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September 14, 2017

Submitted via CFTC Portal

Division of Market Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: *tpSEF Inc. – Regulation 40.6(a) Rule Certification – Notification of Amendments to the tpSEF Inc. Terms of Use (tpSEF Submission #17-03R)*

To Whom It May Concern:

Pursuant to Section 5c(c) of the Commodity Exchange Act, as amended (the “Act”), and Section 40.6(a) of the regulations of the Commodity Futures Trading Commission (the “Commission”), tpSEF Inc. (“tpSEF”), a registered swap execution facility, hereby notifies the Commission that it wishes to amend the tpSEF Inc. Terms of Use (the “Terms of Use”) as provided in Exhibit A. The amendments to the Terms of Use will become effective on September 29, 2017.

Pursuant to Commission Regulation 40.6, this submission includes:

- (i) A concise explanation and analysis of the amendments and their compliance with applicable provisions of the Act, attached as Exhibit A.
- (ii) A clean copy of the amended Terms of Use, attached as Exhibit B; and
- (iii) A copy of the amended Terms of Use marked to show changes to the prior version, attached as Exhibit C.

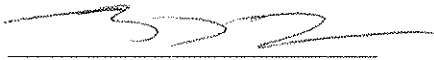
tpSEF hereby certifies that: (i) the amendments comply with the requirements of the Act and Commission regulations thereunder, and (ii) a notice and copy of this submission is being concurrently posted on tpSEF’s website. tpSEF is not aware of any substantively opposing views expressed with respect to this filing.

Division of Market Oversight
Commodity Futures Trading Commission
September 14, 2017

Please contact the undersigned at (201) 984-6956 or by email at bddonnelly@tullettprebon.com with any questions regarding this matter.

Very truly yours,

tpSEF Inc.

By: 

Name: Brian D. Donnelly
Title: Chief Compliance Officer
Date: September 14, 2017

Enclosures

cc: Roger Smith, CFTC Division of Market Oversight (rsmith@cftc.gov)

EXHIBIT A

Explanation of Amendments

tpSEF is seeking to amend its Terms of Use to:

- Add provisions specific to Introducing Brokers accessing the SEF on behalf of one or more Customers
- Revise the process for amendments to the Terms of Use
- Harmonize the Terms of Use with the tpSEF Rulebook
- Delete from the Terms of Use matters that are or will be addressed in the tpSEF Rulebook
- Make certain clean up and clarifying changes

Division of Market Oversight
Commodity Futures Trading Commission
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EXHIBIT B

Amended tpSEF Inc. Terms of Use

TPSEF INC. TERMS OF USE

PLEASE READ CAREFULLY. THESE TERMS AND THE SEF RULES INCLUDE DISCLAIMERS AND LIMITATIONS OF LIABILITY.

BY ACCESSING OR USING THE SEF AND ANY RELATED SERVICES, THE ENTITY ON WHOSE BEHALF THE SEF IS BEING ACCESSED (“YOU” OR “PARTICIPANT”) AGREES TO BE LEGALLY BOUND AND ABIDE BY THESE TERMS AND THE SEF RULES, AND THE UNDERSIGNED REPRESENTS AND WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO BIND PARTICIPANT. DO NOT ACCESS OR USE THE SEF OR ANY RELATED SERVICES IF YOU ARE NOT WILLING TO BE BOUND BY THESE TERMS AND THE SEF RULES. NO AMENDMENTS TO THIS AGREEMENT BY PARTICIPANT WILL BE PERMITTED AND ANY MODIFICATIONS OTHER THAN BY THE SEF AS PERMITTED HEREIN WILL BE DISREGARDED. CAPITALIZED TERMS USED HEREIN WITHOUT DEFINITION HAVE THE MEANINGS GIVEN TO THEM IN THE SEF RULES.

1. Scope. These Terms of Use (“Terms”) govern your access and use of tpSEF Inc.’s swap execution facility (“tpSEF” or the “SEF”) and related services (collectively with the SEF, including, without limitation, any related software, the “SEF Services”) provided by tpSEF or one or more of its affiliates (collectively with any third party service providers, “we,” “our” or “us”). Access to and use of the SEF Services may include one or more of the following services: (a) trading services that are made available by us from time to time, at our sole discretion, with respect to transactions in Swaps (each, a “Transaction”); (b) services that permit you and your Authorized Traders to determine the status of Transactions; (c) services for the display or transmission of indications of interest or firm or conditional offers to enter into Transactions; and (d) any additional services (including those relating to Package Transactions) made available as SEF Services from time to time. You agree to the terms and conditions herein, whether acting on your own behalf, on behalf of a Customer, or when permitting your Trading Privileges to be accessed by an Authorized Trader, and shall be bound by the SEF Rules and all amendments thereto in each case effective upon notice to you from time to time. You consent to the jurisdiction of the SEF.

2. Access. You may access the SEF Services for your own account or for that of your Customers or Clients. You are responsible for all Transactions entered into by you whether as principal for your own account (including in the event you enter into Transactions through an Introducing Broker) or for a Client or Customer or otherwise. To the extent you are a registered futures commission merchant, you may provide a non-Participant Customer with access to the SEF as a Sponsored Participant but only in accordance with the terms of the FCM Direct Client Access Addendum (“FDCA”) and the applicable SEF Rules. Under these circumstances, you are responsible for all Transactions entered by such Sponsored Participant as further described in the FDCA and the SEF Rules.

3. Term and Termination.

(a) These Terms are effective as of the date you execute these Terms and you are accepted as a Participant. These Terms will continue in effect unless and until your status as a Participant is terminated or withdrawn in accordance with the SEF Rules.

(b) Regardless of any other provision of these Terms, we have the right, consistent with the SEF Rules, to (i) suspend or terminate (at any time, with or without cause or prior notice) all or any part of any SEF Service; (ii) change the nature, composition or availability of any SEF Service or the type of Swaps available for trading on the SEF; (iii) change the limits on the trading you may conduct through the SEF Services; or (iv) suspend or terminate your access to any SEF Service.

(c) Upon the termination or withdrawal of your status as a Participant, these Terms and the license granted hereunder will be terminated, and your ongoing rights and obligations shall be as described in the SEF Rules. Termination shall not relieve you of your obligation to pay all Fees (as defined below) accrued and owing up to and including the date of termination or otherwise payable pursuant to Section 5 below, nor shall it preclude us from pursuing any other remedies available to us, at law or in equity. In addition, these Terms will remain in effect with respect to all Transactions executed through the SEF regardless of any termination or other action with respect to the SEF Services. Sections 3(c), 6(a), 6(f), 6(h), 8, 9, 10, 11, 13 and 14 will survive the termination of these Terms, as will your ongoing rights and obligations as described in the SEF Rules.

4. Amendments. The SEF may amend these Terms at any time in its sole discretion by posting amendments on the SEF's website; provided that the SEF will use commercially reasonable efforts to provide you prior notice of any such amendments (which the parties agree may be done by the SEF's posting of a notification on its website). Any such amendments will be binding as of such posting or as of the effective date specified by the SEF, whichever is later. Your continued use of the SEF Services after notice and the effective date of any such amendment shall constitute your ratification of, and agreement to, any such amendment.

5. Fees and Costs. You shall be responsible for payment of all fees, costs and expenses associated with your access to and use of the SEF Services and the execution and settlement of Transactions imposed in accordance with the SEF Rules and the SEF's fee schedule ("Fee Schedule") from time to time in effect ("Fees"). Such Fees shall be calculated and paid within the time periods specified by the SEF. You shall be responsible for the payment of the entire Fee with respect to any Transaction, including, without limitation, any Transaction that is (i) for any or no reason, not fully performed by the parties thereto or (ii) subsequently voided or rescinded. As specified in the SEF Rules, you may forfeit all participation privileges, including the privilege of accessing the SEF, for failure to pay Fees at the time, and in the manner, described in the SEF Rules and/or the Fee Schedule.

6. Use of the SEF Services.

(a) *Applicable Law.* You acknowledge that your use of the SEF Services, including all Transactions effected on the SEF, are subject to these Terms, the SEF Rules and all other Applicable Law, as may be amended from time to time, including the Commodity Exchange Act and the rules and regulations of the Commodity Futures Trading Commission ("CFTC"). You agree at all times to comply with and to be subject to, and to cause each Authorized Trader to comply with and be subject to, Applicable Law in connection with your access to and use of SEF and Transactions entered and executed on or through the SEF. In the event of a conflict between the SEF Rules, these Terms and Applicable Law, Applicable Law shall govern. You further agree that you, your Supervised Persons and your Client and Customers are subject to the jurisdiction of the SEF.

(b) *Access Methods; Authorized Traders.* You may access the SEF Services only through one or more passwords or other access methods that we specify and provide to you (collectively, "Access Methods"). You are solely responsible for ensuring that your Access Methods are known to and used only by those Authorized Traders that you authorize in writing to us and that have been assigned a User ID by the SEF. You will provide us a list of your Authorized Traders and any additional information regarding such Authorized Traders as may be amended by you in writing from time to time. You shall not permit any person other than an Authorized Trader to use the SEF Services. You will, and will ensure that your Authorized Traders will, in connection with their use of the SEF Services, abide by and comply with all Applicable Law and any other applicable rules of any self-regulatory organization of which you (including your Clearing Firm) or your Authorized Traders are members. You acknowledge that, in our discretion, we may deny access to the SEF Services to any Authorized Trader. In addition, you acknowledge that we have the right to request removal of any individual from your Authorized Trader list, and you hereby agree to remove such individuals promptly and suspend such individual's use of the SEF Services. Notwithstanding the foregoing, we have the right, in our sole discretion, to take any necessary action to prevent the unauthorized use of the SEF Services by any individual.

