

# U.S. Futures Exchange, L.L.C.

Member Name

Address

## MEMBERSHIP AGREEMENT

Name of Signatory

Phone No.

Fax No.

This Agreement sets forth the terms and conditions under which U.S. Futures Exchange, L.L.C. (the "Exchange") will grant \_\_\_\_\_ (the "Member") a Membership to the Exchange to access and use its futures exchange facilities (the "Trading System"). This document contains important information regarding the terms and conditions that apply to your Membership. Access to, and use of, the Trading System and other Exchange services are subject to your compliance with the terms and conditions set forth in this Agreement.

IN THIS AGREEMENT, the words "you" and "your" mean the institutional or individual Member, as well as each Authorized Trader within a Member institution, as applicable. The words "Exchange", "we", "us", and "our" mean U.S. Futures Exchange, L.L.C. Each capitalized term used in this Agreement and not defined herein shall have the meaning set forth in the Exchange Rules.

### 1. WHAT THIS AGREEMENT COVERS

The Trading System is an electronic futures exchange that includes order execution and trade settlement facilities as well as price quoting and other market information. Access to the Exchange is available to qualified purchasers and sellers of commodities and services to trade futures contracts and options on futures contracts for such commodities and services ("Contracts").

**You understand that by accessing the Trading System you have agreed to the terms and conditions of this Agreement, the Exchange Bylaws and Exchange Rules (collectively, the "Rules"), and to any applicable law, rule or regulation, including, but not limited to the U.S. Commodity Exchange Act, as may be amended from time to time (the "Act") and the rules and regulations of the U.S. Commodity Futures Trading Commission ("CFTC"), as may be amended from time to time (collectively, "Applicable Law"). You agree that the Exchange shall not be liable to you for any commercially reasonable action it takes to comply with the Rules or Applicable Law.**

## 2. GENERAL OBLIGATIONS AND DUTIES

You consent to the jurisdiction of the Exchange and its agents in all matters arising under this Agreement and the Rules. You consent to the jurisdiction of the federal and state courts in Chicago, Illinois, in any action or proceeding brought by the Exchange.

You agree to adhere to the Rules and to Applicable Law with respect to your trade and settlement obligations and to supervise your Authorized Traders to insure that all orders entered into the Trading System are accurate and authorized. Specifically, you agree, among other things, that:

- Your transactions on the Exchange will comply with the Rules and with the requirements of the specific contract being traded;
- You will monitor the Trading System while your open orders and positions are pending. It is your sole obligation to monitor your trading account(s) and the status of open orders or positions in such account(s) and take appropriate action to minimize loss or maximize gain;
- You will have procedures to monitor all orders until execution is confirmed or cancellation is acknowledged by the Exchange. The Exchange is not responsible for any loss due to your and/or your Authorized Trader's failure to cancel, replace or cover a trade prior to receipt of written or e-mail confirmation or cancellation. The Exchange is not responsible for any loss resulting from the cancellation of any transaction under Rule 407 of the Exchange Rules, except to the extent provided by Exchange Rule 805.
- You will monitor margin levels in your account. Acceptance of an order does not constitute a representation by the Exchange that there is sufficient margin in your account for the order to be approved. You hereby acknowledge your responsibility to keep apprised of current margin requirements in connection with all trading activity, to post required margin for trades entered by you and/or your Authorized Traders and to remain liable for the losses incurred on all of your trades, regardless of whether there is sufficient margin posted at the time the trade is entered.

You may not access the Trading System:

- To post or transmit any message or content that violates any applicable local, state, national, international or foreign law, rule or regulation, including rules and regulations promulgated by the CFTC, any applicable foreign regulatory agency or any applicable self-regulatory organization or governmental entity; or
- To engage in any conduct or practices inconsistent with just and equitable principles of trade or conduct or practices detrimental to the best interests of the Exchange or its Members.

### **3. AUTHORIZED ACCESS TO THE TRADING SYSTEM**

You will be provided with a Member ID to gain access to the Trading System. You are responsible for assigning each Authorized Trader a unique Trader ID and password and for assuring that only designated Authorized Traders will access the Trading System on your behalf.

