

## REGULATIONS

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## **1. TITLE, EXTENT AND COMMENCEMENT**

The Regulations framed hereunder shall be known as National Commodity & Derivatives Exchange Limited, Regulations, 2003 (herein referred to as 'Regulations') and shall come into effect immediately on approval by the Forward Market Commission or any other authority appointed under the Forward Contracts (Regulation) Act, 1952 or any other applicable law.

These Regulations shall be in addition to the provisions of the Forward Contracts (Regulation) Act 1952 and Rules framed thereunder and Rules and Byelaws of National Commodity & Derivatives Exchange Limited (herein referred to as 'NCDEX' or 'Exchange'), as in force and any other applicable laws of India.

The Regulations have been divided into two main divisions pertaining to Trading and Clearing for sake of convenience only and both the divisions shall be read together wherever and whenever the context requires.

The titles of the clauses are only for convenience and may not read as subject for the contents of clauses.

## **2. JURISDICTION**

Unless specifically mentioned otherwise in these Regulations, Bye Laws or Rules of the Exchange, any matter arising out of or pertaining to these Regulations shall be Clearing Member subject to jurisdiction of the Courts of Mumbai irrespective of the place of business of Trading or Clearing Members and irrespective of place from where the transaction is entered into.



### **3. DEFINITIONS**

Unless in the context it is explicitly stated otherwise, all words and expressions used herein but not defined, and defined in the following, shall have the meanings respectively assigned to them therein in the following order of priority:

- (i) Forward Contracts (Regulation) Act 1952 and Rules framed thereunder.
- (ii) Companies Act, 1956
- (iii) Rules of National Commodity & Derivatives Exchange Ltd
- (iv) Byelaws of National Commodity & Derivatives Exchange Limited

#### **DEFINITIONS:**

##### **3.1 APPROVED COMMODITY**

Approved commodity means the commodity permitted by the Exchange to be traded on the Exchange.

##### **3.2 APPROVED OFFICE**

Approved office means the office/s of a Member from which the Member is allowed by the Exchange to trade/settle/clear/deal on the Trading system and carry out back office operations.

##### **3.3 APPROVED USER**

Approved User means the Member or any other person/s appointed by him to use the Trading System with the prior consent of the Exchange provided that such Approved User is having qualification if any prescribed by the Exchange.

##### **3.4 APPROVED WORKSTATION**

Approved workstation refers to such workstation of a Member comprising of computer terminal(s) and all associated equipment installed and connected to the Trading System and used by the Member for the purpose of market inquiry, execution of orders / trades/deals/transaction and settlement/clearing of its trades on the Trading System, and all other actions associated with the trading and settlement on the Trading System.

### **3.5 AUTHORISED PERSON**

Authorized Person means a person being an individual, registered partnership firm or a body corporate, cooperative society or a company as defined under the Companies Act, 1956 who is recognized as such by the Exchange and who is employed/engaged whether through a contract of employment or otherwise by a Member for remuneration or otherwise (whether by way of salary, commission, allowance or otherwise) expressed in terms of money or capable of being so expressed and gets such remuneration directly or indirectly from the Member and also includes Approved User as defined herein and any person who is acting in any capacity on behalf of Member for any activity relating to the trades and clearing on the Exchange even if such person is not receiving any consideration or remuneration from the Member for the services rendered by him.

#### **Explanation:**

For the purpose of these Regulations, the term shall also include any person who is undergoing any kind of training or assigned any project work in pursuance of the requirements of any university or other academic body.

A person who is an authorized person of a Member during its continuation of being Authorized Person shall not qualify to become an authorized person of any other Member.

### **3.6 BOOKS OF ACCOUNTS, RECORDS AND DOCUMENTS**

Books of accounts, records and documents include books of accounts, records and documents, which are required to be maintained under Forward Contracts (Regulation) Act, 1952 and Rules framed thereunder, Rules, Bye Laws and the Regulations of the Exchange and any other law for the time being in force and records maintained in a computer or in any magnetic form.

### **3.7 BRANCH OFFICE**

Branch office in relation to a Member means: -

- a) any establishment described as a branch and approved by NCDEX.
- b) any establishment carrying on either the same or substantially the same activity as that carried on by the head office and approved by NCDEX.
- c) any other place, which the Exchange may approve.

### **3.8 BUYER**

For the purpose of these Regulations, unless the context indicates

otherwise, the term buyer includes the buying Constituent and the buying member acting as his broker and agent and denotes the buying member when he is dealing on his own account as a principal.

### **3.9 CLEARING BANK**

The Exchange shall appoint one or more Clearing Banks which shall act as a funds settling agency, for the collection of Margin money and settlement for all deals entered into through the Exchange and for any other funds movement between members and the Exchange and between Members as may be directed by the Exchange from time to time.

### **3.10 CLEARING CORPORATION/ HOUSE**

Clearing Corporation/ House means the Clearing Corporation/House identified and approved by Exchange for facilitating settlement of trades/deals and all functions incidental to clearing of deals done or executed on the Exchange and shall mean NCDEX if function of such settlement or clearing of trades is performed by NCDEX itself or through its agency. The terms Clearing Corporation or Clearing House have been used interchangeably in these Regulations and shall have the same meaning. The Exchange may maintain multiple clearinghouses at multiple locations dealing in commodities specified from time to time.

### **3.11 CLEARING MEMBER**

Clearing Member means a member of the Clearing Corporation and includes all categories of Clearing Members as may be admitted as such to the Clearing Corporation. In case of a Clearing Member who is also a Trading Member of the Exchange the term Trading Member be read as Clearing Member.

### **3.12 CLOSING BUY TRANSACTION**

Means a buy transaction which will have the effect of partly or fully offsetting a short position.

### **3.13 CLOSING SELL TRANSACTION**

Means a sell transaction which will have the effect of partly or fully offsetting a long position.

### **3.14 CONSTITUENT**

A Constituent or a client means a person, on whose instructions and, on whose account, the Trading Member enters into any contract for the purchase or sale of any commodity or Futures contract or derivative or does any act in relation thereto or on whose account, the Clearing Member agrees as per Regulations to settle the deal/trade/transaction, as the case may be.

#### **Explanation:**

For the purpose of these Regulations, the term Constituent includes a Participant as defined under the Byelaws of the Exchange unless expressly stated otherwise.

### **3.15 COMMON POOL FACILITY**

Common pool facility means the trading facilities created by the Exchange at various places which could be made available for use by the Trading Member in the event of failure of trading facilities in his office or otherwise.

### **3.16 CONTRACT MONTH**

Contract month means the month in which the Exchange Regulations require a Derivatives/Futures contract to be finally settled.

### **3.17 DAILY SETTLEMENT PRICE**

Daily settlement price shall be the price of the Derivatives Contracts as decided by the Relevant Authority for the particular trading day for the purpose of marking to market all open positions and settlement thereof.

### **3.18 DELIVERY**

"Delivery" means clearing and settlement through the Clearing House in the manner prescribed in the relevant regulations of the Exchange.

### **3.19 DERIVATIVES CONTRACT**

Derivative Contract means a derivative contract including future contract, which is permitted to be traded on NCDEX

### **3.20 DELIVERING MEMBER**

Delivering member means a Clearing Member who has the obligation to effect or has effected delivery in fulfillment of contracts to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

### **3.21 DELIVERABLE QUANTITY**

Means the number of units that can be delivered in a contract as specified by the Exchange from time to time

### **3.22 EXPIRATION DAY**

The day on which the final settlement obligation are determined in a Derivatives Contract

### **3.23 FINAL SETTLEMENT PRICE**

<sup>1</sup> The Final Settlement Price for a derivatives contract shall be the Spot price, as announced by the Relevant Authority, of the underlying commodity on the last trading day of the contract. <sup>1</sup>

### **3.24 FUTURES CONTRACT**

Means a legally binding agreement to buy or sell an underlying commodity in the future.

### **3.25 LAST TRADING DAY**

Means the day up to and on which a derivatives Contract is available for trading

### **3.26 LONG POSITION**

Long position in a contract means outstanding purchase obligations in respect of a spot or derivative contract at any point of time

### **3.27 MARKET TYPE**

Market type refers to the different markets in which trading is permitted on the Trading system and includes Spot Markets & Derivatives Markets

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<sup>1</sup> Substituted for the following previous provisions on January 11, 2006 ----  
"The Final Settlement Price for a derivatives contract shall be the Spot price, as announced by the Relevant Authority, of the underlying commodity on the last trading day of the contract.

<sup>2</sup> Substituted for the following previous provisions on February 24, 2006 ---  
The Final Settlement Price for a derivatives contract shall be the price, as announced by the Relevant Authority, on the last trading day of the contract for the purpose of settlement of transactions in the said contract.

### **3.28 MEMBER**

Member means Trading Member and/or Clearing Member, as the case may be, of the Exchange.

### **3.29 MEMBER-CONSTITUENT AGREEMENT**

Member-Constituent agreement is an agreement, which is executed between a Member and its Constituent as per the Exchange requirements. (Annexure C)

### **3.30 MEMBER'S OPEN POSITION**

Members open position *means* the sum of long and short positions of the Member and his Constituents in any or all of the Derivatives Contracts outstanding with the Clearing Corporation at any given point of time.

### **3.31 NOTIFICATION, NOTICE OR COMMUNICATION**

It refers to any such intimation that can be served at ordinary business address and/or ordinary place of residence and/or last known address/e-mail address/Trading System of the party in any one or more of the following ways:

- . by post
- . by registered post
- . under certificate of posting
- . by speed post / courier services.
- . by telegram
- . by affixing it on the door at the last known business or residential address
- . by oral communication to the party in the presence of a third person
- . by advertising it in at least one prominent daily newspaper having circulation in the area where the last known business or residential address of Respondent is situated
- . by sending a message through the Trading System
- . by electronic mail or fax
- . by hand delivery
- . by SMS through a mobile device

Any communication sent by the Exchange to any party shall be deemed to have been properly delivered or served, even if such communication is returned to the Exchange as unclaimed/ refused/ undelivered, if the same is sent to the ordinary business address/e-mail address and/ or ordinary place of residence and/ or last known address of the party, in any one or more of the ways mentioned in clause (1) above.

### **3.32 OUTSTANDING OBLIGATION**

Means the obligation which has neither been closed out nor been settled

### **3.33 PROFESSIONAL CLEARING MEMBER**

Professional Clearing Member means a Clearing Member who is not a Trading Member. Term Professional Clearing Member and Clearing Member has been used interchangeably.

### **3.34 RECEIVING MEMBER**

Receiving member means a Clearing Member who has to or has taken delivery in fulfillment of contracts to which these Rules, Bye Laws and Regulations apply unless the context indicates otherwise.

### **3.35 RELEVANT AUTHORITY**

The term Relevant Authority shall mean, the Board of the Exchange or such other authority as specified by the Board from time to time as Relevant Authority for a specified purpose.

### **3.36 RULES AND BYE LAWS**

The terms Rules and Bye Laws shall mean the Rules and Bye Laws framed by the Board of the Exchange from time to time and approved by the Forward Markets Commission or any Authority under Forward Contracts (Regulation) act, 1952.

### **3.37 SELLER**

For the purpose of these Regulations unless the context indicates otherwise the term seller includes the selling Constituent and the selling Member acting as his broker and agent and denotes the selling member when he is dealing on his own account as a principal.

### **3.38 SETTLEMENT CALENDAR**

Exchange shall prescribe dates for settlement, Pay in, Pay out, Delivery and all obligations and rights of Members in respect of every Trading Cycle of each Approved Commodity and such schedule of dates shall be referred to as Settlement Calendar of Trading Cycle in respect of particular Commodity.

### **3.39 SETTLEMENT DATE**

Means the date on which the settlement of outstanding obligations in a Derivatives and/or Spot contract is required to be settled as provided in these Regulations.

### **3.40 SHORT POSITION**

Short position in a Derivatives contract means outstanding sell obligations in Derivatives contract at any point of time.

### **3.41 TRADING CYCLE**

Trading Cycle means the period, as notified by the Exchange from time to time, during which the Derivatives Contract will be available for trading.

### **3.42 TRADING MEMBER**

Trading Member refers to an entity as defined under Chapter 6 of the Byelaws of the Exchange. The term Trading Member shall be read as Clearing Member while performing functions as Clearing Member.

### **3.43 TRADING SYSTEM**

Trading System refers to Automated Trading System of the Exchange.

### **3.44 TRADE TYPE**

Trade Type means the types of trades in any Commodity permitted to be traded on the Exchange and includes Normal market trades and Negotiated trades.

### **3.45 USER**

A User is a person appointed by the Trading Member and as approved by the Exchange.