(c) *Security.* You are responsible for ensuring the security in connection with your use of the SEF Services. You assume all responsibility for keeping your Access Methods secret. You will be (i) solely responsible for all acts or omissions of any person using the SEF Services through your Access Methods and (ii) without limitation of the foregoing or any other provision of these Terms, bound by the terms of all Transactions executed and orders placed through the SEF using your Access Methods. All transmissions generated by use of your Access Methods prior to cancellation as described in clause (d) below will be deemed to be authorized by you and made by an Authorized Trader whether or not we acknowledge receipt of such transmission.

(d) *Compromised Access Methods.* If your Access Methods have been lost, stolen or compromised, you will immediately notify us. Upon receipt of this notice, your Access Methods will be promptly canceled but you are responsible for any actions taken through the use of such Access Methods before they are canceled. In our sole

discretion, we may terminate, revoke, suspend, modify, or change any or all of your Access Methods at any time with or without prior notice.

(e) *License.* We hereby grant you a personal, limited, non-exclusive, revocable, non-transferable and non-sublicenseable license to access and use the SEF Services in accordance with these Terms, the SEF Rules and Applicable Law. We may provide certain portions of the SEF Services under license from third parties, and you will comply with any applicable restrictions with respect to such third parties that we may communicate to you from time to time, or that are otherwise the subject of an agreement between you and such third parties, and we shall select and monitor such third parties in a manner reasonably consistent with customary practice for the retention of third-party service providers to execution platforms. For the purposes of these Terms, the "SEF Services" shall include any subsequent modifications, updates and enhancements to the SEF Services provided by us to you.

(f) *Limited Use.* You may not sell, rent, license, lease, or otherwise provide, directly or indirectly, the SEF Services or any portion thereof to any third party except as specifically permitted by these Terms and the SEF Rules. You will not copy, modify, de-compile, reverse engineer or make derivative works of the SEF Services or otherwise attempt to ascertain the design or any proprietary features thereof or the manner in which they operate. You acknowledge that all proprietary rights in the SEF Services are owned by us or by any applicable third party service providers selected by us or their respective licensors, and are protected under copyright, trademark and other intellectual property laws and other applicable law. You receive no copyright, intellectual property rights or other rights in or to the SEF Services, except those specifically set forth in these Terms. You will not violate our proprietary rights in the SEF Services and will honor and comply with our reasonable requests to protect our and our third party service providers' contractual, statutory and common law rights in the SEF Services. If you become aware of any violation of our or our third party service providers' proprietary rights in the SEF Services, you will promptly notify us in writing.

(g) *No Obligation to Accept, Execute or Cancel.* We have no obligation to accept, or to execute or to cancel, all or any part of a Transaction that you seek to execute or cancel through your use of the SEF Services. Without limitation of the foregoing, we have no responsibility for transmissions that are inaccurate or not received by us (including, but not limited to, malfunctions of the SEF Services), and any Transaction may be executed on the terms actually received by us. You acknowledge that it may not be possible in all circumstances to cancel or modify a Transaction. If you submit a Transaction through the SEF and wish to modify or cancel such Transaction, we will, under the circumstances permitted by the SEF Rules and so far as is reasonably practicable, provide assistance to you to do so. However, we accept no responsibility for ensuring that such Transaction is modified or canceled and you understand and agree that, if the Transaction cannot be canceled or modified, you are bound by any execution of the original Transaction. You further acknowledge that attempts to modify or cancel and replace a Transaction may result in over-execution or the execution of duplicate orders, and you shall be responsible for all such executions.

(h) *Responsibility for Transactions and Use of the SEF Services.* You will be solely responsible (i) for any losses, damages or costs that you may incur as a result of errors made by, or the failure of, the software or equipment that you use to access SEF Services, other than losses, damages or costs directly resulting from our gross negligence, willful misconduct or fraud, and (ii) for any use of the SEF made by you or your Authorized Traders. In addition, you accept full responsibility for any Transactions effected on the SEF by you or your Authorized Traders.

(i) *Equipment.* You shall obtain and adequately maintain all hardware, software or other equipment necessary to use the SEF Services ("Equipment"). You shall be solely responsible for the installation, operation, maintenance, use and compatibility of the Equipment and we shall have no responsibility or liability in connection therewith. The Equipment shall be compatible with and not interfere with or cause technical problems in relation to the SEF Services and shall comply with and meet the specifications, performance standards and requirements provided by us to you, as may be revised from time to time by us. We make no representation or warranty regarding the compatibility of any Equipment proposed to be used or used in connection with the SEF Services. You shall be liable to us for any and all loss or damage arising, directly or indirectly, in connection with your use of any Equipment or which is caused, directly or indirectly, by you or your Equipment to the SEF Services or to us or any of our

equipment. Each party shall be responsible for maintaining, at its own expense, an appropriate Internet network connection reasonably necessary, in accordance with generally accepted standards applicable to the data processing and telecommunications industries, to support the SEF Services.

(j) *Export and Import.* The software used in connection with the SEF Services may include encryption methods that are subject to the export and/or import control laws of the United States and other countries. You will cooperate with us in complying with any such laws.

7. Additional Terms for Introducing Brokers. If you are accessing the SEF as an Introducing Broker on behalf of one or more Customers, you agree as follows:

(a) You may from time to time by notice to the SEF in the form of Schedule I hereto designate persons as Customers and may thereby place orders on the SEF on behalf of such Customers as an Introducing Broker.

(b) Each of your Customers has consented to the jurisdiction of the SEF and has agreed to be bound by and comply with the SEF Rules.

(c) You are (i) registered with the CFTC as an FCM or as an introducing broker (as defined in the CEA and the regulations of the CFTC thereunder) and a member of the National Futures Association or (ii) a foreign broker that is in compliance with U.S. law and with any applicable foreign law in acting as an intermediary for your Customers on the SEF. You shall be solely responsible for all aspects of your relationship with your Customers and for compliance with all Applicable Law and other requirements and duties in connection with such Customers' access to the SEF.

(d) You agree to make available to the SEF such information as the SEF may reasonably request regarding any of your Customers.

8. Representations and Warranties.

(a) You represent and warrant to us, upon execution of these Terms and at the time of execution of each Transaction or use of the SEF Services that:

(i) you are validly organized and in good standing in the jurisdiction in which you are organized and you are authorized by your governing body and documents of organization to enter into and comply with your obligations under these Terms;

(ii) your use of the SEF Services will comply with Applicable Law;

(iii) you have full authority to enter into these Terms and to use the SEF Services and to execute Transactions on behalf of yourself and your Customers or Clients, if any;

(iv) you have all consents, rights, authority, and have taken all actions necessary, to use the SEF Services and enter any Transactions relating thereto on behalf of yourself and your Customers or Clients, if any, as set forth herein and in the SEF Rules;

(v) if you are acting on behalf of a Customer or Client, you have satisfied, in relation to such Customer or Client, all required "know your customer" and anti-money laundering obligations as they may apply from time to time to you, your business and such Customer or Client;

(vi) you are, and if you are acting on behalf of a Client or Customer, such Client or Customer, is an "eligible contract participant" as such term is defined under the CEA;

(vii) (A) you are, or if you are acting on behalf of a Client or Customer, such Client or Customer is, a clearing member of a DCO and will be clearing your own, or such Client or Customer will be clearing its own,

Transactions or (B) you represent that you have, or such Client or Customer has, established a clearing relationship with a Clearing Firm as described in the SEF Rules;

(viii) you and your Authorized Traders have and will maintain during the term of these Terms all required and necessary regulatory approvals and/or licenses to operate as a Participant or Authorized Trader on the SEF;

(ix) you have not received notice of a violation or alleged violation of any Applicable Law that would impair your ability to perform under these Terms or the SEF Rules; and

(x) the performance of your duties under these Terms or the SEF Rules will not violate the terms of any other material agreements that you have entered into.

(b) We represent to you that we have all rights, authority and licenses to provide the SEF Services to you as set forth herein and that our provision of the SEF Services will comply with Applicable Law.

(c) We do not make, and shall not be deemed to make, any representations or warranties to you, or, if applicable, your Client or Customer, regarding (i) any counterparty, (ii) any DCO, (iii) any Transaction or proposed Transaction or (iv) the suitability of any Transaction or proposed Transaction with respect to your needs and requirements, or, if applicable, those of your Client or Customer. Orders that you enter through the SEF Services, and information relating to any resulting Transaction, may be routed to third-party systems, including for pre-execution credit checks, reporting and issuance of confirmations (each, a "Third-Party System"). We are not responsible for any losses, damages or costs that may result from errors made by any Third-Party System in reading, processing or acting with respect to such orders or Transactions, or if any Third-Party System otherwise fails to properly act upon such orders or Transactions.

(d) WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, TO YOU CONCERNING THE SEF SERVICES OR WITH RESPECT TO ANY DATA OR INFORMATION THAT WE MAY PROVIDE IN CONNECTION WITH THE SEF SERVICES OR ANY SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT THE SEF SERVICES. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT WE HAVE MADE NO RECOMMENDATION WITH RESPECT TO THE SEF SERVICES OR ANY TRANSACTION AND THAT WE AND ANY THIRD-PARTY SERVICE PROVIDERS SELECTED BY YOU OR US PROVIDE THE SEF SERVICES ON AN "AS IS" BASIS, AT YOUR SOLE RISK. WE EXPRESSLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, INCLUDING ANY WARRANTY FOR THE USE OR THE RESULTS OF THE USE OF THE SEF SERVICES WITH RESPECT TO THEIR CORRECTNESS, QUALITY, ACCURACY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS, CONTINUED AVAILABILITY OR OTHERWISE. WE AND SUCH THIRD-PARTY SERVICE PROVIDERS ARE NOT RESPONSIBLE FOR MAINTAINING THE SEF SERVICES OR FOR SUPPLYING ANY CORRECTIONS, UPDATES OR RELEASES CONCERNING THE SEF SERVICES. WE MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED THAT THE SEF SERVICES OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT THE SEF SERVICES WILL MEET A PARTICIPANT'S REQUIREMENTS, HAVE UNINTERRUPTED OR ERROR-FREE OPERATION, BE AVAILABLE DURING ANY SPECIFIED BUSINESS HOURS (WHETHER ADVERTISED OR NOT) OR OPERATE IN CONJUNCTION WITH OTHER SOFTWARE. WE ARE NOT SOLICITING ANY ACTION BASED UPON USE OF THE SEF SERVICES.