You shall furnish the Exchange with the name, location, and Trader ID of each Authorized Trader and shall certify that each Authorized Trader has been trained in a manner deemed appropriate by the Member regarding the Rules, the proper use of the Trading System, and the proper use of any terminal or other device used for obtaining access to the Trading System. The Exchange reserves the right to refuse or revoke access to the Trading System of any Authorized Trader when such action would serve the best interests of the Exchange or its Members.

You agree to accept sole responsibility for the use, confidentiality and protection of your Member ID, Trader IDs and passwords, as well as for any and all information and other messages and instructions entered or transmitted under identifiers and passwords of your Authorized Traders (except to the extent that disclosure of passwords results from our gross negligence, fraud or willful or wanton misconduct). You agree not to disclose your Member ID, Trader ID or passwords or use said IDs and passwords for any purpose not related to doing business hereunder, unless expressly authorized by us.

You shall be fully responsible for timely performance of all obligations under or in connection with any Contract resulting from the entry of any order into the Trading System under your Member ID and any Contract otherwise resulting (including without limitation any Block Trade, EFP or EFS) and reported to the Trading System with such ID, except to the extent provided by Exchange Rule 805.

As a condition of granting you Membership privileges, you:

- Agree that the Exchange may rely upon, and shall be protected in acting upon, any written notice, request, direction or other document reasonably believed to be genuine and to have been signed or presented by you or on your behalf by an Authorized Trader;
- Agree to give us prompt notice of any unauthorized access of the Trading System by any third party of which you become aware. You also agree to cooperate with us in investigating any unauthorized use. Your responsibility for trades entered under that Member ID, Trader ID or password as set forth above will terminate with respect to trades entered into after the Exchange has had a reasonable period to terminate access following your notice to the Exchange of such unauthorized access.
- Agree that the Exchange may, under certain circumstances and the procedures as specified in this Agreement or in the Rules, suspend, condition or revoke your Membership privileges; and

- Authorize the Exchange or its agents, in its sole discretion, to make or obtain reports concerning your financial condition and business conduct.

#### **4. TECHNICAL REQUIREMENTS**

##### **Part I. Exchange Technical Equipment**

##### **4.1. Technical Requirements Generally**

You agree to maintain sufficient technical and equipment capabilities for connection to the Trading System at all times, as set forth herein. You acknowledge that the technical requirements outlined herein are binding and that divergence from such requirements requires the written consent of the Exchange.

The Exchange may, at any time during regular business hours, or if outside of regular business hours with appropriate notice, examine your configurations and network parameters and require the correction of divergent configurations or parameters. In the event that changes become necessary, you agree to effect such technical modifications to your Member Front End Installation as reasonably may be required by the Exchange within a commercially reasonable time frame imposed by the Exchange. Within a reasonable period of a request by the Exchange, you agree to grant the Exchange access to the technical infrastructure you employ for establishing a connection with the Trading System.

##### **4.2 Network of the Exchange**

The network of the Exchange (the "Network") includes all hardware elements combined in each Network node as well as all necessary components for the connection of the Network nodes (dedicated lines for telecommunications, etc.) which form the technical basis for the implementation of trading on the Exchange. The Network includes nodes, the central host node, the access points of the Trading System and components of the Member Front End Installation which form the technical basis for the implementation of trading on the Exchange.

If you elect to access the Trading System through an internet-based connection alternative or a combination of dedicated line and internet, the internet connection(s) are not included as part of the Network.

## **Part II. Connection to the Trading System**

### **4.3 Member Front End Installation**

A Member Front End Installation consists of one or more computers (Member Integration System Server (MISS) or workstations and software) that enable trading on the Exchange through which orders and quotes are entered into the Trading System. In addition, the Member Front End Installation shall include all network components by which the connection to the Network of the Exchange is made and all necessary components for the maintenance of your internal network connections (e.g., gateways, routers, etc.) and shall be located in a network area reserved for the Exchange.

Additional hardware elements are not components of the Member Front End Installation. Additional elements may be connected to the Member Front End Installation provided that they satisfy the interfacing demands established by the Exchange and have been registered with the Exchange.