### **3.46 UNDERLYING COMMODITIES**

An Underlying Commodities means a commodity with reference to which a Derivative Contract is traded / to be traded on the Exchange from time to time.

# **TRADING REGULATIONS**

## **4 DEALINGS ON THE EXCHANGE**

### **4.1 TRADING SYSTEM**

The Exchange shall provide an Automated Trading facility in all the Commodities admitted for dealings on the Spot Market and Derivative Market.

Trading on the Exchange shall be allowed only through Approved Workstation(s) located at locations for the office(s) of a Trading Member as approved by the Exchange. If LAN or any other way to other workstations at any place connects an Approved Workstation of a Trading Member it shall require an approval of the Exchange.

Each Trading Member shall have a unique identification number which shall be provided by the Exchange and which shall be used to log on (sign on) to the Trading System.

A Trading Member shall have a non-exclusive permission to use the Trading System as provided by the Exchange in the ordinary course of business as Trading Member.

A Trading Member shall not have any title rights or interest whatsoever with respect to Trading System, its facilities, software and the information provided by the Trading System.

#### **The Trading System**

a) Shall be made available to the Member for trading subject to such terms and conditions as the Relevant Authority may determine from time to time, inter alia, payment of such charges as may be specified from time to time.

b) Access, may be withdrawn or restricted by the Relevant Authority at any time without assigning any reason and at its absolute discretion.

The Member shall, at its own costs, install and use such equipment and software as specified by the Exchange from time to time for the purpose of accessing the Trading System.

The Exchange shall have the right to inspect equipment and software used

for the purposes of accessing the Trading System at any time without giving any notice.

The cost of the equipment and software supplied by the Exchange, installation and maintenance of the equipment shall be borne by the Trading Member.

The permission to use the Trading System shall be subject to payment of such charges as the exchange may from time to time prescribe in this regard.

A Trading Member shall not, permit itself or any other person(s) to:

- a) use the software provided by the Exchange for any purpose other than the purpose as approved and specified by the Exchange
- b) use the software provided by the Exchange on any equipment other than the workstation approved by the Exchange
- c) copy, alter, modify or make available to any other person the software provided by the Exchange
- d) use the software in any manner other than the manner as specified by the Exchange
- e) attempt directly or indirectly to de-compile, disassemble or reverse engineer the same.

A Trading Member shall not, by itself or through any other persons on his behalf, publish, supply, show or make available to any other person or reprocess, retransmit, store or use the facilities of the Trading System or the information provided by the Trading System except with the explicit approval of the Exchange and in the ordinary course of business to complete the transactions on the Exchange.

The Exchange shall provide its services on a best effort basis. However the Exchange shall not be liable for failure or malfunctioning of the Trading System or any other support systems and for any loss, damage, or other costs arising thereupon and/or in any way out of:

- a) Failure of telecom network or systems including failure of ancillary or associated systems, or fluctuation of power, or other environmental conditions; or
- b) accident, transportation, neglect, misuse, errors, frauds of the Trading Member or its Authorized Persons or the agents or any third party; or

- c) any fault in any attachments, system or equipments (either supplied by the Exchange or approved by the Exchange) which forms or does not form part of the trading workstation installation; or
- d) act of God, fire, flood, war, act of violence, or any other similar occurrence or for any reason beyond the control of Exchange; or
- e) any incidental, special or consequential damages

No Trading Member shall deal on or access the Trading System or related facilities through another Trading Member or on behalf of another Trading Member, unless the prior approval of the Exchange in writing is obtained in this regard.

#### **4.2 TRADING MEMBERS AND USERS**

Trading Members shall be entitled to appoint, (subject to such terms and conditions, as may be specified by the Relevant Authority) from time to time a) Authorized Persons; b) Approved Users.

Trading Members should have passed a certification program, which has been prescribed by the Exchange. In case of Trading Members, other than individuals or sole proprietorships, such certification program shall have to be passed by at least one of their directors/employees/partners / members of governing body. Relevant Authority shall have discretion to modify or waive this condition in general or for any specific Trading Member/s or User/s.

Each Trading Member shall be permitted to appoint such number of Approved Users as may be notified from time to time by the Exchange.

The appointment of Approved Users shall be subject to such terms and conditions as the Exchange may prescribe from time to time.

Each Approved User shall be given a unique identification number through which he shall have access to the Trading System.

An Approved User can access the Trading System through a password and can change such password from time to time.

A Trading Member or its Approved Users thereof shall maintain complete secrecy of its password. Any trade or transaction done by use of password of any Approved User of the Trading Member, shall be binding on such Trading Member.

Approved User shall be required to change his password at the end of the password expiry period. The Exchange shall prescribe the password expiry period from time to time.

- a) Only persons who are registered as Trading Members in accordance with provisions of the Byelaws, Rules and Regulations of the Exchange or are agents of Trading Members for whom an application has been made to the Exchange by the Trading Members in accordance with the format specified by the Exchange from time to time may be approved as Users.
- b) No person shall be admitted as Approved User who is under 21 years of age.
- c) No person shall be admitted as Approved User against whom any disciplinary action has been taken by the Exchange and the punishment imposed thereon is still in force.
- d) No Trading Member shall without permission of the Exchange take into his employment a former Trading Member or User of such Trading Member as Approved User, if such Trading Member or Approved User is one against whom any disciplinary action has been taken by the Exchange and the punishment imposed against the said Trading Member or said User is still in force.

The Exchange shall have a right to reject any application made or at any time withdraw any approval previously granted, or suspend any Approved User temporarily from access to the system. Such suspension may be conditional and may be revoked on the fulfillment of condition specified, if any, to the satisfaction of the Exchange.

A Trading Member desiring to change the User Id or cancel the authority given to its Approved User to operate the Trading System on its behalf shall intimate the Exchange in writing, in such form and manner as the Exchange may specify, immediately on taking such action and obtain confirmation from the Exchange of having received such intimation, and of the disabling of the particular User by the Exchange. However the Trading Member will continue to be liable for all the activities reported on the basis of such or previous User Id undertaken up to a period of 24 hours after his obtaining a confirmation as mentioned above from the Exchange. The Trading Member shall cancel all his outstanding orders in respect of such Approved User.

Whenever an Approved User of the Trading Member ceases to act in such or any capacity with the Trading Member then each such Trading Member shall inform the Exchange, within 24 hours, the name and other particulars of such Approved User.

No application shall be made by any Trading Member, if such person for whom such an application is made, is already an Approved User of any

other Trading Member.

The Exchange shall notify different level of the Approved Users for each workstation provided. These levels shall define the access to the Trading System by the Users and shall include a provision for inquiry only on the terminal, provision for order entry and trading, or such others, as may be specified by the Exchange.

The Exchange may change the status of Approved User of the Trading Member from Trader to Inquiry only where circumstances warrant and intimate to such Trading Member.

A Trading Member, shall not access the Trading System using a different Trading Member or User Id other than the one allotted to him.

The Approved User shall not attempt to aid in or access the Trading System using the Trading Member code from a location other than the Trading Member's Approved Office/location.

A Trading Member who wants the Exchange to reset his password, has to make a request in writing signed by the Trading Member indicating his Broker Id and User Id. A Trading Member shall not make a request for resetting the password of any other Trading Member.

#### **4.3 TRADING DAYS**

<sup>1</sup> The Exchange shall operate on all days as specified in the respective commodity contracts except on such holidays as may be declared by it from time to time. The Exchange may prescribe Commodity specific and/or geographical area specific trading holidays.<sup>1</sup>

The Exchange may close the market on days other than or in addition to scheduled holidays or open the market on days originally declared to be holidays, to be called unscheduled opening or closing of the markets or segments and the decision of the Exchange in this matter shall be final and binding.

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<sup>1</sup> Substituted on January 11, 2006 for the earlier following provision -

The Exchange shall operate on all days except Saturday and Sundays and on such holidays as the Exchange may declare from time to time. The Exchange may prescribe working days for Commodity specific or area specific at its absolute discretion.<sup>1</sup>

Other than the regular trading hours, Trading Members shall be provided a facility to place orders off-line i.e. outside Trading Hours. They shall be stored by the system but shall get traded only once the market opens for trading on the following working day.

The Board or the Relevant Authority will provide for Opening, Normal and Closing sessions or any other session as may be decided.

The types of Order books, Trade books, Price limits, matching rules and other parameters pertaining to each or all of these sessions will be specified by the Exchange to the members via its circulars or notices issued from time to time.

Members may place orders on the Trading system during these sessions, within the regulations prescribed by the Exchange as per these Byelaws Rules and Regulations, from time to time.

#### **4.4 TRADING HOURS**

The Exchange shall announce the normal trading hours/Open Period in advance from time to time.

The Exchange may extend or reduce trading hours by notifying Trading Members as and when it deems fit and necessary in this regard.

#### **4.5 TRADING CYCLE**

Trading cycle for each commodity / Derivative Contract will have a standard period as notified by the Exchange from time to time, during which it will be available for trading.

#### **4.6 CONTRACT EXPIRATION**

Derivatives Contracts will expire on a pre-determined date and time up to which the Contract will be available for trading which shall be notified by the Exchange in advance.

The contract expiration period shall not exceed twelve months or as the Exchange may specify from time to time.

#### **4.7 TRADING PARAMETERS**

The Exchange shall from time to time specify various trading parameters relating to the Trading System.

Every Trading Member will be required to specify the buy or sell orders as either an open order or a close order for Derivatives contracts.

The Exchange shall from time to time prescribe different order books that shall be maintained on the Trading System and shall specify such various conditions on the order that will make it eligible to place it in those books.

The Exchange shall specify the minimum disclosed quantity for orders that will be allowed for each commodity/Derivatives Contract, as the case may be.

The Exchange shall prescribe the number of days after which Good Till Cancelled orders will be cancelled by the system.

The Exchange shall specify from time to time the lot size in which orders can be placed for any or all commodities / contract traded on the Exchange.

The Exchange shall specify from time to time price steps in which orders shall be entered on the Trading System of the Exchange.

The Exchange shall lay down position limits in respect of each Commodity / Derivatives Contract from time to time

The Exchange shall specify the price fluctuations for each Commodity / Derivatives Contract.

#### **4.8 MARKET TYPES / TRADE TYPES / SETTLEMENT PERIODS / TRANSACTION TYPES**

The Exchange shall permit and notify different kinds of trades in the commodities / Derivative Contracts included in the official list of NCDEX, which shall include:

1. Regular market trades
2. Negotiated trades.

The Exchange shall prescribe from time to time different trade types, market types, which will be permitted to Trading Members for dealings in commodities.

The Exchange shall prescribe from time to time the different settlement periods that will be permitted and will be in conformity with the Clearing Regulations of the Exchange.

The Exchange shall allow from time to time different transactions types,

which shall include transaction for clearing, special and spot delivery.

#### **4.9 FAILURE OF TRADING MEMBERS' TERMINAL**

In the event of failure of Trading Members workstation and / or the loss of access to the Trading System, the Exchange may at its discretion, but not bound to, undertake on behalf of the Trading Member to carry out the necessary functions which the Trading Member is eligible on a valid request from such Trading Member subject to such terms and conditions which the Exchange may deem necessary to be imposed. The Exchange shall entertain only request made in writing in a clear and precise manner by the Trading Member and in a manner as prescribed by the Exchange. The Trading Member shall be accountable for the functions executed by the Exchange on their behalf and shall indemnify the Exchange against any losses or costs incurred by the Exchange or any claims on the Exchange arising out of the above situation. The Exchange may, at its discretion, provide Common Pool Facility to the Trading Members.

## **5 DEALINGS IN DERIVATIVES CONTRACTS**

### **5.1 DEALINGS IN DERIVATIVES CONTRACTS**

All Derivatives Contract specifications shall be announced by the Exchange in advance from time to time. Dealings shall be permitted on the Exchange in Derivatives Contract pertaining to commodities as provided in these Regulations, Byelaws and Rules of the Exchange as in force from time to time and for such categories of Trading Members, trade types, Market Types, Settlement Periods and for such Trading Hours as the Exchange may specify from time to time.

The Exchange may at its discretion at any time suspend trading in particular Derivatives Contracts as it deems fit under the following circumstances:

- a. There is law and order problem, which in the opinion of the Exchange may, extend over a period of time and affect the market conditions adversely;
- b. Reasons beyond the control of parties because of which it may not be possible in the opinion of the Exchange for the parties to perform the contracts;
- c. Any other reason or circumstances under which, the Relevant Authority deems, in the interest of Market, to suspend trading in particular Derivatives Contract.

Such suspension shall take effect, on such conditions and in such time and manner as the Exchange may prescribe in this regard.

The Exchange may also revoke suspension of trading in any or all types of Derivatives Contracts and/or commodities at any time.