9. Limitation of Liability; Indemnity.

(a) The liability of the parties hereunder shall be subject to the limitations set forth in the SEF Rules, including, but not limited to, Rule 6028 (or any successor provision). None of such provisions will limit your rights and remedies otherwise available under the State or Federal Securities laws, CFTC Regulations or the CEA.

(b) You acknowledge that your ability to make claims or recover losses may be subject to limitations on liability imposed by the SEF Rules, these Terms, the relevant DCO and/or by your agreements with third parties with which you do business.

(c) You will indemnify, protect, and hold harmless us and our Related Parties from and against any and all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, costs (including reasonable attorney's fees) (collectively, "Losses") resulting from or arising out of any breach of these Terms by you or your Related Parties or the use of the SEF Services by you or your Related Parties, including any breaches of the security of the SEF Services (including any access or entry into any of our other systems not covered by these Terms), and any claims that a Transaction was not suitable for or not authorized by a Customer, caused directly or indirectly by you or your Related Parties, except to the extent such Losses are due to our gross negligence, willful misconduct or fraud.

10. Data and Information.

(a) You will supply us with all information in the form and manner and within the time as we may reasonably request in writing or as otherwise required under the SEF Rules or Applicable Law concerning you and your use of the SEF Services. You and your Authorized Traders will also provide and use reasonable efforts to obtain any consents that we may reasonably request in connection with the provision of information to us by you or on your behalf. You consent and agree to comply with any of our privacy policies and procedures that we provide in writing via the SEF Services or otherwise.

(b) All swap data or other information submitted from time to time by you to the SEF, and/or by you, or by the SEF on behalf of you, to any DCO or SDR, shall be accurate and complete in all material respects as of the time submitted.

(c) With respect to any market data or other information that we or any third party service provider provide to you in connection with your use of the SEF Services, (i) we and any such provider are not responsible or liable if any such data or information is inaccurate or incomplete in any respect; (ii) we and any such provider are not responsible or liable for any actions that you take or do not take based on such data or information; (iii) you will use such data or information solely for the purposes set forth in these Terms, the SEF Rules and Applicable Law; (iv) such data or information is proprietary to us and any such provider and you will not retransmit or disclose such data or information to third parties except as permitted by these Terms, the SEF Rules and Applicable Law; and (v) you will use such data or information only as permitted and as contemplated by these Terms and the SEF Rules and solely in compliance with Applicable Law.

(d) E-mail, chat and instant messaging features may be provided to you as a convenience to enhance your communications with us. You will use these features in compliance with these Terms, the SEF Rules and Applicable Law and you will not use them to transmit inappropriate information, including information that may be deemed obscene, libelous, harassing, fraudulent or slanderous or violative of law. We are not responsible for any Transactions you may attempt to enter, or orders or instructions you may attempt to make by means of these services.

11. Confidentiality.

(a) Other than as permitted by these Terms, the SEF Rules or as required by Applicable Law, any and all non-public information in any form obtained by you from the SEF arising out of or related to the provision or use of the SEF Services including, but not limited to, trade secrets, processes, computer software and other proprietary data, research, information or documentation related thereto, shall be deemed to be confidential and proprietary information. You agree to hold such information in strict confidence and not to disclose such information to third parties (other than to your employees or agents) or to use such information for any purpose whatsoever other than as contemplated by these Terms and the SEF Rules and to advise each of your Authorized Traders, employees and agents who may be exposed to such proprietary and confidential information of their obligations to keep such information confidential.

(b) Confidential information shall not include information which is: (i) in or becomes part of the public domain other than by disclosure by either party in violation of these Terms; (ii) known to or obtained by either party without an obligation of confidentiality; or (iii) independently developed by either party outside of these Terms.

(c) Notwithstanding the foregoing, you may disclose confidential information if and to the extent required to be disclosed by Applicable Law, or pursuant to a *bona fide* request, subpoena or order of a court or regulatory, self-regulatory or legislative body of competent jurisdiction, provided that you provide the SEF with, if permissible, prompt notice of such requirement, request, subpoena or order (together with copies thereof), minimize such disclosure to the confidential information specifically required to be disclosed, and to the persons or entities entitled to receive same pursuant to such law, regulation, request, subpoena or order, and not make such disclosure until the SEF has had a reasonable opportunity to resist such disclosure and/or to seek confidential treatment of the confidential information or until you are ordered to do otherwise.

12. No Promotion. Without the prior written consent of the other party, or as otherwise specified in the SEF Rules, neither party will (i) use the name of the other party, or the name of any of the other party's Related Parties, or any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation of the other party or its affiliates in advertising, publicity, or otherwise; or (ii) represent (directly or indirectly) that any product or any service provided by the party has been approved or endorsed by an authorized representative of the other.

13. Electronic Documents. You consent to the delivery of confirmations, any other required or optional communication or agreement under any Applicable Law and any agreements or changes in the terms and conditions on the SEF Services, by e-mail, Website or other electronic means, subject to compliance with any Applicable Law. Any such documents that are delivered to you electronically are deemed to be "in writing." If your signature or acknowledgment is required or requested with respect to any such document and any Authorized Trader "clicks" in the appropriate space, or takes such other action as may be indicated on the SEF Services, you will be deemed to have signed or acknowledged the document to the same extent and with the same effect as if you had signed the document manually. You acknowledge your understanding that you have the right to withdraw your consent to the electronic delivery and signature of documents at any time by providing prior written notice to us. However, if you revoke your consent, your access to the SEF Services may be restricted or terminated.

14. General.

(a) You acknowledge that you entered into these Terms without inducement by any representation or warranty not set forth in these Terms. These Terms, the SEF Rules and, if applicable, the FDCA contain the entire agreement of the parties with respect to its subject matter and supersede all existing and all other oral, written or other communications between the parties concerning this subject matter.

(b) In the event of any conflict between the provisions of the SEF Rules and these Terms the following order of precedence shall apply: (1) the SEF Rules and (2) these Terms. In the event of any conflict between the provisions of any FDCA, the SEF Rules and the Terms the following order of precedence shall apply: (1) the SEF Rules; (2) these Terms; and (3) the FDCA.

(c) Neither party may assign these Terms without the other party's prior written consent. We may assign these Terms, however, without your consent to any entity (i) controlling, controlled by, or under common control with us, or (ii) which succeeds to all or substantially all of our assets and business.

(d) If any provision of these Terms (or any portion thereof) is invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of these Terms will not be affected or impaired thereby.

(e) Except otherwise provided in these Terms and the SEF Rules, all notices will be in writing and hand delivered or forwarded by registered or certified mail to (i) you at the address of record maintained by the SEF or (ii) the SEF at 101 Hudson Street, Jersey City, NJ 07302-3908, U.S.A., telephone: (201) 557-5000, facsimile: 201-984-6357. A copy also will be sent to the attention of our Market Regulation Department or to any other address which we designate in writing after the date of these Terms.

(f) Where any form of the word “including” appears in these Terms, it will be interpreted as if followed by the phrase “without limitation”. The headings in these Terms are intended for convenience of reference and will not affect interpretation.

(g) Each party acknowledges that a breach of any provision of Sections 6, 10 or 11 of these Terms will cause the other irreparable injury and damage. Therefore, injunctive relief may be sought in addition to any other rights and remedies which may be available to the party at law or in equity.

(h) Each party agrees to cooperate with any reasonable request the other may make in order to respond to any inquiries made by any third-party service providers, exchanges, or other regulatory, self-regulatory or governmental authorities in connection with the SEF Services.

(i) These Terms will be governed and construed in all respects by the laws of the State of New York, without giving effect to principles of conflict of law, and all disputes between the parties with respect to these Terms will be subject to arbitration as set forth in the SEF Rules.

(j) The individuals accepting, acknowledging and agreeing to these Terms each represent and warrant that they are duly authorized by all necessary action to accept and agree to these Terms on behalf of their principals.

(k) We have the right, upon reasonable prior written notice, to verify your compliance with these Terms in accordance with the SEF Rules. You shall make your facilities, equipment and all applicable books and records available for such inspection during normal business hours. Any such audit shall be at our expense, unless such audit discloses an underpayment by you for the audited period in excess of five percent (5%) or your material breach of these Terms, the SEF Rules, or any portion thereof, in which case you shall reimburse us for such reasonable expenses. If the audit discloses any underpayment by you, you shall promptly make payment to us of such underpayment, together with interest.

IN WITNESS WHEREOF the parties have executed these Terms as of the day and year written below.

PARTICIPANT:

Participant Name: _____

By: _____

Name: _____

Title: _____

Date: _____

tpSEF Inc.:

By: _____

Name: _____

Title: _____

Date: _____

Introducing Broker Customer Application

The following information may be provided in spreadsheet form for each Customer, or collectively for all Customers.

| Participant Information | |
|-------------------------------|--|
| Full legal name | |
| Legal Entity Identifier (LEI) | |

| Customer information | |
|-------------------------------|--|
| Full legal entity name | |
| Legal Entity Identifier (LEI) | |
| Point of contact name | |
| Telephone | |
| Email | |
| Jurisdiction of formation | |
| Principal place of business | |

Indicate the Clearing Firm(s) that will accept Customer's orders:

| Clearing Firm | Clearing Firm's LEI | Clearing Firm's Phone Number | Applicant's Account # at Clearing Firm | DCO | Clearing Firm's DCO Account Number |
|---------------|---------------------|------------------------------|--|-----|------------------------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Authorized by **Participant**

| | |
|----------------------------|-----------|
| Authorized signatory name: | Position: |
| Signature: | Date: |

Division of Market Oversight
Commodity Futures Trading Commission
September 14, 2017

EXHIBIT C

Amended tpSEF Inc. Terms of Use

Marked Version



~~tpSEF Inc.~~

TPSEF INC. TERMS OF USE

PLEASE READ CAREFULLY. THESE TERMS ~~OF USE~~ AND THE SEF RULES INCLUDE DISCLAIMERS AND LIMITATIONS OF LIABILITY.