### **4.4 Connection Requirements**

As a Member, you will be provided access to the Network. All connection alternatives to the Network require compliance with the Rules and with the technical standards outlined herein. You acknowledge that the system load produced on the Trading System by your Member Front End Installation may be measured by the Exchange and may be limited if deemed necessary by the Exchange in any manner determined by the Exchange as long as it does not unduly prejudice a particular member.

### **4.5 Installation of Member Front End Installations**

- (a) All Member Front End Installations not employed in emergencies or for the purpose of participating in simulations must be installed on your premises and shall be configured redundantly in order to increase fail-safe mechanisms.
- (b) Notwithstanding paragraph (a) above, upon receipt of written notification, the Exchange may permit the installation and operation of a Member Front End Installation at the business premises of a third party engaged by you to operate such Member Front End Installation provided that such installation does not include a device for entering orders into the Trading System and that the compliance with the Rules and this Agreement is assured. Such outsourcing of the Member Front End Installation shall be strictly prohibited absent a written agreement granting the Exchange the right to inspect the third party's business premises during regular business hours, or if outside of regular business hours with appropriate notice, to ensure compliance with the requirements for the installation and operation of Member Front End Installation.

#### **4.6 Member Front End Systems**

A Member Front End System consists of at least one computer integrated into the Network of the Exchange, which is equipped with sufficient capacity and data security options in order to secure the technical basis on the part of the Member for trading on the Exchange. A Member Front End System is a component of the Member Front End Installation and is part of the Network of the Exchange.

You may apply for the connection of several Member Front End Systems. The Exchange may limit the number of Member Front End Systems you operate, to the extent that such action is necessary for reasons relating to system performance or for any other reasonable grounds.

#### **4.7 Hardware and Platform Requirements**

You acknowledge that operation of the Member Front End Installation is your sole responsibility and that the operation and functionality of trading on the Exchange shall not be compromised by your operation of the Member Front End Installation. You agree to utilize equipment that ensures the orderly execution of trading and to specify permitted trading platforms for equipping the Member Front End Installation.

All hardware configurations or modifications to hardware configurations must receive the prior approval of the Exchange.

### **Part III. Software**

#### **4.8 Exchange Software**

The Exchange shall make the current version of the application software available, without its source code, subject to the terms outlined herein. You may only use the current version of the application software as made available by the Exchange and may neither alter nor copy such software without the prior written consent of the Exchange. The foregoing shall not apply to the production of copies of the application software if such copies are produced solely for data storage purposes. You are responsible for the installation of the application software on the components of your Member Front End Installation.

#### **4.9 Operating System Software**

The Exchange shall notify each member within a commercially reasonable period of each version of the operating system software, including all necessary components, which shall be used for operation of the current version of the Exchange software on the Member Front End Installation.

#### **4.10 Responsibility for the Use of Third Party Software**

The application software made available by the Exchange shall include interfaces for front and back office systems. The Exchange has no responsibility, obligations or duties with respect to any third-party software utilized by you that uses or accesses these interfaces.

#### **4.11 Extent of Use of Data Transmission Equipment**

You may not, without the prior written approval of the Exchange, use the data transmission equipment of the Network of the Exchange that serves trading on the Exchange for any purpose other than trading or supporting trading on the Exchange. Notwithstanding the foregoing, the Exchange reserves the right to use your data transmission equipment for trading on other exchanges or markets.

#### **Part IV. Transmission Alternatives for Telecommunication**

##### **4.12 Dedicated Lines**

- (a) Control of Dedicated Lines. The Exchange shall control the dedicated lines for the entire physical Network of the Trading System. Installation and operation of the dedicated lines for telecommunications for the connection between the Member Front End Installation and the Trading System shall be carried out by the Exchange or may be contracted out by the Exchange.
- (b) Range of Dedicated Lines. The Exchange shall make available a connection to the location of the Member. The transmission paths and types of connection supported by the Exchange must be made available by each Member and must be operational. You agree to adhere to the security and quality standards established by the Exchange.
- (c) Number of Dedicated Lines. The Exchange reserves the right to limit the number of dedicated lines for each Member.