Trading Members may trade on the Trading System in Commodities / Derivatives Contracts that are admitted for dealing on the Exchange, either on behalf of their Constituents or on their own account unless otherwise specified by the Relevant Authority and trading shall be subject to such conditions as the Exchange may prescribe from time to time.

#### **Segregation of Trades**

Every Member shall segregate trading by him on his own account from that of his Clients in such manner as the Exchange may provide.

#### **Transactions of Director or employee**

For the purpose of these Regulations, for transactions entered into on behalf of the director or an employee of the Trading Member or for transactions in which the director or employee has beneficial interest, such director or employee shall be considered as a Constituent of the Trading Member and margins shall be collected from each such Constituent

separately.

The Trading Member cannot utilize the funds and commodities of one Constituent for and on behalf of another Constituent except on specific authorization of the Constituent whose funds or commodities are utilized.

The Exchange may, at any time restrict conditionally or unconditionally a Trading Member from dealing in a specified Derivatives Contract

The Trading Member shall continue to be liable for all trades executed on the system for orders entered into the Trading System on his behalf. Trading Member shall be responsible for all the actions of their Authorized Persons / Authorized Users.

Prices quoted on the Exchange shall be basis delivery location, <sup>1</sup> either inclusive or <sup>1</sup> exclusive of Local Sales Tax, as may be prescribed by the Relevant authority, for different commodities or contracts, from time to time, but inclusive of customs duty (if any). The Exchange shall from time to time provide incidence of liability, procedures and mode of payment of local sales tax as may be payable by the Buyer / Seller Constituents which shall be binding on the Buyer / Seller Constituents

## **5.2 TRADE OPERATIONS**

Trading Members shall ensure that appropriate confirmed order instructions are obtained from the Constituents before placement of an order on the System and shall keep relevant records or documents of the same and of the completion or otherwise of these orders thereof.

The Trading Member shall make available to his Constituent the Trading System order number and copies of the order confirmation slip / modification slip be dispatched to the Constituent.

The Trading Member shall disclose to the Exchange at the time of order entry that the order is on his own account or on behalf of Constituents and also specify orders for buy or sell as open or close orders.

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<sup>1</sup> Inserted on March 15, 2004 "either inclusive or"

Trading Members shall be solely responsible for the accuracy of details of orders entered into the Trading System including orders entered on behalf of his Constituents.

The procedures and conditions for amendment or cancellation of orders would be subject to such conditions and as specified by the Exchange from time to time.

A potential trade match shall be subject to validation of limits. A position limit refers to the maximum value of trades that a Trading Member will be permitted to execute on the Trading System. The Exchange may specify from time to time the manner in which all position limits shall apply.

Trades generated on the system are irrevocable and 'locked in'. The Exchange may specify from time to time the Market Types and the manner if any, in which trade cancellation can be effected.

Where a trade cancellation is permitted and Trading Member wishes to cancel a trade, it may be done only with the approval of the Exchange and in the following manner:

- a) The Trading Member wishing to cancel the trade shall initiate a cancellation request to the Exchange. The counter Trading Member to the trade too will have to put in his cancellation request separately.
- b) Where a Trading Member initiates such request the onus shall be on the Trading Member to ensure that he receives a written request from the Constituent.
- c) Where a trade cancellation request(s) comes to Exchange from only one party to trade and is/are pending with the Exchange as a result of it being not confirmed by the counter party to such trade within such time as may be notified by the Exchange, such request may be cancelled at the discretion of the Exchange.
- d) The Exchange shall not consider any request for a trade cancellation after such period after the market close on a Trading Day as may be notified from time to time.
- e) The Exchange shall not give the reasons for rejection or approval of any such trade cancellation request.
- f) The Exchange may cancel a trade suo-moto without any request by either of the parties to the trade at any time without giving any reason thereof which cancellation shall be final and binding upon the parties to the trade. In the event of such cancellation, Trading Member shall be entitled to cancel relative contract(s) with his Constituents.

The Trading Member shall make available to his Constituent the Trading System generated trade number and copies of the trade cancellation slip wherever applicable.

### **5.3 MARGIN REQUIREMENTS**

Subject to the provisions as contained in the Exchange Bye-laws and such other regulations as may be in force, every Clearing Member shall in respect of trades in which he is a party, deposit a margin with Exchange authorities, in the manner and to the extent specified by the Exchange. Whenever a margin is payable by a Clearing Member, it shall pay such margins directly to the Exchange, unless otherwise directed by the Exchange.

The Exchange shall prescribe from time to time the commodities / Derivative Contracts, the Settlement Periods and trade types for which margin would be attracted.

The Exchange shall levy initial margin on Derivatives Contracts using the concept of Value at Risk (VaR) or any other concept as the Exchange may decide from time to time and shall cover one-day loss that can be encountered on the position on 99% of the days.

Additional margins would be levied for deliverable positions, on the basis of VaR from the expiry of the contract till the actual settlement date plus a mark-up for default.

The margin shall be deposited with the Exchange within such time as may be notified by the Exchange from time to time.

The Exchange shall prescribe from time to time such categories of securities that would be eligible for a margin deposit as also the method of valuation and amount of securities that would be required to be so deposited against the margin amount.

The procedure for refund/adjustment of margins will be such as may be notified by the Exchange from time to time.

The Exchange shall from time to time, impose upon any particular Trading Member or category of Trading Member any special or other margin requirement.

On failure to deposit margin/s as required under this clause, Exchange/Clearing House may withdraw the trading facility of the Trading Member.

The Clearing House would release all margins after the payout.

## **5.4 ORDER MANAGEMENT**

### **5.4.1 ORDER TYPE**

The Exchange shall stipulate from time to time, the kinds of orders that a Trading Member can place in the system which may include Normal order, Special Term order, etc. as also the order attributes that he could place thereon.

### **5.4.2 ORDER ATTRIBUTES**

- a) The Exchange shall from time to time allow various order attributes subject to restrictions as prescribed in the trading parameters, which will include
- A. STOP LOSS
  - B. DISCLOSED QUANTITY
  - C. IMMEDIATE OR CANCEL
  - D. GOOD TILL DAY
  - E. GOOD TILL CANCELED
  - F. GOOD TILL DATE
- b) The attributes of special term order shall be specified by the Exchange from time to time and shall include
- (i) MINIMUM FILL
  - (ii) ALL OR NONE
- c) The Exchange shall specify the order types and order attributes permitted for different market types, trade types, trading periods etc.

### **5.4.3 MODIFICATION AND CANCELLATION OF ORDERS**

- a) A Trading Member shall be permitted to modify or cancel his orders, provided a trade has not already taken place in respect of that order.
- b) The order can be modified by effecting changes in the order input parameters in the manner and on such condition as specified by the Exchange.
- c) The modified order shall lose or retain its time priority as per the trading parameter set by the Exchange.

### **5.4.4 ORDER VALIDATION**

Orders entered into the Trading System by Trading Members shall be subject to various validation requirements as prescribed by the Exchange from time to time including trading parameters, turnover limits and/or other restrictions placed on traded commodities / derivatives contracts. The Trading System will

not accept orders that do not meet the validation checks.

#### **5.4.5 MATCHING RULES**

- a) The Exchange shall specify from time to time the kinds of order books that shall be maintained on the system, the order matching algorithms and the matching rules and parameters that shall be followed therein.
- b) The Exchange may modify or change the matching algorithms relevant to any market or order books any time where it is necessary to do so.
- c) Where the Exchange feels that it is in the interests of the market to do so, it may at any time make unavailable any particular order books or forms of matching, in the case of a particular security or Trading Member or to the market as a whole.
- d) Without prejudice to the generality of the above, the order matching rules would include the following:
  - (i) Orders in the Normal market will be matched on price -time priority basis.
  - (ii) The best buy order shall match with the best sell order. For trading on price, the best buy order would be the one with the highest price and the best sell order would be the one with the lowest price.

#### **5.5 CONTRACT NOTE**

Every Trading Member shall issue a contract note to his Constituents for trades executed in such format as specified with all relevant details as required therein to be filled in and issued in such manner and within such time as prescribed by the Exchange.

A contract note shall be signed by a Trading Member or his Authorized signatory or constituted Attorney.

The Contract Notes shall be numbered with unique running serial number commencing from one, which shall be reset only at the beginning of every financial year. In case separate series are maintained in respect of different dealing offices of the Trading Member, then the dealing office name or code shall be prefixed to the serial number.

The contract note shall be time stamped with the time of receipt of order and the time of execution of order. The Contract Note shall be stamped as per Indian Stamp Act.

## **5.6 BROKERAGE**

All the orders entered on the Trading System shall be at prices exclusive of brokerage.

Trading Members shall charge brokerage at rates not exceeding such scale as the Exchange may from time to time prescribe.

A Trading Member shall charge brokerage separately to their Constituents and this shall be indicated separately from the price, in the contract note.

## **5.7 MARGIN FROM THE CONSTITUENTS**

(a) The Trading Members must collect from its Constituents the Margin Deposit that the member has to provide under these Trading Regulations in respect of the business done by the Members for such Constituents.

The Trading Members shall buy / sell derivatives contracts on behalf of the Constituent only on the receipt of margin of minimum such percentage as the Relevant Authority may decide from time to time, on the price of the derivatives contracts proposed to be purchased/sold, unless the Constituent already has an equivalent credit with the Trading Member.

The Trading Member may collect higher margins from the constituents as he deems fit.

The Trading Member shall obtain a written undertaking from the Constituents that the latter shall when called upon to do so forthwith from time to time provide a Margin Deposit and/or furnish additional Margin as required under these Rules and Regulations in respect of the business done for the Constituent by and/or as agreed upon by Constituent with the Trading Member concerned.

The Trading Member shall demand from his Constituents the amounts arising in respect of daily settlement in accordance with the Clearing Corporation Regulations for business done by the members on behalf of such Constituents on such higher amounts, as the Trading Member deems fit. The Trading Member may, if so desire, for administrative convenience maintain the daily settlement margin balance up to a pre-agreed level to avoid collecting and paying daily settlement amount on a daily basis, which may be referred to as maintenance margin.

### **Constituent(s) in default**

In case of non-payment of daily settlement by the Constituent, the Trading Members shall be at liberty to close out transactions by selling or buying the derivatives contracts, as the case may be, unless the Constituent already has

an equivalent credit with the Trading Member. The loss incurred in this regard, if any, shall be met from the margin money of the Constituent.

In case of open purchase position undertaken on behalf of Constituents, the Trading Members shall be at liberty to close out the transactions by selling Derivatives contracts, in case the Constituent fails to meet the obligations in respect of the open position within next trading day of the transaction having been executed. Loss incurred in this regard, shall be met from the margin money of the Constituent.

In case of open sale position undertaken on behalf of Constituents, the Trading Members shall be at liberty to close out the transactions by buying Derivatives contracts, in case the Constituent fails to meet the obligations in respect of the open position within next trading day of the transaction having been executed on the exchange. Loss incurred in this regard, shall be met from the margin money of the Constituent.

A Trading Member shall be liable to furnish the required margin notwithstanding the non-payment of margin by a Client to such Trading Member.

## **6. CONDUCT OF BUSINESS BY TRADING MEMBERS**

### **6.1 OFFICE RELATED PROCEDURE**

No Trading Member shall carry on any activity connected with or pertaining to its operations as a Trading Member of the Exchange in any office or premises, the full address of which has not been intimated to the Exchange with details of the activity proposed to be so carried on therein and the person in whose supervision and control it is to be so carried on.

Each office, department for trading on the NCDEX, shall be under the supervision and control of the Trading Member establishing it and of the personnel delegated with such authority and responsibility in this regard.

Every Trading Member shall ensure that all persons acting in his behalf on the Trading System shall subscribe at all times to high standards of professional expertise and integrity.

Each Trading Member shall at all times maintain such infrastructure, staff, communication facilities and records so as to be able to service his Constituents satisfactorily and as per the requirements enumerated in the Exchange Bye-laws, Rules and Regulations or any other relevant Act(s) in force for the time being.

Where the Exchange feels it necessary, in the public interest to do so, it may at its own instance or on a complaint from another Trading Member or client, seek explanation from the Trading Member regarding the level of service or professional conduct of the Trading Member or any of his staff where such service or conduct has been found unsatisfactory or contrary to principles enumerated in the Exchange Bye-laws, Rules and Regulations, or notifications, directions or circulars issued there under.

### **6.2 SUPERVISION**

#### **6.2.1 PROCEDURES TO BE FOLLOWED**

- a) Each Trading Member shall establish, maintain, and enforce procedures to supervise its business and to supervise the activities of its employees that are reasonably designed to achieve compliance with the NCDEX Bye-laws, Rules and Regulations and any notifications, directions etc. issued there under as well as the relevant statutory Acts.
- b) The Trading Member for the purpose of better control may, if it so desires, maintain an internal record of the names of all persons who are designated

as supervisory personnel and the dates for which such designation is or was effective.

