstanding the foregoing, each Party shall have the right in any action brought in a federal or state court against any Party ("Defendant Party") to implead or otherwise join any

other Party in such action if the basis or alleged basis for the action against the Defendant Party is directly or indirectly related to the performance or nonperformance of any terms or conditions of this Agreement by such other Party.

The provisions of this Paragraph 12 shall survive termination of this Agreement.

13. Amendments. After the effective date of this Agreement, designated contract markets and registered futures associations may become Parties to this Agreement, subject to the approval of the majority of the Parties which are eligible to vote. In addition, any new Parties must agree in writing to be bound by the terms of this Agreement. This Agreement may not be otherwise amended or modified, except by an instrument in writing duly executed by each of the Parties.
14. Notices. Wherever, in this Agreement, written notice is required of one Party to the other, such written notice shall be addressed to the headquarters location of the recipient Party as follows:

AMEX Commodities Corp.  
65 Broadway, 17th Floor  
New York, New York 10006  
Attn: Director, Financial Regulation

Board of Trade of the City of Chicago, Inc.  
141 West Jackson Boulevard  
Suite 340-A  
Chicago, Illinois 60604  
Attn: Vice President, Audits and Financial Surveillance  
Office of Investigations & Audits

Board of Trade of Kansas City  
4800 Main Street  
Suite 303  
Kansas City, Missouri 64112  
Attn: President

BrokerTec Futures Exchange, L.L.C.  
One Evertrust Plaza  
Jersey City, New Jersey 07302  
Attn: Compliance Officer

CBOE Futures Exchange, LLC  
LaSalle at VanBuren  
Chicago, Illinois 60605  
Attn: Vice President, Division of Regulatory Services

Chicago Mercantile Exchange Inc.  
20 South Wacker Drive, 7NT  
Chicago, Illinois 60606  
Attn: Director of Audits

Coffee, Sugar & Cocoa Exchange, Inc.  
One North End Avenue  
New York, New York 10282  
Attn: Compliance Department

Commodity Exchange, Inc.  
One North End Avenue  
14th Floor  
New York, New York 10282  
Attn: Director, Financial Surveillance

Island Futures Exchange, L.L.C.  
50 Broad Street  
6th Floor  
New York, New York 10004

Merchants' Exchange L.L.C.  
311 South Wacker Drive  
Suite 3450  
Chicago, Illinois 60606  
Attn: President

Minneapolis Grain Exchange  
400 South Fourth Street  
Suite 111  
Minneapolis, Minnesota 55415  
Attn: Corporate Secretary

NQLX, L.L.C.  
One North Franklin  
23<sup>rd</sup> Floor  
Chicago, Illinois 60606  
Attn: Executive Vice President and Chief Financial Officer

National Futures Association  
200 West Madison Street  
Suite #1600  
Chicago, Illinois 60606  
Attn: Associate Director of Compliance

New York Cotton Exchange  
One North End Avenue  
New York, New York 10282  
Attn: Compliance Department

New York Mercantile Exchange  
One North End Avenue  
14th Floor  
New York, New York 10282  
Attn: Vice President, Financial Surveillance & Risk Management

OneChicago, L.L.C.  
141 West Jackson Boulevard  
Suite 2208A  
Chicago, Illinois 60604  
Attn: General Counsel

Philadelphia Board of Trade  
1900 Market Street  
Philadelphia, Pennsylvania 19103  
Attn: Vice President of Examinations

U.S. Futures Exchange L.L.C.  
311 South Wacker Drive  
Suite 3750  
Chicago, Illinois 60606  
Attn: Counsel

15. Applicable Law. This Agreement and any controversy between the Parties with respect thereto or arising thereunder shall be governed by the laws of the State of New York.
16. Duplicate Originals. This Agreement may be executed in duplicate originals, and each duplicate original bearing the original signature of the Parties or their duly authorized officials shall be deemed to be the original of the Agreement for all purposes.

Dated: \_\_\_\_\_

Representing: AMEX Commodities Corporation

Dated: \_\_\_\_\_

Representing: Board of Trade of the City of Chicago, Inc.

Dated: \_\_\_\_\_

Representing: Board of Trade of Kansas City

Dated: \_\_\_\_\_

Representing: BrokerTec Futures Exchange, L.L.C.

Dated: \_\_\_\_\_

Representing: CBOE Futures Exchange, LLC

Dated: \_\_\_\_\_

Representing: Chicago Mercantile Exchange Inc.

Dated: \_\_\_\_\_

Representing: Coffee, Sugar & Cocoa Exchange, Inc.

Dated: \_\_\_\_\_

Representing: Commodity Exchange, Inc.

Dated: \_\_\_\_\_

Representing: Island Futures Exchange, L.L.C.

Dated: \_\_\_\_\_

Representing: Merchants' Exchange L.L.C.

Dated: \_\_\_\_\_

Representing: Minneapolis Grain Exchange

Dated: \_\_\_\_\_

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Representing NQLX L.L.C.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Representing: National Futures Association

Dated: \_\_\_\_\_

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Representing: New York Cotton Exchange

Dated: \_\_\_\_\_

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Representing: New York Mercantile Exchange, Inc.

Dated: \_\_\_\_\_

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Representing: OneChicago, L.L.C.

Dated: \_\_\_\_\_

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Representing: Philadelphia Board of Trade

Dated: \_\_\_\_\_

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Representing: U.S. Futures Exchange L.L.C