##### **4.13 Specification of Network Parameters for the Use of Dedicated Lines**

If you elect to use a dedicated line to connect to the Trading System, the Exchange shall specify Network parameters to ensure the security of the Network and to protect the Member Front End Installations. In particular, the Exchange shall ensure that:

- (a) a Member's computers which are not considered components of the Member Front End Installation may only access the Member Front End Systems of that particular Member and do not reach other computers in the Network of the Exchange;
- (b) only the computers of the Member Front End Installation may be accessed from the Network of the Exchange;
- (c) unauthorized access by a Member Front End Installation to the computers of the Exchange is not possible; and
- (d) communication between Members by means of the Network of the Exchange is not possible.

#### **4.14 Internet Usage**

- (a) Responsibility of the Member. The internet connection required for the connection to the Network, including, without limitation, selection of the internet service provider and the establishment of the internet connection to the Network of the Exchange, is your sole responsibility. The Exchange does not assume responsibility for availability and performance of internet access.
- (b) Internet Service Provider. If the connection to the Network is made via the internet, you are obligated to choose an internet service provider which shall provide a suitable connection via the internet to the Network.
- (c) Connection to the Network of the Exchange. If the connection to the Network of the Exchange is made via the internet, the Exchange will decide at which access point such connection shall be made.

#### **4.15 Specification of Network Parameters for the Use of the Internet**

If you elect to use the internet to connect to the Trading System, the Exchange will specify Network parameters to guarantee the security of the Network and protect the Member Front End Installation. In particular, the Exchange shall ensure that:

- (a) a Member's computers which are not components of the Member Front End Installation may only access the Trading System of the respective Member and do not reach any other computers on the Network of the Exchange; and
- (b) unauthorized access by a Member Front End Installation to the computers of the Exchange is not possible.

#### **4.16 Reserving of Network Areas**

The Exchange shall reserve Network areas for its Network. The Network areas selected by the Exchange must be used for participation on the Exchange. Within its own Network, each Member may use any Network areas that are not reserved for the Exchange. The Exchange shall assign node numbers and node names for the entire Network. No computer that has not received a corresponding node number from the Exchange may be connected by a Member in the Network areas reserved by the Exchange.

### **Part V. Emergency Plan**

#### **4.17 Responsibility**

You are responsible for taking appropriate measures for emergency planning and management.

#### **4.18 Emergency Computer Center**

You may, if necessary, install a Member Front End Installation at an inactive emergency computer center and connect such center to an access point, provided that such Member Front End Installation is in compliance with paragraph 4.5(b) herein. The costs incurred by the Exchange with respect to such emergency computer center shall be borne by the Member.

#### **4.19 Connection Between Two Locations**

If you operate at two or more locations, you may equip any two locations with a connection in order to ensure breakdown protection in the event of a disruption of the connection between one location and an access point.

### **Part VI. Personnel**

#### **4.20 Personnel**

It is your responsibility to maintain a sufficient number of qualified personnel at all times during the Exchange trading day and to make qualified personnel available to receive communications from the exchange by telephone twenty-four hours a day during all exchange trading days. In addition, you must provide the Exchange with the name of a person to be contacted in the event of a technical disruption including, if applicable, the identity of any third party service provider.

### **Part VII. Costs**

#### **4.21 Hardware and Software**

The costs for the purchase, installation and maintenance of all hardware and software used by a Member are the sole responsibility of that Member.

#### **4.22 Connection Alternatives**

The Exchange shall collect a fee from Members to reimburse it for the expenses of establishing and operating the Network. The fee shall be determined in accordance with a formula defined by the Exchange. Any costs incurred in establishing a connection with the internet is the sole responsibility of the Member.

### **Part VIII. Technical Problems**

#### **4.23 Measures**

If there are technical disruptions to the Trading System, the Exchange reserves the right to suspend or restrict access to the Trading System for any or all Members, regardless of whether such problems arise in connection with the Trading System or a Member or Member's equipment or activities. The Exchange may resume trading after an interruption, even if one or more Members still do not have access to the Trading System, if in the opinion of the Exchange the conditions for an

orderly market exist. The Exchange will make commercially reasonable efforts under the circumstances to give notice that trading has resumed, such as a notice on the Exchange's website.