- c) Every Trading Member shall specifically authorize in writing person or persons, who may be authorized to transact on behalf of the Trading Member and to do such acts which Trading Member may wish to delegate to such person and make available a copy of such power of attorney to the Exchange before such person transacts any business on the Exchange.
- d) A Trading Member shall maintain such records and make available to inspection by any person authorized in this behalf by the Exchange, the information related to such Trading Member's financial condition as prescribed by the Exchange for this purpose.
- e) The Trading Member shall pay such fees, charges and other sum as the Exchange may notify from time to time, in such time and manner as required by the Exchange.
- f) The Trading Member must inform the Exchange of any change in the status and constitution, operation and activities of the Trading Member

#### **6.2.2 INTERNAL INSPECTIONS**

Each Trading Member shall conduct a review, at least annually, of the business in which it engages, which shall be reasonably designed to assist in detecting and preventing violations of and achieving compliance with Bye Laws, Rules and Regulations.

#### **6.2.3 WRITTEN APPROVAL**

Each Trading Member shall establish procedures for the review and endorsement by an appropriate senior officer in writing, on an internal record, of all transactions and all correspondence of its employees pertaining to the solicitation or execution of any commodities transaction.

#### **6.2.4 QUALIFICATIONS INVESTIGATED**

Each Trading Member shall have the responsibility and duty to ascertain the good character, business repute, qualifications and experience of any person prior to making such certification in the application of such person for registration with the Exchange as User.

#### **6.3 RELATION WITH THE CONSTITUENTS**

Every Trading Member shall enter into an agreement with each of his Constituents, before accepting or placing orders on the Constituent's behalf.

Such agreement shall include provisions specified by the Exchange in this behalf (**Annexure C**). The Exchange may categorize Constituents into such types as may be necessary for the above purpose and specify the clauses to be included in agreements to be entered into by the Trading Member depending on the category of such Constituent. However the Trading Member's responsibility shall not in any way reduced due to non-execution of agreement with the Constituent.

When establishing a relationship with a new client, Trading Members must take reasonable steps to assess the background, genuineness, financial soundness of such person and his investment objectives (**Annexure E**). The Trading Member shall obtain from all corporate Constituents an approved copy of the Board resolution permitting trading in derivatives

Trading Member shall make the Constituent aware of the precise nature of the Trading Member's liability for business to be conducted, including any limitations on that liability and the capacity in which the Trading Member acts and the Constituents' liability thereon.

The Trading Member shall make the Constituent aware of the risk associated with the business in derivatives trading including any limitations on the liability and the capacity in which the Trading Member acts and the Constituent's liability thereon by issuing to the Constituent a copy of the Risk Disclosure Document as specified in the (**Annexure D**) The Risk Disclosure Document shall be duly signed by the Constituent and maintained and retained by the Trading Member retain in its records for such period as the Exchange may specify.

The Trading Member shall provide extracts of relevant provisions governing the rights and obligations of Constituents as Constituents of Trading Members as prescribed in the Bye-laws, Rules and Regulations, relevant manuals, notifications, circulars, any additions or amendments thereto etc. of the Exchange, or of any regulatory authority, to the extent it governs the relationship between Trading Members and Constituents, to the Constituents at no extra cost. The Trading Member shall also bring to the notice of his Constituents, including Participants any indictments, penalties etc. imposed on him by the Exchange or any other regulatory authority.

Recommendations to the Trading Member:

- a) A Trading Member shall make adequate disclosures of relevant material information in its dealing with his Constituents.
- b) No Trading Member or person associated with the Trading Member shall guarantee a Constituent against a loss in any commodities transactions effected by the Trading Member with or for such Constituent.

#### **6.4 GUIDELINES GOVERNING RELATIONSHIP BETWEEN TRADING MEMBER AND CONSTITUENT**

The Trading Member shall not recommend to the Constituent a sale or purchase of commodities or derivatives contracts traded on the Trading System, unless he has reasonable grounds to believe that such recommendation is suitable for the Constituent on the basis of the facts, if any, disclosed by the Constituent, whether in writing or orally, regarding the Constituent's commodity holdings, financial soundness and investment objectives.

The Trading Member shall make adequate disclosures of relevant material information in dealing with the Constituent including the current best price of trade and trade or order quantities on the Trading System, as also any allocation policy inter se Constituents, any relevant announcement from the Exchange relating to margin, trading restrictions as to price, quantity or where the Trading Member is the counter party to a trade executed on the Trading system with the Constituent.

The Trading Member shall not furnish any false or misleading information or advice with a view to inducing the Constituent to do business in particular Spot / Derivatives Contracts and which will enable the Trading Member to gain thereby.

The Trading Member shall explain the Trading System and order matching process to the Constituent before accepting any orders from him.

Where the Constituent requires an order to be placed or any of his order to be modified after the order has entered the system but has not been traded, the Trading Member may, if it so desires, obtain order placement/modification details in writing from the Constituent. The Trading Member shall accordingly provide the Constituent with the relevant order confirmation/modification slip or copy thereof, forthwith, if so required by the Constituent.

Where the Constituent requires any of his orders to be cancelled after the order has been entered in the system but has not been executed, the Trading Member may, if it so desires, obtain the order cancellation details in writing from the Constituent. The Trading Member shall accordingly provide the Constituent with the relevant order cancellation details, forthwith, if so required by the Constituent.

The Trading Member may, if it so desires, obtain in writing, the delivery and payment requirement in any instructions of an order that it receives from the Constituent. Where a Trading Member receives a request for order modification

or order cancellation from the Constituent, it shall duly bring it to their notice that if the order results in a trade in the meantime, the requests for modification or cancellation cannot be executed.

The Trading Member shall not accumulate Constituent's order / unexecuted balances of order. The Trading Member shall place forthwith all orders on the trading system

The Trading Member agrees to act promptly in accordance with instructions provided by the Constituent, unless it has a discretion as to timing in which case it must exercise its judgment as to the best moment.

The Trading Member shall provide Constituent with a copy of the trade confirmation slip as generated on the Trading System forthwith on execution of the trade, if so desired by the Constituent.

The Trading Member shall at all times keep the moneys of the Constituent in a separate bank account.

Where the Trading Member is required to pay margin money on transaction executed on behalf of the Constituent, it shall collect the same from the Constituent in such form and manner as may be prescribed by NCDEX.

Where the Constituent requires an executed trade to be cancelled, the Trading Member shall obtain a written request for trade cancellation from the Constituent. In all instances of trade cancellation requests, the member shall explain to the Constituent that the right to approve or reject such trade cancellation requests rests with the Exchange.

The Trading Member shall make pay out of funds or delivery of commodities, as the case may be, to the Constituent within 24 hours of receipt of the payout from the Exchange.

## **6.5 GENERAL PRINCIPLES**

- a) **Professionalism:** A Trading Member in the conduct of his business, shall observe high standards of commercial honor of just and equitable principles of trade.
- b) **Adherence to Trading Practices:** Trading Members shall adhere to the Rules, Regulations and Byelaws of the Exchange and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the Relevant Authority as may be applicable from time to time.
- c) **Honesty and Fairness:** In conducting his business activities, a Trading Member shall act honestly and fairly, in the best interests of his Constituents.

- d) **Capabilities:** A Trading Member shall have and employ effectively the resources and procedures, which are needed for the proper performance of his business activities.

## **6.6 TRADING PRINCIPLES**

- a) Trading Members shall ensure that the fiduciary and other obligations imposed on them and their staffs by the various statutory Acts, Rules and Regulations are complied with.
- b) Trading Members shall ensure
- (i) that any employee who commits the Trading Members to a transaction has the necessary authority to do so
  - (ii) that employees are adequately trained in operating in the relevant market segment in which they deal, are aware of their own, and their organization's responsibilities as well as the relevant Statutory Acts governing the Trading Member, the Rules, Regulations and Byelaws of the Exchange including any additions or amendments thereof.
- c) Trading Member shall be responsible for all the actions including trades originating through or with the use of all following variables -Trading Member Id, User Id, valid User password at that point of time. However if the Trading Member satisfies the Exchange that the action(s) and /or trade(s) took place due to fraud or misrepresentation by any other person other than his authorized person(s) and that the action(s) and/or trades did not originate from any of his approved workstations, the Exchange may issue such directions as it considers just and reasonable. The directions may include referring the matter to arbitration and/or annulment of trade(s) so effected.
- d) When entering into transactions on behalf of Constituents, the Trading Members shall ensure that they abide by the Code of Conduct and regulations as enumerated in the current chapter of these regulations.
- e) No Trading Member or person associated with a Trading Member shall make improper use of Constituent's commodities or funds.
- f) No Trading Member shall publish and circulate or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service or communication of any kind which purports to report any transaction as a purchase or sale of any commodity unless such Trading Member can establish if called for that such transaction was a bonafide purchase or sale of such contract or which purports to quote the purchase/sale price for any contract such Trading Member can establish if called for that such quotation represents a bonafide order of such derivatives contracts
- g) When entering into or arranging transactions, Trading Members must ensure that at all times great care is taken not to misrepresent in any way the

nature of transaction.

- h) No Trading Member shall exercise any discretionary power in a client's account unless such client has given prior written authorization to a stated individual or individuals and the account has been accepted by the Trading Member, as evidenced in writing by the Trading Member.
- i) A Trading Member shall not act as a principal or enter into any agreement or arrangement with a client or client's agents, employees or any other person connected to the client, employee or agency, whereby special or unusual rates are given with intent to give special or unusual advantage to such client for the purpose of securing his business.
- j) The Trading Member shall not disclose the name and beneficial identity of a Constituent to any person except to the Exchange, Clearing House, Regulator, and concerned Clearing Member any enquiry or inspection authority as required by law as and when asked for and as may be required by the Exchange from time to time.

## **6.7 GENERAL GUIDELINES**

A Trading Member shall desist from the following trading practices while conducting business on the Exchange.

- 1) **Shielding or Assisting:** No Trading Member shall shield or assist or omit to report any Trading Member whom he has known to have committed a breach or evasion of any Rules, Bye-Laws or Regulations of the Exchange or of any resolution, order, notice or direction there under of the Governing Board or the Managing Director or of any committee or officer of the Exchange authorized in that behalf.
- 2) **Misleading Transactions:** A Trading Member shall not-
  - (i) make bids and/or offers for commodities with an intention of creating a false or misleading appearance with respect to the market for, or the price of any commodity or;
  - (ii) make a transaction or give an order for the purchase or sale of commodities, the execution of which would involve no change of beneficial ownership, unless the Trading Member had no knowledge that the transaction would not involve a change in the beneficial ownership of derivatives contracts.
- 3) **Use of information obtained in Fiduciary Capacity:** A Trading Member who in the capacity of paying agent, transfer agent, trustee, or in any other similar capacity, has received information as to the ownership of derivatives contracts, shall under no circumstances make use of such information for the purpose of soliciting purchases and sales.

## **6.8 UNFAIR TRADING PRACTICES**

No Trading Member shall buy, sell or deal in Derivatives Contracts in a fraudulent manner, or indulge in any unfair trade practices including market manipulation

Without prejudice to the generality of the provisions contained, no Member shall indulge in market manipulation:

Effect, take part either directly or indirectly in transactions, which are likely to have effect of artificially, raise or depress the prices of Spot / Derivatives Contracts

Indulge in any act, which is calculated to create a false or misleading appearance of trading, resulting in reflection of prices, which are not genuine

No Trading Member shall buy, sell commodities / contracts on his own behalf or on behalf of a person associated with him pending the execution of the order of his constituent or of his company or director for the same contract.

Delay the transfer of commodities in the name of the transferee.

Indulge in falsification of his books, accounts and records for the purpose of market manipulation.

When acting as an agent execute a transaction with a Constituent price other than the price at which it was executed on the exchange

Either takes opposite position to an order of a Constituent or shall execute opposite orders which he is holding in respect of two Constituents except in the manner laid down by the Exchange

## **7. RECORDS ANNUAL ACCOUNTS AND AUDIT**

### **7.1 RECORDS**

Every Trading Member shall comply with all relevant statutory Acts, including Forward Contracts (Regulation) Act, 1952 and Rules, Regulations and guidelines there under, and the requirements of and under any notifications, directives and guidelines issued by the Central Government and any statutory body or local authority or any body or authority acting under the authority or direction of the Central Government relating to maintenance of accounts and records.

In addition to the requirements as per Regulation above, every Trading Member of the Exchange shall comply with the following requirements and such other requirements as the Exchange may from time to time notify in this behalf relating to books of accounts, records and documents in respect of his membership and trading on the Exchange.