BY ACCESSING OR USING THE ~~SWAP EXECUTION FACILITY~~ SEF AND ANY RELATED SERVICES, ~~YOU AGREE TO BE BOUND BY THE FOLLOWING TERMS OF USE AND REPRESENT AND WARRANT THAT YOU HAVE~~ THE ENTITY ON WHOSE BEHALF THE SEF IS BEING ACCESSED ("YOU" OR "PARTICIPANT") AGREES TO BE LEGALLY BOUND AND ABIDE BY THESE TERMS AND THE SEF RULES, AND THE UNDERSIGNED REPRESENTS AND WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO BIND ~~THE USER OF THE SWAP EXECUTION FACILITY. PARTICIPANT. DO NOT ACCESS OR USE THE SEF OR ANY RELATED SERVICES~~ IF YOU ~~OR THE USER~~ ARE NOT WILLING TO BE BOUND BY THESE TERMS ~~OF USE, DO NOT ACCESS OR USE THE SWAP EXECUTION FACILITY OR ANY OF OUR RELATED SERVICES, AND~~ THE SEF RULES. NO AMENDMENTS TO THIS AGREEMENT BY PARTICIPANT WILL BE PERMITTED AND ANY MODIFICATIONS OTHER THAN BY THE SEF AS PERMITTED HEREIN WILL BE DISREGARDED. CAPITALIZED TERMS USED HEREIN WITHOUT DEFINITION HAVE THE MEANINGS GIVEN TO THEM IN THE SEF RULES.

1. ~~1-~~ Scope. These Terms of Use ("Terms") apply to govern your access and use of ~~the~~ tpSEF Inc.'s swap execution facility ("~~Swap Execution Facility~~ tpSEF" or the "SEF" or "tpSEF") and related services (collectively with the ~~Swap Execution Facility~~ SEF, including, without limitation, any related ~~Tullett Prebon or third party~~ software, the "SEF Services") provided by tpSEF or one or more of ~~our~~ its affiliates (collectively with any third party service providers, "we," "our" or "us"). Access to and use of the SEF Services may include one or more of the following ~~electronic~~ services: (a) trading services that are made available by us from time to time, at our sole discretion, with respect to transactions in ~~swaps and other financial instruments (together, "Instruments"), from time to time~~ Swaps (each, a "Transaction"); (b) services that permit you ~~to view (for informational purposes only) and your Authorized Traders to determine~~ the status of Transactions; (c) services for the display or transmission of indications of interest or firm or conditional offers to ~~buy and sell Instruments or~~ enter into ~~other~~ Transactions; and (d) any additional services (including those relating to Package Transactions) made available as SEF Services from time to time. You agree to the terms and conditions herein, whether acting on your own behalf, on behalf of a Customer, or when permitting your Trading Privileges to be accessed by an Authorized Trader, and shall be bound by the SEF Rules and all amendments thereto in each case effective upon notice to you from time to time. You consent to the jurisdiction of the SEF.

2. Access. You may access the SEF Services for your own account or for that of your Customers or Clients. You are responsible for all Transactions entered into by you whether as principal for your own account (including in the event you enter into Transactions through an Introducing Broker) or for a Client or Customer or otherwise. To the extent you are a registered futures commission merchant, you may provide a ~~non-participant customer~~ non-Participant Customer with access to the SEF as a Sponsored Participant but only in accordance with the terms of the FCM Direct Client Access Addendum ("FDCA") and the applicable SEF Rules. Under these circumstances, you are responsible for all Transactions entered by such ~~customer~~ Sponsored Participant as further described in the FDCA. ~~You are also responsible for all Transactions entered by you whether as principal for a customer or in the event you submit such trades through an introducing broker and the SEF Rules.~~

3. ~~2-~~ Term and Termination.

(a) ~~(a)~~ These Terms are effective as of the date you execute these Terms ~~AND~~ and you are accepted as a ~~participant of the SEF and~~ Participant. These Terms will continue in effect unless and until your status as a Participant is terminated ~~(i) with immediate effect by you at any time, with or without cause, upon written notice to us; or (ii) by us immediately upon written notice to you upon the occurrence of any of the~~

following events: (A) you make an assignment for the benefit of creditors, file a petition in bankruptcy, seek relief from the payment of your obligations under any bankruptcy or insolvency law or have a trustee appointed for such purpose; (B) you engage in activity in connection with the SEF Services that we reasonably believe interferes with the intended operation of the SEF Services; (C) you engage in activity that we, in our sole reasonable discretion, believe may subject us to civil or criminal litigation, charges, and/or damages; or (D) as otherwise provided in the SEF rules, as may be amended from time to time, or withdrawn in accordance with the SEF Rules.

(b) ~~(b)~~ Regardless of any other provision of these Terms, we have the right ~~to~~, consistent with the SEF Rules, to (i) suspend or terminate (at any time, with or without cause or prior notice) all or any part of any SEF Service, ~~to~~; (ii) change the nature, composition or availability of any SEF Service or the type of ~~Instruments~~Swaps available for trading on the SEF ~~Services, or to~~; (iii) change the limits on the trading you may conduct through the SEF Services; or, ~~consistent with the SEF Rule Book and other rules, interpretations, orders, resolutions, advisories, notices, statements of policy, decisions, manuals and directives of the SEF, and all amendments thereto (collectively, "Rules"),~~ (iv) suspend or terminate your access to any SEF Service. ~~We will provide you with prompt notice of any such suspension or termination, in advance to the extent practicable, in our sole estimation, under the circumstances.~~

~~(c) Notwithstanding the foregoing, in the event a law or regulatory action prohibits, substantially impairs or makes impractical the provision of the SEF Services under these Terms, as determined by us, we may, at our option and without liability, terminate these Terms or modify the SEF Services or the terms and conditions of these Terms in order to conform to such action (a "Regulatory Modification"). To the extent reasonably practicable, in our sole estimation, we will provide you with thirty (30) calendar days prior written notice of any such Regulatory Modification. Your use of the SEF Services after implementation of any Regulatory Modification~~

shall constitute acceptance of such change(s).

(c) (d) Upon the termination ~~of~~ for withdrawal of your status as a Participant, these Terms, ~~(i) and~~ the license granted hereunder will be terminated; ~~(ii) you will pay to us all Fees (as defined below) due through the termination date (unless you have previously provided the SEF with written notice of a bona fide dispute in fees, in which case you will pay all undisputed Fees due through the termination date); and (iii) you shall promptly destroy any of our confidential information in your possession and/or under your control and, upon request, shall provide us with certification from an authorized officer that all such confidential information have been destroyed; provided, that you may retain (i) one copy of the confidential information to the extent you determine necessary to comply with applicable regulations, (ii) electronic backup copies made in the ordinary course of business and consistent with your document retention policies and procedures, and (iii) any confidential information to the extent included in materials presented to your board of directors or other senior management committees, and your ongoing rights and obligations shall be as described in the SEF Rules. Termination shall not relieve you of your obligation to pay all Fees (as defined below) accrued and owing up to and including the date of termination or otherwise payable pursuant to Section ~~35~~ below, nor shall it preclude us from pursuing any other remedies available to us, at law or in equity. ~~These~~ In addition, these Terms will remain in effect with respect to all Transactions executed through the SEF regardless of any termination or other action with respect to the SEF Services. Sections ~~23(d), 46(a), 46(gf), 6-7(h), 8, 9, 10, 11, 13 and 1214~~ will survive the termination of these Terms, as will your ongoing rights and obligations as described in the SEF Rules.~~

4. Amendments. The SEF may amend these Terms at any time in its sole discretion by posting amendments on the SEF's website; provided that the SEF will use commercially reasonable efforts to provide you prior notice of any such amendments (which the parties agree may be done by the SEF's posting of a notification on its website). Any such amendments will be binding as of such posting or as of the effective date specified by the SEF, whichever is later. Your continued use of the SEF Services after notice and the effective date of any such amendment shall constitute your ratification of, and agreement to, any such amendment.

5. ~~3.~~ Fees and Costs. You agree to pay shall be responsible for payment of all fees, costs and expenses associated with your access to and use of the SEF Services and the execution and settlement of Transactions ~~(including commissions, telecommunications, modems and other connectivity costs, and costs of any third party software, equipment and any related maintenance services)~~ ("imposed in accordance with the SEF Rules and the SEF's fee schedule ("Fee Schedule") from time to time in effect ("Fees"). Such Fees shall be calculated and paid within the time periods specified by the ~~Fee schedule posted on the SEF website ("Fee Schedule"), which may be modified from time to time by the SEF as reflected on the SEF website~~ SEF. You shall be responsible for the payment of the entire Fee with respect to any Transaction, including, without limitation, any Transaction that is (i) for any or no reason, not fully performed by the parties thereto or (ii) subsequently voided or rescinded. ~~User hereby agrees to be bound by the Fee Schedule in effect at the time the applicable SEF Services are rendered. If Fees owed are not paid when due, such overdue amounts shall bear interest at the month interest rate of the lesser of: (i) one and a half percent (1.5%); and (ii) the maximum rate of interest permitted by Applicable Law. You will~~ As specified in the SEF Rules, you may forfeit all participation privileges, including, ~~without limitation, the privilege of accessing the SEF in the event that Fees have not been paid sixty (60) days after the date of the invoice. Notwithstanding anything to the contrary herein, you shall not be responsible for taxes based on our gross revenues or net income, for failure to pay Fees at the time, and in the manner, described in the SEF Rules and/or the Fee Schedule.~~

6. ~~4.~~ Use of the SEF Services.