#### **4.24 Obligation to Cooperate**

It is your responsibility to inform yourself about technical requirements and changes to such technical requirements by means of the media made available by the Exchange. The Exchange shall, to the extent possible, inform you, without undue delay, of any technical problems. If the Trading System is experiencing technical problems, you agree to grant access to the Exchange or third parties engaged by the Exchange to the locations in which Member Front End Systems are installed. The Exchange will make commercially reasonable efforts in light of the circumstances to give notice of its need to obtain access.

#### **4.25 Alternative Trading Methods**

In the event that the system of the Exchange is non-functional for a period of time in excess of twelve hours, the Exchange shall declare a technical emergency in accordance with the Rules and shall determine alternative trading methods, if any.

#### **4.26 Data Entry on Behalf of Members**

In the event that the Member Front End System of a Member is non-functional, the Exchange may, upon request, enter data into the electronic Trading System on behalf of such Member. Under these circumstances, the Exchange will verify that the data, which has been submitted to it for entry, is legitimate by reference to the user identification number given to it by the Member.

#### **4.27 Right to Demand Information**

You agree, upon request, to provide information and submit documents to the Exchange that Exchange deems useful to prevent or solve technical problems.

#### **4.28 Delegation to Third Parties**

The Exchange may delegate to third parties, in full or in part, the performance of its obligations in the Technical Requirements of this Agreement subject to the same confidentiality arrangements as is the Exchange under this Agreement; provided that the Exchange shall remain ultimately liable for its obligations hereunder.

#### **4.29 Third-Party Data and Information**

The Exchange shall not be liable for the accuracy, completeness, availability and up-to-date nature of the price and other data obtained from third parties.

**Part IX. System Testing**

**4.30 Mandatory Computer System Testing**

- (a) A Member may be required by the Exchange to participate in a computer system test of the Member's computer systems to ascertain the compatibility of such computer systems with the Exchange's computer systems. Such tests shall be in the manner and with the frequency prescribed by the Exchange. The Exchange will give Members reasonable notice of any mandatory computer system test, which notice will specify the nature of such test and Members' obligations with respect to such test.
- (b) Every Member required by the Exchange to conduct or participate in a computer system test shall provide to the Exchange such reports relating to the testing as the Exchange reasonably may prescribe. Members shall maintain documentation of computer system tests and results of such tests and provide such documentation to the Exchange upon request.
- (c) A Member that is required to participate in this mandatory computer system testing and that fails to conduct or participate in these tests, fails to file the required reports, or fails to maintain the required documentation, may be subject to a summary suspension or other action taken pursuant to the Rules.

**5. MEMBER ELIGIBILITY**

You represent to the Exchange that:

- You satisfy all of the membership requirements as set forth in the Rules and the Membership Application;
- You are duly authorized and empowered to execute and deliver this Agreement;
- This Agreement is a valid and binding Agreement, enforceable against you in accordance with its terms;
- You have made and will make all disclosures regarding you and your Authorized Traders and your trading of Contracts that is required by the Rules or under Applicable Law;
- Any financial or other information you provide to the Exchange or its agents in connection with this Agreement, pursuant to the Rules or otherwise, is and will be accurate and complete in all respects;

- If you are an individual admitted as Member, that no Person other than you has or will have any control over any trading account established with the Exchange;
- If you are an entity admitted as a Member, that no Person other than your Nominated Person and your Authorized Traders has or will have any control over any trading account established with the Exchange, except as disclosed to the Exchange in writing; *provided however*, you may use, or authorize an affiliate to use, an Automated Order Routing System to trade for your account.
- You acknowledge that the Exchange will not be a principal in, or in any way guarantee, any Transaction; and
- You agree to provide us with information and documentation in the future that we may reasonably request for the continued orderly use and operation of the Exchange.

You agree to notify the Exchange promptly in writing if:

- The information provided in your Membership Application, this Agreement or otherwise is no longer materially accurate or complete;
- You, your Nominated Person or any Authorized Trader is suspended or expelled from, or subject to disciplinary action by, any other contract market or commodity, securities or derivatives exchange or market or self-regulatory organization; or
- You, your Nominated Person or your Authorized Trader have entered a plea of guilty to or are convicted of any criminal sanction that is punishable by imprisonment of more than a year or a fine in excess of \$10,000.