Every Trading Member of the Exchange shall maintain the following records relating to its business for a period of five years either in hard form or non-temperable soft form:

- a) Statements of fund and commodities obligations received from the clearinghouse.
- b) Records in respect of Premium / Discount and final settlement amounts including taxes and charges on commodities of constituents.
- c) Records in respect of brokerage collected separately from Constituents.
- d) Register of transaction (or other records of original entry) containing an itemized daily record of all purchases and sales of commodities / contract, showing for each such transaction effected, the name of commodities, value of commodities, rates both gross and net of brokerage and name of Constituents.
- e) Register or Ledger Account of Commodities, Constituent wise and Commodity wise, giving, inter alias, the following details viz. date of receipt of the Commodity, quantity received, party from whom received, purpose of receipt, date of delivery of the Commodity, quantity delivered, party to whom delivered and purpose of delivery and a separate register or ledger in respect of its own commodities or in the manner as may be specified by the Exchange.

Every Trading Member of the Exchange may for the purpose of better internal control and management, if it so desires, also maintain the following records relating to its business:

- a) Order confirmation slips, Order modification slips as obtained from the trading system of the Exchange
- b) Trade confirmation slips as obtained from the trading system of the Exchange

- c) Record of all statements received from the settling agencies and record of all correspondence with them.
- d) Order Book reflecting the following
  - (i) identity of person receiving the order
  - (ii) date and time of order received
  - (iii) name of person placing the order
  - (iv) name of Constituent, description and value of securities to be bought and sold
  - (v) terms and conditions of the order stating particularly price/rate limit
  - (i) or price/rate related instructions and time limit on the order (if any)
  - (vi) the Trading system order number as per the trading system of the Exchange or Trading Member order number as the case may be.
  - (vii) any modification or cancellation thereof including cases when it is cancelled by the system or cancelled due to maturity of an instrument.
  - (viii) if executed, the price/rate at which executed and to the extent feasible, the time of execution or cancellation and trade number as per the trading system of the Exchange.
  - (ix) Reference number of the contract issued in case of executed orders.
  - (x) orders entered pursuant to the exercise of discretionary power shall be so designated.
  - (xi) entries of orders shall be serially numbered.
- e) Reports produced from the trading system like Order log and Trades Done Today
- f) Copies of all instructions obtained in writing from Constituents including Participants for an order placement, order modification, order cancellation, trade cancellation, etc.

Trading Members shall maintain and preserve for a period of seven years a mapping of client IDs used at the time of order entry in the trading system with those unique client IDs along with client name, address and other particulars given in the Know Your Client form.

- a) Every Trading Member shall keep such books of accounts, as will be necessary, to show and distinguish, in connection with his business as a Trading Member:
  - (i) The moneys received from or on account of and moneys paid to or on account of each of his clients and,
  - (ii) The moneys received and the moneys paid on Trading Member's own account.

- b) It shall be compulsory for all Trading Members to keep the money of the clients in a separate account and their own money in a separate account. No payment for transaction in which the Trading Member is taking a position as a principal will be allowed to be made from the client's account.
- c) The transfer from client's account to Trading Member's account shall be allowed under circumstances enumerated below:
- (i) **Obligation to pay money into "Clients account":** Every Trading Member who holds or receives money on account of a client shall forthwith pay such money to current or deposit account at bank to be kept in the name of the Member in the title of which the word "Clients" shall appear (hereinafter referred to as "Clients Account"). Trading Member may keep one consolidated clients account for all the clients or accounts in the name of each client, as he thinks fit; provided that when a Trading Member receives a cheque or draft representing in part money belonging to the client and in part money due to the Trading Member, he shall pay the whole of such cheque or draft into the clients account and effect subsequent transfer as laid down below in para (iii. B).
- (ii) **Moneys to be paid into "clients account":** No money shall be paid into clients account other than:
- A. money held or received on account of clients;
  - B. such moneys belonging to the Trading Member as may be necessary for the purpose of opening or maintaining the account;
  - C. money for replacement of any sum, which may by mistake or accident have been drawn from the account;
  - D. a cheque or draft received by the Trading Member representing in part money belonging to the client and in part money due to the Trading Member.
- (iii) **Moneys to be withdrawn from "clients account":** No money shall be drawn from clients account other than
- A. money properly required for payment to or on behalf of clients for or towards payment of a debt due to the Member from clients or money drawn on client's authority, or money in respect of which there is a liability of clients to the Trading Member, provided that money so drawn shall not in any case exceed the total of the money so held for the time being for such each client;
  - B. such money belonging to the Trading Member as may have been paid into the client account under para (ii. B) and (ii. D) above money, which may by mistake or accident have been paid into such account.
- (iv) **Right to lien, set-off etc., not affected:** Nothing in this para 1 shall deprive a Trading Member of any recourse or right, whether by way of lien, set-off, counter-claim charge(s) or otherwise against moneys

standing to the credit of clients account.

d) Every Trading Member shall send to his Constituents a complete 'Statement of Accounts' for both funds and commodities in such periodicity not exceeding six months within a month of the expiry of the said period. The Statement shall also state that the client shall report errors, if any, in the Statement within 30 days of receipt thereof to the Trading Member.

e) The Trading Members shall keep a separate ledger account for each client in respect of the transactions on the Exchange and shall not mingle such account with the account of the client in respect of transactions of any other stock exchange or any other transaction, which the Trading Member may enter into with such client.

Every Trading Member shall maintain permanently copies of agreements executed with each of its Constituent in accordance with the Exchange requirements.

Every Trading Member shall maintain permanently copies of agreements executed with each of the settling agencies or banks.

Every Trading Member shall maintain record of all relevant particulars of persons, which are approved as Users by the Exchange.

Every Trading Member shall maintain originals of all communications received and copies of all communications sent by such Trading Member (including interoffice memo and communications) relating to its business as such.

Every Trading Member shall maintain all guarantees of accounts and all powers of attorney and other evidence of the granting of any discretionary authority given in respect of any account and copies of resolutions empowering an agent to act on behalf of a Trading Member.

Every Trading Member shall maintain all written agreements (or copies thereof) entered into by that Trading Member relating to its business as such, including agreements with respect to any account.

Every Trading Member shall preserve for a period of not less than six years after the closing of any Constituent's account any records which relate to the terms and conditions with respect to the opening and maintenance of such account, date of entering into agreement with the Constituent, date of modification thereof, date of termination and representatives of such Constituent who signed in each case.

A Trading Member shall intimate to the Exchange the place where these records are kept and available for audit/inspection.

The above requirements relating to maintenance of records shall apply not only

to records of the Trading Member's principal office but also to those of any branch office and to any nominee company owned or controlled by a Trading Member for the purpose of conducting the business of the Trading Member.

Each Trading Member shall keep and preserve a record of all written complaints of its Constituents showing the reference number of Constituent, date, Constituent's name, particulars of the complaints, action taken by the Trading Member, if the matter is referred to arbitration to the Exchange then the particulars thereof.

Every Trading Member shall maintain details of securities which are the property of a Trading Member showing with whom they are deposited and if held otherwise than by the member, whether they have been lodged as collateral security for loans or advances.

Every Trading Member shall keep copies/duplicates of Contract Notes issued by the Trading Member and details of any statements, which are required by these Rules to appear on Contract Notes.

## **7.2 ANNUAL ACCOUNTS AND AUDIT**

- 1) Each Trading Member shall prepare annual accounts for each financial year ending on 31st March or such other date as advised to the Exchange.
- 2) The Assets and Liabilities of the Trading Member's business shall be brought into account in the balance sheet at such amounts and shall be classified and described therein in such manner that the balance sheet gives a true and fair view of the state of affairs of such business as at the date to which it is made up.
- 3) Each Trading Member shall furnish to the Exchange, its audited financial statement and such report shall be furnished not later than six months after the end of the Trading Member's financial year, provided that when the Exchange is satisfied that circumstances warrant an extension of time is necessary to furnish such report, it may grant an extension of such time as it may deem fit.

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## **B: CLEARING REGULATIONS**

## **8 TYPES OF DEALS**

### **8.1 DEALS, TRANSACTIONS, DEALINGS AND CONTRACTS**

For the purpose of these Regulations the terms 'deals', 'transaction', 'dealing', and 'contract' shall have one and the same meaning unless the context indicates otherwise.

### **8.2 EXTENSION OR POSTPONEMENT OF CONTRACTS BY THE EXCHANGE**

Notwithstanding anything to the contrary contained in these Regulations, NCDEX may from time to time extend or postpone the time for performance of contracts in any commodity or commodities whenever in its opinion such action is called for and any such opinion of NCDEX shall be final and binding.

### **8 A PROCEDURE AND MANNER OF CLEARING AND SETTLEMENT**

<sup>1</sup> Notwithstanding anything to the contrary contained in the Clearing Regulations, the Relevant Authority, with the prior approval of Forward Markets Commission or pursuant to any directives of the Forward Markets Commission, may notify separate procedure and manner for clearing and settlement of derivative contracts in any or all the commodities including procedure and manner of physical deliveries. The procedure and manner of clearing and settlement (including settlement by physical delivery) notified under this provision shall be binding on the members and constituents and in the event of any conflict in the procedure and manner so notified and the procedure and the manner prescribed in any other Regulation herein, the procedure and manner notified under this provision shall prevail to the extent of such conflict. The procedure and manner of clearing and settlement as referred in this clause shall include timings prescribed for performance of requisite activities related thereto.<sup>1</sup> <sup>1</sup>

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<sup>1</sup> inserted on February 8, 2007 vide circular no. NCDEX/LEGAL-002/2007/026

## **9. PROCEDURE FOR SETTLEMENT OF DEALS**

### **9.1 ELIGIBILITY OF DEALS FOR SETTLEMENT**

All deals executed on the Exchange shall be cleared and settled by the Trading Members on the Settlement Date by the Trading Members themselves as Clearing Members or through other Professional Clearing Members in accordance with these Regulations, Bye Laws and Rules of the Exchange.

### **9.2 LAST DAY OF TRADING**

<sup>3</sup> The last trading day (LTD) for a derivative contract in any commodity would be the date as specified in the respective contract specification. In the event of a sudden or unexpected closure of the physical/spot market in the underlying commodity on the last trading day or for a longer duration contiguous to and inclusive of LTD, the Exchange may, in consultation with the Forward Markets Commission, modify the last trading day or decide any course of action for settlement of such derivative contract/s or may settle such derivative contracts in accordance with the direction or guidelines of the Forward Markets Commission.<sup>3</sup>

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<sup>1</sup> Substituted on January 11, 2006 - Last trading day for a Derivative Contract in any Commodity would be the date as specified in the respective Commodity Contract and If the Last trading day as specified in the respective commodity contract is holiday, the last trading day shall be the previous working day of Exchange.<sup>1</sup>

<sup>2</sup> substituted on July 13, 2004 -- Three trading days prior to the expiry date of Contracts (inclusive of the expiry date) or any other period(s) as may be prescribed by the Relevant Authority from time to time, the Trading Members/Clearing Members shall give delivery information as prescribed by the Exchange from time to time and in the event of failure of any Trading Member/Clearing Member to submit such information during the said period for the corresponding Contracts, the deals shall have to be settled as per the Settlement Calendar applicable to such deals, in cash together with penalty as may be stipulated by the Exchange from time to time.<sup>2</sup>

<sup>3</sup> Substituted on August 29, 2008 -

### **9.3 DELIVERY**

On the Expiry date of Contracts, the Trading Members/Clearing Members shall give delivery information as prescribed by the Exchange from time to time and in the event of failure of any Trading Member/Clearing Member to submit such information during the trading hours on the Expiry date for the corresponding Contracts, the deals shall have to be settled as per the Settlement Calendar applicable to such deal, in cash together with penalty as may be stipulated by the Exchange from time to time.

#### **9.3.1 THROUGH CLEARING HOUSE**

<sup>1</sup> Three trading days prior to the expiry date of Contracts (inclusive of the expiry date) or any other period(s) as may be prescribed by the Relevant Authority from time to time, the Exchange would provide during the trading hours, a window on its Trading System for members to submit delivery information for all their open positions. On the expiry date, the window would be closed at such time, as may be prescribed by the relevant authority from time to time.<sup>1</sup>

After the trading hours on the expiry date, based on the available information, the matching for deliveries would take place firstly, on the basis of locations and then randomly keeping in view the factors such as available capacity of the vault/warehouse, commodities already deposited and dematerialized and offered for delivery and any other factor as may be specified by the Exchange from time to time. Matching done by aforesaid process shall be binding on the Clearing Members. After completion of the matching process, Clearing Members would be informed of the deliverable / receivable positions and the unmatched positions. Unmatched positions shall have to be settled in cash. The cash settlement would be only for the incremental gain / loss as determined on the basis of Final Settlement Price.