(a) ~~(a)~~ Applicable Law. You acknowledge that your use of the SEF Services, including all Transactions effected on the SEF, are subject to these Terms, the SEF Rules, ~~the applicable rules of any derivatives clearing organization ("DCO") and regulatory service provider, and any applicable federal or state laws, rules, and regulations~~ and all other Applicable Law, as may be amended from time to time, including the Commodity Exchange Act and the rules and regulations of the Commodity Futures Trading Commission ("CFTC") ~~(collectively referred to herein as "Applicable Law").~~ You agree at all times to comply with and to be subject to, and to cause each Authorized ~~User (as defined below)~~ Trader to comply with and be subject to, Applicable Law in connection with your access to and use of SEF and Transactions entered and executed on or through the SEF. In the event of a conflict between the ~~provisions of SEF Rules,~~ these Terms and Applicable Law, Applicable Law shall govern. You further agree that you, your ~~employees, clients,~~ Supervised Persons and your ~~Authorized Users (as defined below)~~ Client and Customers are subject to the jurisdiction of the SEF.

~~(b) Clearing Relationship. Unless you are a clearing member ("Clearing Firm") of DCO and will be clearing~~

~~your own Transactions you agree that you have established a clearing relationship as described in the SEF Participant Application as may be amended from time to time by you upon thirty (30) days prior written notice to the SEF. In addition, you understand and agree that prior to accessing the SEF Services, the Clearing Firm must execute a Clearing Addendum and identify you as an authorized participant on Annex I of the Clearing Addendum. You acknowledge and agree that we may restrict, suspend or terminate your access to the SEF Services at the direction of the clearing firm.~~



(b) (e) *Access Methods; Authorized Traders*. You may access the SEF Services only through one or more passwords or other access methods that we specify and provide to you (collectively, "Access Methods"). You are solely responsible for ensuring that your Access Methods are known to and used only by those ~~users~~ Authorized Traders that you authorize in writing to us (~~"Authorized Users"~~) and that have been assigned a User ID by the SEF. You will provide us a list of your Authorized ~~Users~~ Traders and any additional information regarding such Authorized ~~Users~~ Traders as may be amended by you in writing from time to time. You shall not permit any person other than an Authorized ~~Users~~ Trader to use the SEF Services. You will, and will ensure that your Authorized ~~Users~~ Traders will, in connection with their use of the SEF Services, abide by and comply with all Applicable Law and any other applicable rules of any self-regulatory organization of which you (including your Clearing Firm) or your Authorized ~~Users~~ Traders are members. You acknowledge that, in our discretion, we may deny access to the SEF Services to any ~~user of your Access Methods~~ Authorized Trader. In addition, you acknowledge that we have the right to request removal of any individual from your Authorized ~~User~~ Trader list, and you hereby agree to remove such individuals promptly and suspend ~~said~~ such individual's use of the SEF Services. Notwithstanding the foregoing, we have the right, in our sole discretion, to take any necessary action to prevent the unauthorized use of the SEF Services by ~~said~~ any individual.

(c) (d) *Security*. You are responsible for ensuring the security in connection with your use of the SEF Services. You assume all responsibility for keeping your Access Methods secret. You will be (i) solely responsible for all acts or omissions of any person using the SEF Services through your Access Methods and (ii) without limitation of the foregoing or any other provision of these Terms, bound by the terms of all Transactions executed and orders placed through the Swap Execution Facility SEF using your Access Methods. All transmissions generated by use of your Access Methods prior to cancellation as described in clause (e) below will be deemed to be authorized by you and made by an Authorized ~~User~~ Trader whether or not we acknowledge receipt of such transmission.

(d) (e) *Compromised Access Methods*. If your Access Methods have been lost, stolen or compromised, you will immediately notify us. Upon receipt of this notice, your Access Methods will be promptly ~~cancelled~~ canceled but you are responsible for any actions taken through the use of such Access Methods before they are ~~cancelled~~ canceled. In our sole discretion, we may terminate, revoke, suspend, modify, or change any or all of your Access Methods at any time with or without prior notice.

(e) (f) *License*. We hereby grant you a personal, limited, non-exclusive, revocable, non-transferable and non-sublicenseable license to access and use the SEF Services ~~solely for internal business purposes~~ in accordance with these Terms, the SEF Rules and Applicable Law. We may provide certain portions of the SEF Services under license from third parties, and you will comply with any applicable restrictions with respect to such third parties that we may communicate to you from time to time, or that are otherwise the subject of an agreement between you and such third parties, and we shall select and monitor such third parties in a manner reasonably consistent with customary practice for the retention of ~~third-party~~ third-party service providers to execution platforms. For the purposes of these Terms, the "SEF Services" shall include any subsequent modifications, updates and enhancements to the SEF Services provided by us to you.

(f) (g) *Limited Use*. You may not sell, rent, license, lease, or otherwise provide, directly or indirectly, the SEF Services or any portion thereof to any third party except as specifically permitted by these Terms. ~~You will use the SEF Services and enter into Transactions only for your own benefit and account(s) and will not use the SEF Services on behalf of third parties. and the SEF Rules.~~ You will not copy, modify, de-compile, reverse engineer or make derivative works of the SEF Services or otherwise attempt to ascertain the design or any proprietary features thereof or the manner in which they operate. You acknowledge that all proprietary rights in the SEF Services are owned by us or by any applicable third party service providers selected by us or their respective licensors, and are protected under copyright, trademark and other intellectual property laws and other ~~Applicable Law~~ applicable law. You receive no copyright, intellectual property rights or other rights in or to the SEF Services, except those specifically set forth in these Terms. You will not violate our proprietary rights in the SEF Services and will honor and comply with our reasonable requests to protect our and our third party service providers' contractual, statutory and common law rights in the SEF Services. If you become aware of any violation of our or our third party service providers' proprietary rights in the SEF Services, you will promptly notify us in writing.

(g) *No Obligation to Accept, Execute or Cancel*. We have no obligation to accept, or to execute or to cancel, all or any part of a Transaction that you seek to execute or cancel through your use of the SEF Services. Without limitation of the foregoing, we have no responsibility for transmissions that are inaccurate or not received by us (including, but not limited to, malfunctions of the SEF Services), and any Transaction may be executed on the terms actually received by us. You acknowledge

that it may not be possible in all circumstances to cancel or modify a Transaction. If you submit a Transaction through the SEF and wish to modify or cancel such Transaction, we will, under the circumstances permitted by the SEF Rules and so far as is reasonably practicable, provide assistance to you to do so. However, we accept no responsibility for ensuring that such Transaction is modified or canceled and you understand and agree that, if the Transaction cannot be canceled or modified, you are bound by any execution of the original Transaction. You further acknowledge that attempts to modify or cancel and replace a Transaction may result in over-execution or the execution of duplicate orders, and you shall be responsible for all such executions.

~~(A)~~ Errors Responsibility for Transactions and Use of the SEF Services. You will be solely responsible (i) for any losses, damages or costs that you may incur as a

(h) result of errors made by, or the failure of, the software or equipment that you use to access SEF Services, other than losses, damages or costs directly resulting from our gross negligence, willful misconduct or fraud, and (ii) for any use of the SEF made by you or your Authorized Traders. In addition, you accept full responsibility for any Transactions effected on the SEF ~~and for any use of the SEF made~~ by you or your Authorized Users. ~~You will be responsible for such trades even if the orders received via SEF (i) were entered as a result of a failure in your own security controls and/or credit controls, other than due to the gross negligence, willful misconduct or fraud of the SEF, or (ii) were entered by an unknown or unauthorized user, except where such unauthorized use results from the failure of the SEF to maintain the security of its own systems or your Access Methods.~~ Traders.

(i) ~~(i)~~ *Equipment.* You shall obtain and adequately maintain all hardware, software or other equipment necessary to use the SEF Services ("Equipment"). You shall be solely responsible for the installation, operation, maintenance, use and compatibility of the Equipment and we shall have no responsibility or liability in connection therewith. The Equipment shall be compatible with and not interfere with or cause technical problems in relation to the SEF Services and shall comply with and meet the specifications, performance standards and requirements provided by us to you, as may be revised from time to time by us. We make no representation or warranty regarding the compatibility of any Equipment proposed to be used or used in connection with the SEF Services. You shall be liable to us for any and all loss or damage arising, directly or indirectly, in connection with your use of any Equipment or which is caused, directly or indirectly, by you or your Equipment to the SEF Services or to us or any of our equipment. Each party shall be responsible for maintaining, at its own expense, an appropriate Internet network connection reasonably necessary, in accordance with generally accepted standards applicable to the data processing and telecommunications industries, to support the SEF Services.

(j) ~~(j)~~ *Export and Import.* The software used in connection with the SEF Services may include encryption methods that are subject to the export and/or import control laws of the United States and other countries. You will cooperate with us in complying with any such laws.

7. Additional Terms for Introducing Brokers. If you are accessing the SEF as an Introducing Broker on behalf of one or more Customers, you agree as follows:

(a) You may from time to time by notice to the SEF in the form of Schedule I hereto designate persons as Customers and may thereby place orders on the SEF on behalf of such Customers as an Introducing Broker.

(b) Each of your Customers has consented to the jurisdiction of the SEF and has agreed to be bound by and comply with the SEF Rules.

(c) You are (i) registered with the CFTC as an FCM or as an introducing broker (as defined in the CEA and the regulations of the CFTC thereunder) and a member of the National Futures Association or (ii) a foreign broker that is in compliance with U.S. law and with any applicable foreign law in acting as an intermediary for your Customers on the SEF. You shall be solely responsible for all aspects of your relationship with your Customers and for compliance with all Applicable Law and other requirements and duties in connection with such Customers' access to the SEF.