## **6. NON-U.S. MEMBERSHIP**

For Members domiciled, organized, headquartered, principally located and/or otherwise residing outside of the United States, its territories or possessions ("Non-U.S. Member"):

- You agree to submit to the jurisdiction of the Act and the CFTC with respect to any transaction initiated or executed on the Exchange;
- You represent that you have, in accord with Commission Regulation 15.05, entered into a written agency agreement appointing a third party as your U.S. agent for service of process and have attached a copy of that agreement hereto;
- You represent that there are no restrictions by law from any foreign jurisdiction that prevents or would prevent you from participating or engaging in any activity as Member of the Exchange or from entering into any and all agreements necessary to fulfill your Membership obligations. You agree to provide, upon request and at your own cost, a legal opinion confirming your representations;
- You agree to promptly notify the Exchange if there is a change in foreign law that prevents or may prevent you from participating or engaging in any activity as Member of the Exchange or from entering into any and all agreements necessary to fulfill your Membership obligations. You agree to provide, upon request and at your own cost, a legal opinion confirming your ability to continue participating as an Exchange Member.

## **7. MEMBER DEFAULT**

In the event that:

- You, any of your Authorized Traders or your Authorized Clearing Member breach or fail to timely perform any of your or their material obligations under this Agreement or the Rules, or otherwise in respect of any Contract;
- You, or your Authorized Clearing Member on your behalf, fail to deposit or maintain any required margin or fail to make any other payment required in respect of any Contract;
- Any representation you made hereunder is not or ceases to be accurate and complete in any material respect;

- A case in bankruptcy is commenced or a proceeding under any insolvency or other law for the protection of creditors or for the appointment of a receiver, trustee or similar officer is filed by or against you or your Authorized Clearing Member;
- Any warrant or order of attachment is issued against any of your accounts with your Authorized Clearing Member or a judgment is levied against any such account;
- The Exchange, after notifying you and offering you the opportunity to provide adequate assurances acceptable to the Exchange within a reasonable period of time under the circumstances, reasonably considers it necessary for its protection and for the protection of other Members;

then the Exchange shall have the right, without limitation to:

- Close out any or all of your open Contracts;
- Cancel any of your or your Authorized Traders outstanding orders;
- Treat any and all of your obligations to the Exchange as immediately due and payable;
- Set-off any obligation of the Exchange to you against any of your obligations to the Exchange;
- Request your Authorized Clearing Member to liquidate any collateral held by such Authorized Clearing Member on your behalf to satisfy your obligations to the Exchange;
- Terminate any or all of the Exchange's obligations for future performance with respect to your trading account;
- Terminate your access to the Exchange; and/or
- Proceed with any other appropriate action under the Rules.

The Exchange shall make reasonable efforts appropriate to the nature of the circumstances to notify you that it will take or has taken any of the above actions.

## **8. DISCIPLINARY, TRADE, FINANCIAL AND MARKET SURVEILLANCE**

You acknowledge that:

- The Exchange is a U.S. regulated futures market and is subject to Applicable Law. As a regulated market, the Exchange and its agents regularly conduct routine trade practice, financial and market surveillance of Members, their Authorized Traders and their transactions, which may include on-site visits by the Exchange or its agents;
- If the Exchange has reason to believe that you or your Authorized Trader has violated the Rules or Applicable Law, the Exchange may bring disciplinary proceedings against you and/or your Authorized Trader in accordance with the Part 6 of the Exchange Rules;
- In connection with any disciplinary proceedings, and any investigation of you or your Authorized Traders, you will produce business records reasonably requested of you, permit on-site visits, accept service of process and subpoenas and abide by the Exchange's final decision; and
- You and your Authorized Traders may be suspended and barred from the Exchange if you or they materially violate this Agreement, the Rules or Applicable Law. Serious misconduct could also result in you and/or your Authorized Trader's conduct being reported to the CFTC which maintains its own investigatory staff and has its own disciplinary powers.