All matched and unmatched positions shall be settled in accordance with the applicable Settlement Calendar.

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<sup>1</sup> Substituted on July 13, 2004 for the earlier following provision -  
On the expiry date, during the trading hours, the Exchange would provide a window on Trading System to submit delivery information for all open positions.

### **9.3.2 OUTSIDE CLEARING HOUSE**

The Exchange may allow an alternate mode of settlement between the Constituents directly provided that both the Constituents through their respective Clearing Members notify the Exchange before the closing of trading hours on the expiry date, their preferred identified counter-party and deliverable quantity, along with details as may be prescribed by the Exchange. The Exchange shall not be responsible or liable for such settlement or any consequence of such alternate mode of settlements. If the information provided by the buyer / seller Clearing Members fail to match, then the open position would be settled in cash together with penalty as may be stipulated by the Exchange from time to time.

### **9.3.3 EARLY PAY-IN**

The Clearing Members may be allowed to deliver their obligations before the Pay in date as per applicable Settlement Calendar, to the Clearing The Exchange may specify the parameters and methodology for Premium / discount, as the case may be, from time to time for the quality/quantity differential, sales tax, taxes, government levies/fees if any. Pay in/Pay out for such additional obligations shall be settled on the Supplemental Settlement Date as specified in the Settlement Calendar.

### **9.3.4 ADDITIONAL CREDIT/DEBITS**

The Exchange may specify the parameters and methodology for Premium/discount as the case may be, from time to time for the quality/quantity differential, sales tax, taxes, government levies/fees if any. Pay-in / Pay-out for such additional obligations shall be settled on the Supplemental Settlement Date as specified in the Settlement Calendar.

## **9.4 PROCEDURE FOR PAYMENT OF SALES TAX/VAT**

Exchange shall prescribe procedure for payment of Sales Tax/VAT or any other state/local/Central tax/fee applicable to the deals culminating into sale with physical delivery of commodities.

### **9.4.1 REGISTRATION WITH SALES TAX AUTHORITIES**

All Members shall ensure that their respective Constituents, who intend to take or give delivery of commodity, are registered with Sales Tax authorities of all such States in which Exchange has a Delivery center for particular commodity in which Constituent has or expected to have or deemed to have open positions. Members shall maintain records/details of Sales Tax registration of each of such Constituent and furnish the same to the Exchange as and when required.

#### **9.4.2 PAYMENT OF SALES TAX / VAT**

Seller shall be responsible for payment of Sales Tax/VAT, however The Seller shall be entitled to recover from the buyer, the sales tax and other taxes levied under the local State sales tax law to the extent permitted by law. In no event the Exchange/Clearing House shall be liable for payment of Sales Tax/VAT or any other local tax, fees, levies etc.

#### **9.4.3 INFORMATION SUBMISSION RELATING TO SALES TAX/VAT TO THE EXCHANGE**

Clearing Members shall be solely and fully responsible for collection and verification of Sales Tax information relating to applicability of Sales Tax/VAT, Exemptions and/or Concessions claimed, Rate of tax to be levied, from their delivering and/or receiving Constituent, as the case may be, and furnishing the same to the Exchange for Settlement purposes within the time limit as specified by the Exchange from time to time.

#### **9.4.4 RAISING OF INVOICE AND DETERMINATION OF SALE VALUE**

Seller shall raise an Invoice as required by Sales Tax laws for the deal made on the Exchange. For the purpose of raising invoice, Sale price shall be calculated as per Final Settlement Price net of Premium/Discount, if any, applicable for Quality and Quantity of commodities delivered or as notified by the Exchange from time to time.

#### **9.4.5 DISPUTES RELATING TO INCORRECT SALES TAX/VAT INFORMATION / DOCUMENTS FOR COMMODITIES DELIVERED / RECEIVED**

- a) In case where a Constituent taking / receiving delivery deems the Sales tax information / documents for commodities delivered / received is/are not correct or insufficient, the said Constituent may file a complaint regarding such cases with the Exchange.
- b) The party taking / receiving delivery shall file the complaint about incorrectness or insufficiency of any information with regard to Sales Tax/VAT, if any, not later than 7 business days following the supplemental pay-in / pay-out day as specified in the Settlement Calendar. If no such complaint is received by the Exchange from the Member / Constituent as aforesaid, it shall be deemed conclusively that all the requisite information have been exchanged between the selling and buying Constituents.
- c) Upon receiving the complaint, the Exchange shall determine the extent of incorrectness and notify the Members representing parties to delivery / receipt, of the results of determination.
- d) If the Exchange decides upon the complaint that the commodities for delivery / receipt to have inappropriate or insufficient Sales Tax/VAT information for delivery / receipt, the Exchange shall cause the party making / accepting delivery, as the case may be, to furnish proper information as required by under applicable Sales Tax laws / rules. The Exchange may also levy a penalty for each failures.
- e) The Exchange may impose a penalty on a Clearing Member responsible for the supply of information, which is not correct or insufficient, such penalty and other charges as it may prescribed from time to time in this regard.

#### **9.4.6 FAILURE TO SUBMIT SALES TAX INFORMATION**

In the event of failure to submit Sales Tax information to the Exchange within period stipulated in the Settlement Calendar, then there would not be any supplemental pay-in / pay-out date as specified in the Settlement Calendar on account of Sales Tax.

#### **9.4.7 MAINTENANCE OF RECORDS**

Clearing Members shall maintain proper records relating to Sales Tax which include but not limited to maintenance of:

- a) Registration with Sales Tax Authorities for Constituents
- b) Sales Tax/VAT related details on deals made through Exchange by Constituents
- c) Details of Information / Documents required under Sales Tax laws and furnished to respective Buyer / Seller for deals executed on Exchange

#### **9.5 PENALTIES FOR DEFAULTS**

<sup>1</sup> In the event of a default by the seller or the buyer in delivery of commodities or payment of the price, the Exchange would close out the derivatives contracts and would impose penalties on the defaulting seller or buyer, as the case may be, and also to use the margins deposited by such a Clearing Member to recover the loss. The settlement for such trades would be in cash within such period and in such manner with such penalty and/or charges as may be prescribed by the Relevant Authority of the Exchange from time to time.<sup>1</sup>

#### **9.6 PROCESS OF DEMATERIALIZATION**

Dematerialization refers to issue of an electronic credit, instead of a vault/warehouse receipt, to the depositor against the deposit of Commodity. Any person (a Constituent) seeking to dematerialize a commodity would have to open an account with approved Depository Participant (DPs). The Exchange would provide the list of approved DPs from time to time.

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<sup>1</sup> Substituted on September 15, 2004 for the earlier following provision -

In the event of a default by the seller or the buyer in delivery of commodities or payment of the price, the Exchange would close out the derivatives contracts and would impose penalties on the defaulting Buyer or Seller, as the case may be, and also use the margins deposited by such Clearing Member to recover the loss. The settlement for the defaults in delivery would be in cash within period as prescribed by the Exchange at the highest price from the last Trading Date till the Final Settlement Date with a mark up thereon as may be decided by Relevant Authority from time to time.

In case of commodities (other than Precious Metals) the Constituent shall deliver the commodity to the Exchange-approved warehouses. The commodity brought by the Constituent would be checked for the quality by the Exchange-approved Assayers before the deposit of the same is accepted by the Warehouse. If the quality of the commodity is as per the norms defined and notified by the Exchange from time to time, the Warehouse shall accept the commodity and send confirmation in the requisite format to the R & T Agent who upon verification, shall confirm the deposit of such commodity to the Depository for giving credit to the Demat account of the said Constituent.

In case of Precious Metals, the commodity shall be accompanied with the Assayers' certificate and, the Vault would accept the Precious Metal, after verifying the contents of Assayers certificate with the Precious Metal being deposited provided there is no apparent suspicion about the genuineness of the Assayers Certificate and the Precious Metal is as per norms specified by the Exchange from time to time.

On acceptance, the Vault would issue an acknowledgement to the Constituent and send confirmation in the requisite format to the R & T Agent who upon verification, shall confirm the deposit of such Precious Metal to the Depository for giving credit to the Demat account of the said Constituent.

## **9.7 VALIDITY DATE**

In case of Commodity having Validity Date assigned to it by the approved Assayer, the delivery of the said Commodity upon expiry of Validity Date shall be not considered as a good delivery. The Clearing Member shall ensure that his concerned Constituent removes the commodities on or before the expiry of Validity Date for such commodities.

For the Depository, commodities, which have reached the trading Validity Date, would move out of the electronic deliverable quantity. Such commodity would be suspended from delivery. Constituent shall rematerialize such quantity and remove the same from the warehouse. Failure to remove deliveries after the validity date from warehouse shall be levied with penalty as specified by the Relevant Authority from time to time.

## **9.8 PROCESS OF RE-MATERIALIZATION**

Re-materialization refers to issue of physical delivery against the credit in the Demat account of the Constituent. The Constituent seeking to rematerialize his commodity holding shall have to make a request to his DP in prescribed format and the DP would route his request through the depository system to the R & T Agent who shall issue the authorization addressed to the Vault / Warehouse to release physical delivery to the said Constituent. The Vault/Warehouse on receipt of such authorization shall release the commodity to the Constituent or Constituent's authorized person upon verifying the identity. Provided that re-materialization and physical delivery of the commodities will take place at the location indicated by the

Clearing Member at the time of providing delivery information. The Constituent shall not be entitled to receive delivery of the commodities at any other location.

### **9.9 DELIVERY THROUGH THE DEPOSITORY CLEARING SYSTEM**

Delivery in respect of all Deals for the Clearing in commodities shall be through the Depository Clearing System. The delivery through the Depository Clearing System into the account of the buyer with the Depository Participant shall be deemed to be delivery notwithstanding that the commodities are located in the warehouse along with the commodities of other Constituents

### **9.10 PAYMENT THROUGH THE CLEARING BANK**

Payment in respect of all Deals for the Clearing shall be made through the Clearing Bank(s); Provided however that the deals of Sales and Purchase executed between different Constituents of the same Clearing Member in the same Settlement, shall be offset by process of netting to arrive at Net Obligations.

### **9.11 PRIVACY OF CONTRACT**

For the limited purpose of the Bye laws, Rules and Regulations, the Exchange shall deem the Members giving and receiving delivery as provided in these Regulations, notwithstanding that no direct contract may exist between them, to have made a contract with each other as sellers and buyers. However the rights and liabilities of such Clearing Members in relation to their Constituents shall not be deemed to be affected thereby except that the selling Clearing Member shall be (unless he be himself the delivering Member) released from all responsibility in regard to the title, ownership, genuineness, regularity and validity of the documents received by the receiving Clearing Member and in regard to the loss and damages arising there from which shall be dealt with in accordance with the Regulations, Bye Laws and Rules of the Exchange.

### **9.12 CONTRACTS SUBJECT TO CHANGE IN SETTLEMENT PROCEDURE**

The Exchange may at any time through a notice in that behalf bring into effect in respect of all or any Deals entered into or to be entered into in all or any of the commodity futures contract, any substitution of or any additions to, deletions from or variations, alterations or amendments in any settlement procedure or in any clearing process or in the time or the forms prescribed therefore.

### **9.13 CLEARING DAYS AND SCHEDULED TIMES**

The Relevant Authority shall from time to time fix the various clearing days, the Pay-in and Pay-out days and the scheduled time to be observed in connection with the clearing and settlement operations of Deals in commodities / futures contracts. The Relevant Authority may specify different schedules for any or all Clearing Members from time to time.

#### **9.14 ALTERATION OF CLEARING AND CLEARING DAYS AND TIMES**

The Relevant Authority may at any time curtail, extend, alter or postpone to any other date or dates the entire Clearing or any or all of the various clearing days in respect of any or all of the Commodities/ futures contracts/Deals.

#### **9.15 CLEARING AND SETTLEMENT PROCESS**

The Relevant Authority shall prescribe the process from time to time for the functioning and operations of the Clearing House and to regulate the functioning and operations of the Clearing House, which shall be deemed to form a part of any settlement process so provided. The Relevant Authority may specify different process and procedures for clearing and settlement for any or all Clearing Members from time to time.

#### **9.16 SETTLEMENT OBLIGATIONS STATEMENTS FOR TRADING CLEARING MEMBERS**

Exchange shall generate and provide to each Trading Clearing Member, Settlement Obligations Statements showing the quantities of the different kinds of commodities for which delivery/ deliveries is/ are to be given and/or taken and the funds payable or receivable by him in his capacity as Clearing Member and by professional Clearing Member for deals made by him for which the said Clearing Member has confirmed acceptance to settle. The Obligations Statement shall be deemed to be confirmed by the Trading Member for which deliveries are to be given and/or taken and funds to be debited and/or credited to his account as specified in the Obligations Statements and deemed instructions to the Clearing Banks/Institutions for the same.