~~5. Transactions.~~

~~(a) No Obligation to Accept, Execute or Cancel. We have no obligation to accept, or to execute or to cancel, all or any part of a Transaction that you seek to execute or cancel through your use of the SEF Services. Without limitation of the foregoing, we have no responsibility for transmissions that are inaccurate or not received by us (including, but not limited to, malfunctions of the SEF Services), and may execute any Transaction on the terms actually received by us. You acknowledge that it may not be possible in all circumstances to cancel or modify a Transaction. If you submit a Transaction through the Swap Execution Facility and wish to modify or cancel such Transaction, we will, so far as is reasonably practicable, provide assistance to you to do so. However, we accept no responsibility for ensuring that such Transaction is modified or canceled and you understand and agree that, if the Transaction cannot be canceled or modified, you are bound by any execution of the original Transaction. You further acknowledge that attempts to modify or cancel and replace a Transaction may result in over-execution or the execution of duplicate orders, and you shall be responsible for all such executions.~~

~~(b) *Clearing.* You agree that Transactions may be subject to clearing by a DCO. In the event that such a Transaction is rejected by such DCO, or a third party acting on behalf of the DCO, you agree that the Transaction will be cancelled by the SEF and considered void ab initio. If the you determine that the Transaction was rejected by the DCO because of a clerical or operational error or omission, you may elect to resubmit the rejected Transaction to the SEF as a new Transaction. Any such resubmission shall be subject to the following conditions: (i) the counterparties must consent to the resubmission; (ii) the resubmitted Transaction must have the same terms as the rejected Transaction, other than the time of execution and changes required to correct any errors or omissions; and (iii) the resubmission must take place within 30 minutes of the issuance by the DCO of notice of the rejection. If the resubmitted Transaction is rejected, such Transaction will be void ab initio and shall be canceled by the SEF. You may not resubmit a new Transaction a second time. Any Transaction in a cleared swap that is not accepted for clearing in or for which no appropriate notice is received by the DCO's close of business on trade date will be void ab initio and shall be canceled by the SEF. For the avoidance of doubt, we shall not be liable to you as a result of any action taken or declined by a DCO, its agents or any member firm thereof, and any action~~



~~(d) You agree to make available to the SEF such information as the SEF may reasonably request regarding any of your Customers.~~

~~or omission taken or declined by a DCO, its agents or any member firm thereof, shall neither constitute a breach of these Terms by us, nor relieve you of any of your obligations under these Terms.~~

~~(c) *Liquidate or Transfer Open Positions.* You acknowledge and agree that we may, in consultation or cooperation with the CFTC, liquidate or transfer open positions in any swap or suspend or curtail trading in a swap.~~

~~(d) *Claims Subject to Limitation of Liability.* Your ability to make claims or recover losses may be subject to limitations on liability imposed by these Terms, the relevant clearing house and/or by your agreements with third parties with which you do business.~~

~~(e) *Confirmation.* You may receive a written or electronic acknowledgement of the status of each Transaction executed through the Swap Execution Facility in addition to any written or electronic confirmation of the execution of the Transaction ("Confirmation") that we deliver to you. If there is a conflict among the terms of any Confirmation, these Terms and the acknowledgement, the terms of the Confirmation will control. Execution terms as reflected in such acknowledgement or Confirmation or in execution reports sent to you are subject to adjustment for errors, including but not limited to errors on the part of the markets to which your orders were routed.~~

~~(f) *Request for Quote Transactions.* You acknowledge that the SEF Services may include certain request for quote ("RFQ") trading systems. Accordingly, we may access the SEF Services in order to arrange RFQ Transactions in accordance with the SEF Rule Book.~~

~~(g) *Limited Role.* We act solely as a swap execution facility for Transactions. We do not operate, in any manner, directly or indirectly, as a principal. As such, we do not accept or take a position in a Transaction and we have no beneficial interest in any Transaction, and therefore, we shall not receive any of the benefits, or be responsible for any of the obligations, of you or any other person with respect to any Transaction transmitted or executed pursuant under these Terms. A Transaction executed through the Swap Execution Facility will be between you and the other counterparty to the sale and purchase of the applicable Instrument. You acknowledge that we do not take title to any Instrument and cannot guarantee delivery of any Instrument which is the subject of a Transaction. Payment for the Instrument purchased or sold by you hereunder shall be made directly between the parties to the Transaction and shall not be made by, to or through us.~~

~~(h) *Bids and Offers.* All bids and offers submitted to the Swap Execution Facility or through the use of the SEF Services are firm bids and offers until effective instructions to withdraw such bids and offers are entered onto and accepted on the Swap Execution Facility. Any Transaction entered into on or pursuant to the rules of the Swap Execution Facility or otherwise hereunder shall not be void, voidable, subject to rescission or otherwise invalidated or rendered unenforceable as a result of (i) a violation by us of the provisions of Section~~

~~5h of the Commodity Exchange Act (“CEA”), or (ii) any proceeding by the CFTC to alter or supplement a rule, term or condition under, to declare an emergency under the CEA, or any other proceeding the effect of which is to alter, supplement, or require us to adopt a specific term or condition, trading rule, or procedure or to take or refrain from taking a specific action.~~

~~(i) *Instructions.* Any instructions provided by an Authorized User to the SEF by recorded telephone lines or by electronic messaging system shall be deemed received by us only when actually received and read by us. All instructions shall be effective when entered onto the SEF Services by us.~~

8. ~~6.~~ Representations and Warranties.

(a) ~~(a)~~ You represent and warrant to us, upon execution of these Terms and at the time of execution of each Transaction or use of the SEF Services that:

(i) ~~(i)~~ you are validly organized and in good standing in the jurisdiction in which you are organized and you are authorized by your governing body and documents of organization to enter into and comply with your obligations under these Terms;

(ii) ~~(i)~~ your use of the SEF Services will comply with Applicable Law;



~~(iii)~~ ~~(ii)~~ you have full authority to enter into these Terms, and to use the SEF Services and to execute Transactions on behalf of yourself and your ~~customers~~Customers or Clients, if any;

~~(iv)~~ ~~(iii)~~ you have all consents, rights, authority, and have taken all actions necessary, to use the SEF Services and enter any Transactions relating thereto on behalf of yourself and your Customers or Clients, if any, as set forth herein and in the SEF Rules;

~~(v)~~ ~~(iv)~~ if you are acting on behalf of a Customer or Client, you have satisfied, in relation to ~~your customers~~such Customer or Client, all required “know your ~~client~~customer” and anti-money laundering obligations as they may apply from time to time to you, your business and ~~your customers, if any~~such Customer or Client;

~~(v)~~ ~~you have obtained a legal entity identifier (“LEI”) or (“CFTC Interim Compliant Identifier”) CICI and provided the LEI or CICI to us;~~

~~(vi)~~ ~~(v)~~ you are, and if you are acting on behalf of a Client or Customer, such Client or Customer, is an “eligible contract participant” as such term is defined under the CEA;

~~(vii) prior to transmitting any indication of interest or any bid or offer for a Transaction not cleared by a derivatives clearing organization, you (A) have entered into credit arrangement documentation for the Transaction, if required pursuant to an ISDA agreement or other documentation between you and the counterparty to the Transaction; (B) have the ability to exchange collateral; and (C) meet any credit filters that may be adopted by the Swap Execution Facility;~~

~~(vii)~~ ~~(A) you are, or if you are acting on behalf of a Client or Customer, such Client or Customer is, a clearing member of a DCO and will be clearing your own, or such Client or Customer will be clearing its own, Transactions or (B) you represent that you have, or such Client or Customer has, established a clearing relationship with a Clearing Firm as described in the SEF Rules;~~

~~(viii)~~ ~~(viii)~~ you and your Authorized ~~Users~~Traders have and will maintain during the term of these Terms all required and necessary regulatory approvals and/or licenses to operate as a ~~participant~~Participant or Authorized ~~User~~Trader on the SEF;

~~(ix) you understand the risks involved in trading generally and submitting Transactions through your use of the SEF Services;~~

~~(x) you will make your own independent trading and order routing decisions;~~

~~(ix)~~ ~~(xi)~~ you have not received notice of a violation or alleged violation of any Applicable Law that would impair your ability to perform under these Terms or the SEF Rules; and

~~(x)~~ ~~(xii)~~ the performance of your duties under these Terms or the SEF Rules will not violate the terms of any other material agreements that you have entered into.

~~(b)~~ ~~(b)~~ We represent to you that we have all rights, authority and licenses to provide the SEF Services to you, as set forth herein and that our provision of the SEF Services will comply with Applicable Law.

~~(c)~~ ~~(c)~~ We do not make, and shall not be deemed to make, any representations or warranties to you, or, if applicable, your Client or Customer, regarding (i) any counterparty ~~to~~, (ii) any DCO, (iii) any Transaction or proposed Transaction hereunder, including, without limitation, with respect to the reputation, financial stability, creditworthiness, ability to perform, experience, or any other qualification of any such counterparty, or ~~(iiiv)~~ the suitability of any Transaction or proposed Transaction with respect to your needs and requirements, or, if applicable, those of your Client or Customer. Orders that you enter through the SEF Services, and information relating to any resulting Transaction, may be routed to ~~third party~~third-party systems, ~~markets or exchanges~~including for pre-execution credit checks, reporting and issuance of confirmations (each, a “~~Third Party~~Third-Party System”). We are not responsible for any losses, damages or costs that may result from errors made by any ~~Third Party~~Third-Party System in reading, processing or ~~executing~~acting with respect to such orders or Transactions, or if any ~~Third Party~~Third-Party System otherwise fails to properly ~~execute~~act upon such orders or Transactions.