## **9. OWNERSHIP OF SYSTEM AND SYSTEM INFORMATION**

The Exchange has licensed the Trading System from its corporate affiliates. You are permitted use of the Trading System under the terms and conditions of this Agreement. The Trading System is the sole property of its owner, which retains title to the Trading System at all times. Your use of the Trading System does not in any way confer any copyright, trademark, design right, database right or any other intellectual property rights or proprietary rights in the Trading System. We make no representation as to the timeliness, sequence, completeness or authenticity of information posted on the Trading System or as to non-performance, interruption, discontinuance or change in the Trading System.

## **10. FEES; CHANGES IN TERMS**

You will be liable for payment of fees for executed Transactions that were entered into the Trading System and for other services rendered by us or the Trading System, at the applicable charges posted on the Exchange. If you are a Trading Member, payment of such fees will be made by your Clearing Member on your behalf. Payment of fees is due promptly upon receipt.

We may change the Trading System services and the fees, at any time. You will be notified of any such change as described below under "Notices."

## **11. NOTICES; SERVICE OF PROCESS**

You agree that any notices given by you will be transmitted either by mail or by electronic message to the address provided on our web site. Notices to all Members will be conspicuously posted on the Exchange, provided, however, notice regarding Disciplinary Proceedings commenced under Part 6 of the Exchange's rules will be made in accordance with the provisions of Exchange Rule 606.

The address submitted in this Agreement shall be deemed to be the address for delivery of any notice or communication from U.S. Futures Exchange, L.L.C., including any summons, complaint, reparation claim, order, subpoena, request for information, or any other written communication, unless another address is expressly specified for this purpose.

## **12. TERMINATION OF AGREEMENT; SUSPENSION OF SERVICES**

This Agreement will remain in effect until you or we terminate it. You understand that you may cancel this Agreement at any time by notifying us in writing. Termination will be effective at 6 p.m. (Chicago time) on the thirtieth Chicago banking day after we receive notice.

We reserve the sole and absolute discretion to immediately deny, revoke or otherwise restrict your access privileges and the access privileges of any Authorized Trader who at any time fails to comply with the terms of this Agreement, any Applicable Law or the Rules or whose conduct in our sole discretion jeopardizes the Exchange or its Members, is inconsistent with fair dealing or is not in the best interests of the Exchange or its Members.

We may suspend services, restrict access to the Trading System, or remove data from the Trading System in the event that (i) data or services provided by a third party are no longer available or (ii) it becomes illegal or contrary to any Applicable Law.

Upon the termination of this Agreement and otherwise at our request, you agree that your and your Authorized Traders' open orders may be cancelled and you and your Authorized Traders shall remain subject to the jurisdiction of the Exchange with respect to any investigation or proceeding commenced against you by the Exchange and any arbitration filed against you; provided that the investigation, proceeding or arbitration is commenced not more than one year after the effective date of your termination. You and your Authorized Traders may remain subject to the jurisdiction of the CFTC.

Otherwise, termination of this Agreement shall not affect any transaction entered into before notice of termination and shall not relieve any party of any obligation incurred before termination, provided that the Exchange may require that you or your Authorized Traders trade for liquidation only following termination. In the event your Membership is summarily terminated, you shall have the right to appeal such determination, but your trading privileges may be suspended during such appeal.

The provisions of this Agreement pertaining to confidentiality, indemnities, and payment of accrued fees shall survive the termination of this Agreement and the suspension or restriction of your access to the Exchange.