#### **9.17 SETTLEMENT OBLIGATIONS STATEMENTS FOR PROFESSIONAL CLEARING MEMBERS**

Exchange/Clearing House shall generate and provide to each Professional Clearing Member, Settlement Obligations Statements showing the quantities of the different kinds of commodities for which delivery/ deliveries is/ are to be given and/or taken and the funds payable or receivable by him. The Settlement Obligation Statement shall be deemed to have been confirmed by the said Clearing Member in respect of every and all obligations enlisted therein.

#### **9.18 DELIVERY AND RECEIPT STATEMENTS**

##### **9.18.1 CLEARING MEMBERS**

Based on the Settlement Obligations Statements the Exchange shall generate Delivery Statement and Receipt Statement for each Clearing Member. The Delivery and Receipt Statement shall contain details of commodities to be delivered to and received from other Clearing Members, the details of the corresponding buying / selling Constituent and such other details as may be prescribed. The Delivery and Receipt Statements shall be deemed to be

confirmed by respective Member to deliver and receive on account of his Constituent, commodities as specified in the Delivery and Receipt Statements.

## **9.19 DELIVERY OF COMMODITIES**

### **9.19.1 DEPOSITORY DEALS**

On respective Pay-in day, Clearing Members shall effect depository delivery in the Depository Clearing System as per Delivery Statement in respect of depository deals. Delivery shall be in such delivery units the Exchange or Relevant Authority may notify from time to time.

### **9.19.2 MODE OF FUNDS PAYMENT**

Unless otherwise prescribed for a Clearing Member regarding the mode of payment, as on the time specified by the Exchange/Clearing House or Relevant Authority, Clearing Members shall have clear balance of funds in their clearing account to the extent of funds to be debited to his account and on Pay-in day the Clearing Bank shall debit a Clearing Member's clearing account to the extent of his funds obligation as per the instructions of the Exchange / Clearing House.

## **9.20 RECEIPT OF COMMODITIES**

### **9.20.1 DEPOSITORY DEALS**

Commodities, which are to be received by a Clearing Member, shall be delivered to him in the Depository Clearing System in respect of depository deals on the respective Payout day as per instructions of the Exchange / Clearing House.

### **9.20.2 MODE OF RECEIPT OF FUNDS**

On the Pay-out day, unless otherwise prescribed for a Clearing Member regarding the mode of payment, the Clearing Bank shall credit the clearing accounts of the Clearing Members who are due to receive funds or make payments to Clearing Members as per the instructions of the Exchange / Clearing House. All funds due to a Clearing Member shall normally be credited to his account unless a) the Clearing Member has not delivered commodities on Pay-in day as per Settlement Obligations Statement or b) the full extent of funds obligation of the Clearing Member was not available with the NCDEX Clearing Account for funds Pay-in or c) it is otherwise ordered by the Exchange/Clearing House or Relevant Authority.

## **9.21 DEATH OF A CLEARING MEMBER**

If a Clearing Member dies on or before the Pay-in day, the procedure to be followed in clearing and settling the account of such member shall be the procedure prescribed for clearing and settling the account of a defaulter, provided that with the permission of the Exchange/Clearing House the heirs or legal representatives of such deceased member may receive and deliver commodities and make and receive payment on account of such deceased member or any

member of whom the Exchange/Clearing House approves, may deliver commodities and make payment on account of such deceased member.

## **9.22 DELIVERY UNITS**

### **9.22.1 PRESCRIBED DELIVERY UNITS**

The Exchange may specify from time to time the delivery units for all commodities admitted to dealings on the Exchange. Electronic delivery would be available for trading before expiry of the Validity Date. The Exchange may also specify from time to time the variations permissible in delivery units as per those stated in contract specifications.

## **9.23 DELIVERABLE GRADES**

Deliverable grades shall be those stated in contract specifications as prescribed from time to time by the Exchange.

## **9.24 ASSAYERS CERTIFICATE**

The Exchange shall notify list of approved Assayers for the purpose of certification of quality, grade and any other specification pertaining to each of the commodities/warehouses.

The Constituents shall avail the services of approved Assayers for the purpose of certifications of the commodities as required under these Regulations and avail the services of Assayers or Warehouse as may be prescribed by the Exchange for quantity certification.

## **9.25 DELIVERY IN PART**

The receiving Clearing Member shall accept such portion of the commodities as may be in order provided it is in lots of delivery unit.

## **9.26 DELIVERY SUBJECT TO SPECIAL AGREEMENT BETWEEN BUYER AND SELLER CONSTITUENTS**

In case where there is specific agreement between the Constituent making delivery and the Constituent taking delivery and such is approved by the Exchange, the Exchange shall require the delivery to be completed in accordance with such agreement.

## **9.27 DELIVERY WHEN COMPLETE**

Commodities delivered by the Constituent / delivering Member to the Buying Constituent / receiving Member along with Approved Assayer's Certificate which confirms the specifications and grade as mentioned in the Derivatives Contract, shall, in the absence of fraud or apparent error, be considered as good delivery and the receiving Member shall accept them as good

delivery and failing such acceptance, the Exchange shall be entitled to close-out the same against the receiving member in accordance with the Bye Laws and Regulations relating to closing-out.

### **9.28 DELIVERY WHEN NOT COMPLETE**

If the Approved Assayer's certificate does not confirm or match with the specifications and grade as mentioned in the corresponding Derivatives Contract and the same is notified to the Exchange within 7 days from the Pay-out date as per Settlement Calendar or within Validity Date, whichever is earlier, then the delivery shall not be complete. The delivering Member shall remove the defect or in the alternative deliver to the receiving Member, valid delivery in place of the defective delivery within three working days of the decision or within such further period. The Relevant Authority may from time to time allow other regular genuine and valid delivery in place of the defective delivery within three working days of the decision or within such further period as may be permitted by Relevant Authority.

### **9.29 CLOSING OUT**

If the delivering member fails to remove the defect or in the alternative deliver to the receiving Member other regular, genuine and valid delivery in place of the defective delivery within the period prescribed above, the Exchange on behalf of the receiving Member would close out the said delivery at closing price or any other price as decided from time to time by Relevant Authority against the delivering Member in accordance with the Bye-laws and Regulations relating to closing-out.

### **9.30 DELIVERING MEMBER DEBITED**

Without prejudice to the provisions contained elsewhere in this regard, the Exchange shall be entitled to debit the delivering member responsible for the documents which are not good delivery or are disputed deliveries by an amount equivalent to the said deliveries valued at such valuation price as the Exchange may specify from time to time in this regard.

### **9.31 PENALTY FOR BAD DELIVERY**

The Exchange or Relevant Authority may impose on a delivering Member responsible for the commodities, which are not good delivery such penalty and other charges as it may prescribed from time to time in this regard. Such penalty and other charges shall be in addition to any loss such Member may suffer on account of closing-out and shall be in addition to the commission chargeable in that behalf.

### **9.32 DELIVERY THROUGH AGENTS**

<sup>1</sup> The Relevant Authority may, in general or in specific cases, permit Members / Constituents to complete delivery under the Regulations through their Agents on the terms and conditions as may be stipulated by the Relevant Authority from time to time. The deliveries given to or taken by such Agents shall be construed as deliveries given to or taken by Members / Constituents for the purpose of compliance of delivery obligations under these Regulations.<sup>1</sup> Members / Constituents shall be responsible for all acts and omissions of their Agents.

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<sup>1</sup> Inserted on August 16, 2004

## **10. DEPOSITORY DELIVERY**

### **10.1 DELIVERY UNITS**

Depository Delivery shall be in such units as may be prescribed by the Relevant Authority from time to time. In case where the deal is for an odd lot, the deal would be settled in cash.

### **10.2 TRANSFER DUTIES AND CHARGES**

Unless otherwise directed by the Relevant Authority, stamp duties and charges payable, if any, to Government for registering transfers of commodities, if any, shall be paid by the buyer.

The seller would be liable to pay sales tax under the local State sales tax law or the Central Sales Tax Act, 1956, as the case may be and will be solely responsible for complying with all the provisions and regulation of the applicable sales tax law.

Transportation cost would be borne by the relevant parties

Any charges for assaying, at the time of dematerializing would be borne by the Seller. If the Buyer is interested in assaying at the time of picking up the deliveries, then those charges would be borne by the buyer.

Any other tax, charges, levy would be borne by the relevant parties from time to time

### **10.3 DELIVERY IN PART**

The receiving member shall accept such portion of the commodities as may be in order provided it is in lots of delivery unit or variation within acceptable limit of delivery unit as notified by the Exchange in the contract specifications in accordance with the Bye Laws and Regulations relating to closing -out.

### **10.4 CLOSING OUT ON REFUSAL TO ACCEPT DELIVERY**

When deliveries in performance of a deal are not accepted by the receiving member, the Exchange shall be entitled to close-out the same against him in accordance with the Bye Laws and Regulations relating to closing -out.

## **11. NON-DELIVERY AND NON-PAYMENT**

### **11.1 NOTICE OF NON-DELIVERY AND NON-PAYMENT**

Each Clearing Member shall send to the Clearing House and Exchange on the pay-in day an intimation of non-delivery in respect of each failure to deliver commodities and a notice to the Clearing Bank and Exchange of non-payment in respect of failure to pay any or all of the funds which are due to be paid in such forms as may be prescribed in this regard by the Exchange or delegated authority from time to time.

### **11.2 NON-DELIVERY AND NON-PAYMENT BY CLEARING MEMBER / BANKS / INSTITUTIONS**

Obligations and responsibility for clearing and settlement undertaken by Clearing Member Banks / Institutions shall be discharged by them in regard to commodities and funds in the like manner and to the same extent as they would have discharged their obligation/responsibility on a trade for trade settlement. Therefore, it shall be the responsibility of the Clearing Member Banks/Institutions in the event of non-performance of any obligation or part thereof to the clearing house or otherwise, to identify the relative contract(s), to which the non-performance or part performance relates.

### **11.3 FAILURE TO DELIVER**

Without prejudice to the provisions contained elsewhere in this regard, if a Clearing Member fails to deliver on the pay-in day the commodities deliverable by him, the Exchange shall be entitled to debit his account by an amount equivalent to the commodities not delivered valued at such valuation price as the Exchange may specify from time to time in this regard.

### **11.4 CLOSING-OUT ON FAILURE TO DELIVER**

If a Clearing Member fails to deliver on the pay-in day the commodities deliverable by him, the Exchange shall be entitled to reverse such delivery position in cash together with penalty as may be stipulated by the Exchange from time to time in accordance with the Byelaws and Regulations relating to closing-out.

### **11.5 CLOSING-OUT ON FAILURE TO PAY**

If a Clearing Member fails to pay on the pay-in day for the commodities to be received by him, the Exchange shall be entitled to reverse such delivery position in cash together with penalty as may be stipulated by the Exchange from time to time in accordance with the Byelaws and Regulations relating to closing-out.

### **11.6 DISABLING OF A MEMBER**

Any Member who fails to deliver commodities or pay funds on the pay-in day shall (without

prejudice to any other right of the Exchange), be forthwith disabled from dealing through the trading system until the Exchange or Relevant Authority may decide otherwise.

#### **11.7 DECLARATION OF DEFAULT**

A Trading Member failing to deliver the commodities due from him or pay the amount due by him shall be declared a defaulter as provided in these Byelaws and Regulations.

#### **11.8 DELIVERIES DUE TO THE DEFAULTER**

All deliveries and payment due to the defaulter shall be handed over to the Exchange. The Exchange shall reserve the right to dispose off the commodities to make good non-payment of funds or non-delivery of commodities by the defaulting Member.

#### **11.9 PENALTY FOR FAILURE TO GIVE OR TAKE DELIVERY**

The Exchange or Relevant Authority may impose on a member failing to give or take delivery of all or any of the commodities and/or funds according to his obligation, such penalty and other charges as it may prescribe from time to time in this regard. Such penalty and other charges shall be in addition to any loss such member may suffer on account of closing-out and shall be in addition to the commission chargeable in that behalf.

#### **11.10 WITHHOLDING OF COMMODITIES AND FUNDS**

Notwithstanding anything contained in these Regulations, irrespective of whether the deals are depository deals or non-depository deals, the Exchange may withhold, for such period(s) as the Relevant Authority may decide from time to time, pay -out of any commodities and any funds including commodities and funds constituting margins, if

- a) the Clearing Member has not delivered the required commodities on pay-in day or
- b) there are no adequate funds in the NCDEX Clearing Account of the Clearing Member to meet the funds pay -in obligation on the pay -in day or
- c) the Clearing Member fails to satisfy the margin requirements or
- d) the Clearing Member fails to fulfill any other obligation or
- e) the Relevant Authority, otherwise, deems fit.