~~(d) OTHER THAN AS SET FORTH IN SECTION 6(B) AND A WARRANTY TO USE COMMERCIALY REASONABLE EFFORTS TO PROVIDE THE SEF SERVICES ERROR FREE AND WITHOUT INTERRUPTION,~~ WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, TO YOU CONCERNING THE SEF SERVICES OR WITH RESPECT TO ANY DATA OR INFORMATION THAT WE MAY PROVIDE IN CONNECTION WITH THE SEF SERVICES OR ANY SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT THE SEF SERVICES. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT WE HAVE MADE NO RECOMMENDATION WITH RESPECT TO THE SEF SERVICES OR ANY TRANSACTION AND THAT WE AND ANY ~~THIRD-PARTY~~THIRD-PARTY SERVICE PROVIDERS SELECTED BY YOU OR US PROVIDE THE

SEF SERVICES ON AN “AS IS” BASIS, AT YOUR SOLE RISK. WE EXPRESSLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, INCLUDING ANY WARRANTY FOR THE USE OR THE RESULTS OF THE USE OF THE SEF SERVICES WITH RESPECT TO THEIR CORRECTNESS, QUALITY, ACCURACY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS, CONTINUED AVAILABILITY OR OTHERWISE. WE AND SUCH ~~THIRD PARTY~~THIRD-PARTY SERVICE PROVIDERS ARE NOT RESPONSIBLE FOR MAINTAINING THE SEF SERVICES OR FOR SUPPLYING ANY CORRECTIONS, UPDATES OR RELEASES CONCERNING THE SEF SERVICES. WE ~~ARE NOT SOLICITING ANY ACTION BASED UPON USE OF THE SEF SERVICES.~~

MAKE 7. Limitation of Liability; No Advice; Indemnity.

~~(d) (a) UNLESS ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE SEF, WE, OUR SUBSIDIARIES AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (EACH A “RELATED PARTY” AND COLLECTIVELY “RELATED PARTIES”) HAVE NO LIABILITY, CONTINGENT OR OTHERWISE, TO YOU OR TO THIRD PARTIES, FOR THE CORRECTNESS, QUALITY, ACCURACY, SECURITY, COMPLETENESS, RELIABILITY, PERFORMANCE, TIMELINESS, PRICING OR CONTINUED AVAILABILITY OF THE SEF SERVICES OR FOR DELAYS OR OMISSIONS OF THE SEF SERVICES, OR FOR THE FAILURE OF ANY CONNECTION OR COMMUNICATION SERVICE TO PROVIDE OR MAINTAIN YOUR ACCESS TO THE SEF SERVICES, OR FOR ANY INTERRUPTION IN OR DISRUPTION OF YOUR ACCESS OR ANY ERRONEOUS COMMUNICATIONS BETWEEN THE SEF AND YOU. THE SEF AND ITS RELATED PARTIES ARE NOT LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHICH A PARTICIPANT MAY INCUR OR EXPERIENCE BECAUSE THE PARTICIPANT ENTERED INTO THESE TERMS OR RELIED ON THE SEF SERVICES, EVEN IF THE SEF KNOWS OF THE POSSIBILITY OF THOSE DAMAGES. THE SEF AND ITS RELATED PARTIES ARE NOT RESPONSIBLE FOR INFORMING YOU OF ANY DIFFICULTIES THE SEF OR OTHER THIRD PARTIES EXPERIENCE CONCERNING USE OF THE SEF SERVICES OR TO TAKE ANY ACTION IN CONNECTION WITH THOSE DIFFICULTIES. THE SEF AND ITS RELATED PARTIES ALSO HAVE NO DUTY OR OBLIGATION TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED IN THE SEF SERVICES. YOU ARE SOLELY RESPONSIBLE FOR ANY LOSSES, DAMAGES OR COSTS RESULTING FROM YOUR RELIANCE ON ANY DATA OR INFORMATION THAT WE MAY PROVIDE IN CONNECTION WITH YOUR NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED THAT THE SEF SERVICES OR SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT THE SEF SERVICES WILL MEET A PARTICIPANT’S REQUIREMENTS, HAVE UNINTERRUPTED OR ERROR-FREE OPERATION, BE AVAILABLE DURING ANY SPECIFIED BUSINESS HOURS (WHETHER ADVERTISED OR NOT) OR OPERATE IN CONJUNCTION WITH OTHER SOFTWARE. WE ARE NOT SOLICITING ANY ACTION BASED UPON USE OF THE SEF SERVICES.~~

~~(b) WE DO NOT MAKE ANY RECOMMENDATION AS TO THE SUITABILITY OF ANY INVESTMENT OR PROPOSED TRANSACTION. YOU ACKNOWLEDGE THAT WE WILL NOT, AND ARE UNDER NO DUTY TO, PROVIDE ADVICE IN RELATION TO ANY SUCH TRANSACTION OR PROPOSED TRANSACTION THROUGH ANY SEF SERVICE. You agree that (i) the SEF Services are not and will not be the basis for any of your investment decisions and (ii) you are solely responsible for (A) any investment or trading decisions that you make with respect to the products available via any SEF Service and (B) determining whether any Transaction is suitable, appropriate or advisable for you or your clients. Provision of the SEF Services does not make us an advisor or fiduciary for you or your managed or fiduciary accounts. These Terms do not constitute an offer to sell or solicitation of an offer to buy securities or other Instruments. In addition, the SEF Services do not include any investment, financial, legal or tax advice which you may desire or need in connection with any Transaction. You acknowledge that you are responsible for obtaining any legal or tax advice you deem appropriate.~~

9. Limitation of Liability; Indemnity.

(a) The liability of the parties hereunder shall be subject to the limitations set forth in the SEF Rules, including, but not limited to, Rule 6028 (or any successor provision). None of such provisions will limit your rights and remedies otherwise available under the State or Federal Securities laws, CFTC Regulations or the CEA.

(b) You acknowledge that your ability to make claims or recover losses may be subject to limitations on liability imposed by the SEF Rules, these Terms, the relevant DCO and/or by your agreements with third parties with which you do business.

~~(c) (e)~~ You will indemnify, protect, and hold harmless us and our Related Parties from and against any and all losses, liabilities, judgments, suits, actions, proceedings, claims, damages, costs (including reasonable attorney’s fees) (collectively, “Losses”) resulting from or arising out of any breach of these Terms by you or your Related Parties or the use of

the SEF Services by you or your Related Parties, including any breaches of the security of the SEF Services (including any access or entry into any of our other systems not covered by these Terms), and any claims that a ~~trade~~[Transaction](#) was not suitable for or not authorized by a ~~customer~~[Customer](#), caused directly or indirectly by you or your Related Parties, except to the extent such Losses are due to our gross negligence, willful misconduct or fraud.

~~(d) If a third party claims that the SEF Services infringe upon its patent copyright, or trade secret, or any similar intellectual property right, we will defend you against that claim at our expense and pay all damages that a court finally awards, provided that you promptly notify us in writing of the claim and cooperate with us in the defense or any related settlement negotiations. We shall have sole control over the defense and any~~

~~negotiation for its settlement or compromise. If such a claim is made or is likely to be made, we shall, at our sole option, have the right to take one or more of the following actions at no additional cost to you: (i) procure the right for you to continue the use of the SEF Services; (ii) replace the SEF Services with non-infringing software; or (iii) modify the SEF Services so as to be non-infringing. If we determine that none of these alternatives is reasonably available, you agree to immediately terminate your use of the SEF Services on our written request. However, we have no obligation for any claim based on your use of the SEF Services in any manner inconsistent with these Terms, your modification of the SEF Services or your combination, operation, or use of the SEF Services with any product, data, or apparatus not specified or provided by us, provided that such is based on such combination, operation or use, or for continued allegedly infringing activity by you after you have been notified of possible infringement, unless approved in advance by us. The foregoing represents the sole and exclusive remedy for you with regard to any of the above infringements or alleged infringements or any breach of our warranty in Section 6(b) hereof.~~

~~(e) YOU AGREE THAT, WITH THE EXCEPTION OF THE PROVISIONS OF SECTION 7(D), OUR LIABILITY AND THE COLLECTIVE LIABILITY OF OUR RELATED PARTIES AND THE THIRD PARTY SERVICE PROVIDERS SELECTED BY YOU OR US, IF ANY, ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT, OR OTHERWISE) OR IN ANY WAY CONNECTED TO YOUR USE OF THE SEF SERVICES WILL NOT EXCEED \$500,000, UNLESS CAUSED DIRECTLY BY OUR GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD.~~

~~(f) None of the above will limit your rights and remedies under Applicable Law.~~

10. ~~8.~~ Data and Information.

~~(a) (a)~~ You will supply us with all information in the form and manner and within the time as we may reasonably request in writing or as otherwise required under [the SEF Rules](#) or Applicable Law concerning you and your use of the SEF Services. You and your Authorized ~~Users~~[Traders](#) will also provide and use reasonable efforts to obtain any consents that we may reasonably request in connection with the provision of information to us by you or on your behalf. ~~We may report information obtained under this Section 8(a) to other swap execution facilities, designated contract markets registered with the CFTC, other regulatory authorities or to third party service providers, as we determine in our sole discretion to be necessary under Applicable Law or pursuant to a bona fide request from one of the above enumerated entities; provided, however, that we agree not to use for business or marketing purposes any proprietary data or personal information we collect or receive from or on behalf of you and your Authorized Users to fulfill our regulatory obligations.~~ You consent and agree to comply with any of our privacy policies and procedures that we provide in writing via the SEF Services or otherwise.

~~(b) (b)~~ All swap data or other information submitted from time to time by you to the SEF, and/or by you, or by the SEF on behalf of you, to any DCO or SDR, shall be accurate and complete in all material respects as of the time submitted.