### **13. ELECTRONIC TRADING RISK DISCLOSURE**

**You acknowledge the following risk factors:**

- **Trading in futures and options on futures is a highly speculative activity involving high leverage and volatile markets. Despite these risks, you assume the financial and other known risks involved in these investment vehicles. You understand that on certain specific trading dates, trading in options and futures may cease or expire and that when they are traded outside the United States, trading days and hours may not coincide with domestic trading days of hours and that these factors may result in financial disadvantage to you. You freely assume these risks and hold the Exchange, its affiliates, and their respective directors, officers, employees, agents harmless against any such losses resulting from these risks.**
- **The Trading System is a multi-functional electronic system designed for order entry through the Internet or other dedicated lines of communication. Numerous features have been designed into the Trading System to prevent system failure. However, as with any electronic system, it is possible that service could be interrupted. In that event, depending on the type of failure, it may not be possible to access the Trading System to enter new orders, and/or modify or cancel orders previously entered. The Exchange shall not be liable for any loss resulting from system failure, breakdown of electronic or mechanical equipment or communication lines, telephone or other interconnection problems.**
- **You have reviewed the Rules for a full description of the Trading System's order matching procedures, opening and closing procedures and pricing, error trade policies, trading limitations or requirements, qualifications for access, grounds for termination and limitations on the type of orders that may be entered.**

### **14. INDEMNIFICATION**

The Exchange shall defend, indemnify and hold you, your officers, directors agents and employees harmless, from and against damages, court costs and reasonable expenses that you incur or damages, reasonable attorney's fees, court costs and expenses awarded against you relating to infringement of U.S. Patent No. 4,903,201 arising from your use of the Trading System as authorized in this Agreement, *provided* that you have complied with all of your obligations under the Agreement and *provided further* that the indemnification amount shall in no event

exceed the Fees paid by you to the Exchange during the twelve (12) months prior to the date of a judgment or settlement of the claim.

You must notify the Exchange promptly upon learning that a claim under the above-referenced Patent has been made and assign your defense of such claim to the Exchange. You must cooperate fully and assist the Exchange in the defense of any such claim by, without limitation, attending depositions, providing access to pertinent documents and by providing any other assistance reasonably necessary to defend such a claim.

The Exchange will select, retain and pay for counsel, and shall be responsible for payment of the costs and expenses of defending you and/or negotiating any settlement on your behalf. However, you may in your discretion retain your own counsel at your own expense and not subject to reimbursement by the Exchange. In any event, the Exchange retains the right to control the defense and/or settlement of such claims. However, the Exchange may not settle a claim on your behalf for any amount that exceeds the limitation provided above unless you agree in writing or the Exchange pays the amount which exceeds the limitation.

The indemnification provided under this section shall be your sole and exclusive remedy against the Exchange with respect to any claim against you relating to the above-referenced patent.

## **15. MISCELLANEOUS**

Neither you nor the Exchange will use the name of the other for advertising or publicity purposes without the other's prior written consent. Provided however, each may use the other's name in the ordinary course of business, including, without limitation, the listing of member firms on the Exchange's website and other official Exchange public records.

This Agreement constitutes the entire Agreement between us and supersedes all other Agreements, communications, or representations, whether written or oral, with respect to the subject matter hereof.

The terms of this Agreement shall be binding upon any successors, assigns or agents of each of the parties; however, this Agreement may not be assigned by you without our prior written consent.

The invalidity or unenforceability of any particular provision of this Agreement under any Applicable Law shall not affect the other provisions of this Agreement, and the invalid provision shall be deemed modified to conform to such Applicable Law.

## **16. GOVERNING LAW**

This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Illinois, without regard to the conflicts of laws provisions thereof. Jurisdiction and venue for all purposes under this Agreement is specifically agreed to lie solely in the courts of the State of Illinois and the United States District Court located in Chicago.

Except with respect to disciplinary proceedings and other matters as to which the Exchange may take summary action as set forth in the Rules, any controversy or dispute between the Exchange and a Member arising out of or relating to this Agreement or a Member's trading account thereunder shall be resolved by arbitration under the terms and procedures specified in Exchange Rule 701 as though Exchange Rule 701 referenced disputes between Members and the Exchange and was incorporated herein.

**IN THE EVENT OF ANY CONFLICT BETWEEN ANY PROVISION OF THIS AGREEMENT AND ANY PROVISION OF THE EXCHANGE BYLAWS AND/OR EXCHANGE RULES, AS MAY BE AMENDED FROM TIME TO TIME, THE PROVISIONS OF THE EXCHANGE BYLAWS AND/OR EXCHANGE RULES SHALL SUPERCEDE THIS AGREEMENT.**

Dated as of \_\_\_\_\_, 2004

U.S. Futures Exchange, L.L.C.

[MEMBER]

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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