~~(c) (b)~~ With respect to any market data or other information that we or any third party service provider provide to you in connection with your use of the SEF Services, (i) we and any such provider are not responsible or liable if any such data or information is inaccurate or incomplete in any respect; (ii) we and any such provider are not responsible or liable for any actions that you take or do not take based on such data or information; (iii) you will use such data or information solely for the purposes set forth in these Terms, [the SEF Rules](#) and Applicable Law; (iv) such data or information is proprietary to us and any such provider and you will not retransmit or disclose such data or information to third parties except as permitted by [these Terms, the SEF Rules and](#) Applicable Law; and (v) you will use such data or information only as permitted and as contemplated by these Terms and [the SEF Rules and](#) solely in compliance with Applicable Law. ~~You further agree and understand that market data, bids/offers, information, volumes, averages and other data and statistics which are derived from or are the byproducts of Transactions or otherwise related to the SEF Services ("Market Data") are our property once submitted to the SEF and without identifying you, we may share, sell, distribute or redistribute all or any of such property at our exclusive and sole discretion; provided, that nothing herein shall prevent you from sharing, selling distributing or redistributing any such information that you submit to the SEF.~~

~~(e)~~ E-mail, chat and instant messaging features may be provided to you as a convenience to enhance your communications with us. You will use these features in compliance with these Terms, [the SEF Rules](#) and Applicable Law and you will not use them to transmit inappropriate information, including information that may be

deemed obscene, libelous, harassing, fraudulent or slanderous [or violative of law](#). We are not responsible for any Transactions you may attempt to

(d) enter, or orders or instructions you may attempt to make by means of these services.

~~(d) You acknowledge and agree that the SEF Services and all information on the SEF Services are proprietary and confidential to us or to any applicable third party service providers selected by us, and have been developed through the expenditure of substantial time, skill, effort and money. Except as required by Applicable Law, you and your employees will hold the SEF Services and such information in strict confidence to the extent required by Section 9 below and not disclose them to third parties or use them for any purpose not contemplated by these Terms.~~

11. 9. Confidentiality.

(a) ~~(a)~~ Other than ~~with respect to Market Data solely as it relates to SEFs as permitted by these Terms, the SEF Rules or as required by Applicable Law,~~ any and all non-public information in any form obtained by you from the SEF ~~or by the SEF from you~~ arising out of or related to the provision or use of the SEF Services including, but not limited to, trade secrets, processes, computer software and other proprietary data, research, information or documentation related thereto ~~and SEF data~~, shall be deemed to be confidential and proprietary information. ~~The parties~~You agree to hold such information in strict confidence and not to disclose such information to third parties (other than to your employees or agents) or to use such information for any purpose whatsoever other than as contemplated by these Terms and the SEF Rules and to advise each of ~~its~~your Authorized ~~Users~~Traders, employees and agents who may be exposed to such proprietary and confidential information of their obligations to keep such information confidential.

(b) ~~(b)~~ Confidential information shall not include information which is: (i) in or becomes part of the public domain other than by disclosure by either party in violation of these Terms; (ii) known to or obtained by either party without an obligation of confidentiality; or (iii) independently developed by either party outside of these Terms.

(c) ~~(c)~~ Notwithstanding the foregoing, ~~either party~~you may disclose confidential information if and to the extent required to be disclosed by Applicable Law ~~or regulation~~, or pursuant to a *bona fide* request, subpoena or order of a court or regulatory, self-regulatory or legislative body of competent jurisdiction, provided that, ~~with respect to you only~~, you provide the SEF with, if permissible, prompt notice of such requirement, request, subpoena or order (together with copies thereof), minimize such disclosure to the confidential information specifically required to be disclosed, and to the persons or entities entitled to receive same pursuant to such law, regulation, request, subpoena or order, and not make such disclosure until the SEF has had a reasonable opportunity to resist such disclosure and/or to seek confidential treatment of the confidential information or until you are ordered to do otherwise.

12. 10. No Promotion. Without the prior written consent of the other party, or as otherwise specified in the SEF ~~rules~~Rules, neither party will (i) use the name of the other party, or the name of any of the other party's Related Parties, or any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation of the other party or its affiliates in advertising, publicity, or otherwise; or (ii) represent (directly or indirectly) that any product or any service provided by the party has been approved or endorsed by an authorized representative of the other.

11. Electronic Documents. You consent to the delivery of confirmations, any other required or optional communication or agreement under any Applicable Law and any agreements or changes in the terms and conditions on the SEF Services, by e-mail, Website or other electronic means, subject to compliance with any Applicable Law. Any such documents that are delivered to you electronically are deemed to be "in writing." ~~If~~ your signature or acknowledgment is required or requested with respect to any such document and any Authorized ~~User~~Trader "clicks" in the appropriate space, or takes such other action as may be indicated on the SEF Services, you will be deemed to have signed or acknowledged the document to the same extent and with the same effect as if you had signed the document manually. You acknowledge your understanding that you have the right to withdraw your consent to the electronic delivery and signature of documents at any time by providing prior written notice to us. However, if you revoke your consent, your access to the SEF Services may be restricted or

13. terminated.

14. ~~12.~~ **General.**

(a) ~~(a)~~ You acknowledge that you entered into these Terms without inducement by any representation or warranty not set forth in these Terms. ~~Except with respect to User Agreements, these~~ These Terms, the SEF ~~Rule Book~~ Rules and, if applicable, the FDCA contain the entire agreement of the parties with respect to its subject matter and ~~supersedes~~ supersede all existing and all other oral, written or other communications between the parties concerning this subject matter. ~~These Terms may be modified by us at any time in our sole discretion; provided that we will use commercially reasonable efforts to provide you prior notice~~

(b) ~~of any such modifications~~ In the event of any conflict between the provisions of the SEF Rules and these Terms the following order of precedence shall apply: (1) the SEF Rules and (2) these Terms. In the event of any conflict between the provisions of ~~this~~ any FDCA, the SEF ~~Rule Book~~ Rules and the Terms the following order of precedence shall apply: (1) the SEF ~~Rule Book~~ Rules; (2) these Terms; and (3) the FDCA.

(c) ~~(b)~~ Neither party may assign these Terms without the other party's prior written consent. We may assign these Terms, however, without your consent to any entity (i) controlling, controlled by, or under common control with us, or (ii) which succeeds to all or substantially all of our assets and business.

(d) ~~(c)~~ If any provision of these Terms (or any portion thereof) is invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of these Terms will not be affected or impaired thereby.

(e) ~~(d)~~ Except ~~as~~ otherwise provided in ~~Paragraph 11~~ these Terms and the SEF Rules, all notices will be in writing and hand delivered or forwarded by registered or certified mail to (i) you at the address of record maintained by the SEF or (ii) the SEF at 101 Hudson Street, Jersey City, NJ 07302-3908, U.S.A., telephone: (201) 557-5000, facsimile: 201-984-6357. A copy also will be sent to the attention of our Market Regulation Department or to any other address which we designate in writing after the date of these Terms.

(f) ~~(e)~~ Where any form of the word "including" appears in these Terms, it will be interpreted as if followed by the phrase "without limitation". The headings in these Terms are intended for convenience of reference and will not affect interpretation.

(g) ~~(f)~~ Each party acknowledges that a breach of any provision of Sections ~~46, 810 or 911~~ of these Terms will cause the other irreparable injury and damage. Therefore, injunctive relief may be sought in addition to any other rights and remedies which may be available to the party at law or in equity.

(h) ~~(g)~~ Each party agrees to cooperate with any reasonable request the other may make in order to respond to any inquiries made by any ~~third-party~~ third-party service providers, exchanges, or other regulatory, self-regulatory or governmental authorities in connection with the SEF Services.

(i) ~~(h)~~ These Terms will be governed and construed in all respects by the laws of the State of New York, without giving effect to principles of conflict of law. ~~Any litigation or other dispute resolution, and all disputes~~ between the parties ~~relating with respect~~ to these Terms will ~~take place only in New York County, New York. The parties consent to personal jurisdiction of and venue in the state and federal courts within that county~~ be subject to arbitration as set forth in the SEF Rules.

(j) ~~(i)~~ The individuals accepting, acknowledging and agreeing to these Terms each represent and warrant that they are duly authorized by all necessary action to accept and agree to these Terms on behalf of their principals.

(k) We have the right, upon reasonable prior written notice, to verify your compliance with these Terms in accordance with the SEF ~~Rule Book~~ Rules. You shall make your facilities, equipment and all applicable books and records available for such inspection during normal business hours. Any such audit shall be at our expense, unless such audit discloses an underpayment by you for the audited period in excess of five percent (5%) or your material breach of these Terms, the SEF Rules, or any portion thereof, in which case you shall reimburse us for such reasonable expenses. If the audit discloses any underpayment by you, you shall promptly make payment to us of

| such

(k) underpayment, together with interest.

~~(k) Neither party shall be liable for delay or failure in performance hereunder due to causes beyond its control, including acts of God, fires, strikes, acts of war or intervention by any governmental authority, and each party shall take steps to minimize any such delay.~~



IN WITNESS WHEREOF the parties have executed these Terms as of the day and year written below.

PARTICIPANT:

Signature: _____

Printed Name: _____

Title: _____

Participant Name: _____

By: _____

Name: _____

Title: _____

Date: _____

tpSEF Inc.:

SignatureBy: _____

Printed Name: _____

Title: _____

Date: _____

Introducing Broker Customer Application

The following information may be provided in spreadsheet form for each Customer, or collectively for all Customers.

| | |
|---------------------------------------|--|
| <u>Participant Information</u> | |
| <u>Full legal name</u> | |
| <u>Legal Entity Identifier (LEI)</u> | |
| <u>Customer information</u> | |
| <u>Full legal entity name</u> | |
| <u>Legal Entity Identifier (LEI)</u> | |
| <u>Point of contact name</u> | |
| <u>Telephone</u> | |
| <u>Email</u> | |
| <u>Jurisdiction of formation</u> | |
| <u>Principal place of business</u> | |

Indicate the Clearing Firm(s) that will accept Customer's orders:

| <u>Clearing Firm</u> | <u>Clearing Firm's LEI</u> | <u>Clearing Firm's Phone Number</u> | <u>Applicant's Account # at Clearing Firm</u> | <u>DCO</u> | <u>Clearing Firm's DCO Account Number</u> |
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|---|------------------|
| <u>Authorized by Participant</u> | |
| <u>Authorized signatory name:</u> | <u>Position:</u> |
| <u>Signature:</u> | <u>Date:</u> |