#### **11.11 WITHHELD COMMODITIES AND FUNDS - HOW DEALT WITH**

The commodities and funds withheld shall be dealt with by the Exchange at such times and in such manner as it may deem fit, which may include appropriating the withheld funds for the purpose of fulfilling the obligations of the Clearing Member, closing out of the withheld commodities or registering the withheld commodities in the name of the Exchange or any other entity as decided by the Exchange. The Exchange may deal with the funds received out of closing out of withheld commodities at such times and in such manner as it may deem fit.

## **12. CLOSING-OUT OF CONTRACTS**

### **12.1 CLOSING-OUT WHEN EFFECTED**

Any deal made subject to the Rules, Bye Laws and Regulations of the Exchange may be closed-out against a Member and his Constituent on his failure to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfill the terms and conditions subject to which the deal has been made. (For the purpose of this Chapter a member who has failed to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfill the terms and conditions subject to which the deal has been made shall be referred to as “member in default”).

### **12.2 CLOSING-OUT IN SPECIFIC CASES**

Without prejudice to the generality of the provision contained as above, closing -out may be effected in cases specified in the relevant Regulations or in such other cases as the Relevant Authority may from time to time specify in addition thereto or in modification thereof.

### **12.3 CLOSING OUT FOR DEALS SETTLED THROUGH THE CLEARING HOUSE**

In respect of deals settled through the Clearing House, the Exchange shall be entitled to closing out against the Member and his Constituent in default for the benefit of the receiving/delivering member or itself, as the case may be. In such cases no notice of closing-out shall be given to the Member against whom the closing-out is to be effected but a closing out notice shall be broadcast by the Exchange specifying the quantity of each kind of commodity to be closed out.

### **12.4 CLOSING-OUT WITHOUT NOTICE**

Without prejudice to the generality of the provisions contained as above, closing-out without notice may be effected in cases specified in the relevant Regulation or in such other cases as the Relevant Authority may from time to time specify or deem necessary in addition thereto or in modification or substitution thereof.

### **12.5 CLOSING-OUT CONTRACTS WITH DECEASED MEMBER**

On the death of a Member, having transactions outstanding in the market in any commodity / contract, the Relevant Authority may at its discretion give permission to his heirs or legal representatives to settle such transactions according to the terms thereof. In the event of such permission not being applied for or not being granted, the Exchange shall forthwith determine all outstanding obligations by closing out against the deceased Member. The loss, if any, on such closing-out closing out against the deceased member. The loss if any on such closing out

shall be claimed from the heirs or legal representatives of the deceased Member and the profit, if any, shall be paid to them with the prior approval of the Relevant Authority. If the heirs or legal representatives of the deceased Member fail to pay the amount claimed from them, it shall be deemed that such deceased Member has been declared a defaulter and in that event the Bye Laws and Regulations relating to default shall apply.

#### **12.6 COMPLIANCE BEFORE CLOSING-OUT**

If the Member against whom closing-out is to be effected tenders compliance in accordance with the provisions of the Bye Laws and Regulations relating to delivery, payment and settlement of obligations and deals on the terms and conditions subject to which the deal has been made at any time before the deals have been actually closed out, the Relevant Authority may accept the same in fulfillment of his obligations. This will not relieve the Member in default of the obligation to pay any resulting damages and other penalties and interest charges imposed by the Exchange on such default.

#### **12.7 CLOSING-OUT HOW EFFECTED**

The Exchange shall effect closing out against the Member in any of the following manner:

- i) by declaring a closing-out at such prices as may be decided by the Relevant Authority.
- ii) in any other manner as the Relevant Authority may decide from time to time.

#### **12.8 CLOSING-OUT CLEARING MEMBER'S RESPONSIBILITY**

Save as otherwise provided, the Member against whom the closing-out is effected by the Exchange for the purpose of closing-out shall be responsible for the deal made and no liability or responsibility shall attach to the Exchange, its directors, agents or its employees for any deal made in pursuance of such closing-out.

#### **12.9 DEFERMENT BY THE RELEVANT AUTHORITY**

The Relevant Authority may defer closing-out in any particular case if in its opinion a fair market to close-out is not available or if it determines that the default is due to the existence of a special situation but no such deferment shall relieve the Member in default of the obligation to pay for any resulting damages or free the intermediate parties of their liabilities.

#### **12.10 SUSPENSION OR POSTPONEMENT OF CLOSING-OUT**

The Relevant Authority may suspend or postpone closing -out in respect of any deals and from time to time extend or postpone the period of such suspension or postponement when circumstances appear in its view to make such suspension or postponement desirable in the general interest. The liability of intermediaries in respect of deals in such commodities settled through the Clearing House or Depository Clearing System, as the case may be, shall continue during the period of such suspension or postponement.

### **12.11 CLOSING-OUT AGAINST DEFAULTER**

When closing-out is affected as provided above and the Trading Member concerned is declared a defaulter, the difference arising from closing-out shall be recovered from the said Trading Member or distributed in accordance with the Bye Laws and Regulations relating to default.

### **12.12 CHARGES FOR CLOSING-OUT**

When closing-out is affected on the advice of the Exchange, the Member against whom the closing-out takes place shall pay to the Exchange such closing out charges as the Relevant Authority may from time to time prescribe.

### **12.13 LOSS ARISING FROM CLOSING-OUT**

When closing-out is effected on the advice of the Exchange against a Member failing to give or take delivery of all or any of the commodities or funds according to his obligation, the resulting difference (between the money value of commodities at the valuation price and the closing out price) due by such Member shall be paid by him forthwith to the Clearing Bank.

### **12.14 PROFIT ARISING FROM CLOSING -OUT**

When closing-out is effected on the advice of the Exchange against a Member failing to give or take delivery of all or any of the commodities or funds according to his obligation, any profit (between the money value of commodities at the valuation price and the closing out price) shall be credited to the account of the Settlement Guarantee Fund or such other funds as may be set up by the Relevant Authority from time to time to be held by the Exchange for such purposes as may be prescribed by the Relevant Authority.

### **12.15 DEFAULT IF CLOSING -OUT LOSS AND DAMAGE NOT PAID**

If any Member against whom a deal is closed-out under the provisions of these Regulations fails to make payment of the loss arising out of the closing -out and of the damages, if any, within such time as may be stipulated by the Relevant Authority from time to time, he may be declared a defaulter.

## **13. CLEARIGN BANK**

### **13.1 EXCHANGE TO REGULATE**

The Relevant Authority shall specify from time to time the processes, procedures, and operations that every Clearing Member shall be required to follow for the participation, functioning and operations of the Clearing Banks. The Regulations relating to the Clearing Banks shall be deemed to form a part of any settlement process so provided.

### **13.2 FUNCTIONS OF CLEARING BANK**

The Exchange shall appoint a Clearing Bank which shall act as an agent for funds settlement, for the collection of margin money for all deals entered into through the Exchange and any other funds movement between Clearing Members and the Exchange and between member to member as may be directed by the Exchange from time to time.

### **13.3 MEMBERS TO HAVE ACCOUNT WITH THE CLEARING BANK**

Every Trading Member of the Exchange shall have a clearing account with designated Clearing Bank branch. Members shall operate the clearing account only for the purpose of settlement of deals entered through the Exchange, for the payment of margin money and for any other purpose as may be specified by the Exchange from time to time. The member shall not operate the clearing account for any other purpose.

### **13.4 CLEARING BANK TO ACT AS PER THE INSTRUCTIONS OF THE EXCHANGE**

The Exchange shall instruct the Clearing Bank as to the debits and credits to be carried out for the funds settlement between the members. The Clearing Bank shall act as per the instructions received from the Exchange for the funds movement. Instructions of the Exchange as to debits and credits to a member's accounts shall be deemed to be irrevocable and confirmed orders by a Clearing Member to debit his account and/ or credit his account, funds as specified in the instruction.

### **13.5 CLEARING BANK TO INFORM EXCHANGE OF DEFAULT IN FUNDS SETTLEMENT**

If there is any funds default arising out of the instructions received from the Exchange, the Clearing Bank shall inform the Exchange immediately.

### **13.6 MEMBERS TO AUTHORIZE THE CLEARING BANK TO ACT AS PER THE INSTRUCTIONS RECEIVED FROM THE EXCHANGE**

Members shall authorize the Clearing Bank to access their clearing account for debiting and crediting their accounts as per the instructions received from the Exchange.

### **13.7 CLEARING ACCOUNT(S) OF EXCHANGE IN THE CLEARING BANK**

Unless otherwise prescribed in respect of any deals as may be specified by the Relevant Authority, no Clearing Member or any person claiming through him shall have or be deemed to have any right, title or interest in any monies in the Clearing Account or other account/(s), as the Relevant Authority may from time to time prescribe, of the Exchange with the Clearing Bank. The Relevant Authority may specify from time to time the deals in respect of which all sums of monies paid into the Clearing Account or other account(s), as the Relevant Authority may from time to time prescribe, of the Exchange on account of any Clearing Members entitled thereto, shall be held by the Exchange as agents and in trust for such Clearing Member. In such cases, the making of such payment or credit entry shall be deemed and taken to be a payment or credit to such Clearing Member.

## **14. DEPOSITORY CLEARING SYSTEM**

### **14.1 EXCHANGE TO REGULATE**

The Relevant Authority shall prescribe the process from time to time for the functioning and operations of the Depository Clearing System and to regulate the functioning and operations of the Depository Clearing System for the settlement of depository deals.

The Relevant Authority shall specify from time to time the processes, procedures, and operations that every Clearing Member shall be required to follow for the participation, functioning and operations of the Depository Clearing System. The Regulations relating to the Depository Clearing System shall be deemed to form a part of any settlement process so provided.

### **14.2 CLEARANCE BY MEMBERS ONLY**

Clearing Members only shall be entitled to clear and settle deals through the Depository Clearing System.

### **14.3 FUNCTIONS OF DEPOSITORY CLEARING SYSTEM**

#### **14.3.1 DEPOSITORY**

The Exchange shall specify depository(ies) through which depository delivery shall be effected and which shall act as agents for settlement of depository deals, for the collection of margins by way of securities for all deals entered into through the Exchange, for any other commodities movement and transfer in a depository(ies) between Clearing Members and the Exchange and between Clearing Member to Clearing Member as may be directed by the Relevant Authority from time to time and for any other purpose as the Relevant Authority may specify from time to time.

#### **14.3.2 DEPOSITORY PARTICIPANTS**

The Exchange may specify depository participants with whom Clearing Members shall be required to open and operate accounts for settlement of depository deals, for the collection of margins by way of securities for all deals entered into through the Exchange and for any other commodities movement and transfer in a depository(ies) between Clearing Members and the Exchange and between Clearing Member to Clearing Member as may be directed by the Relevant Authority from time to time and for any other purpose as the Relevant Authority may specify from time to time.

#### **14.3.3 CLEARING AND OTHER ACCOUNTS**

The Exchange shall specify from time to time clearing and other accounts that Clearing

Members shall be required to open and operate with depository(ies) and depository participants subject to such conditions as the Relevant Authority may prescribe from time to time.

#### **14.3.4 SPECIFIED DEPOSITORY**

The following depository is specified as under:

National Securities Depository Limited which depository is hereinafter referred to as NSDL for the purposes of these Regulations.

Central Securities Depository Limited, which depository is hereinafter referred to as CDSL for the purposes of these Regulations.

#### **14.4 CLEARING MEMBERS TO HAVE ACCOUNT WITH A DEPOSITORY PARTICIPANT**

Every Clearing Member shall have a clearing account with any of the Depository Participants of specified depositories. Clearing Members shall operate the clearing account only for the purpose of settlement of depository deals entered through the Exchange, for the collection of margins by way of commodities for deals entered into through the Exchange and for any other purpose as the Relevant Authority may specify from time to time. The Clearing Member shall not operate the clearing account for any other purpose.

#### **14.5 SPECIFIED DEPOSITORY TO ACT AS PER THE INSTRUCTIONS OF THE EXCHANGE**

The Exchange shall instruct the Specified Depository as to the debits and credits to be carried out for the settlement of depository deals between Clearing Members. The Specified Depository shall act as per the instructions received from the Exchange for effecting account transfers in respect of settlement of depository deals. Instructions of the Exchange as to debits and credits to a Clearing Member's accounts shall be deemed to be irrevocable and confirmed orders by a Clearing Member to debit his account and/or credit his account as specified in the instruction.

#### **14.6 MEMBERS TO AUTHORIZE DEPOSITORY PARTICIPANTS**

Clearing Members shall authorize the specified depositories and depository participants with whom they have a clearing account to access their clearing account for debiting and crediting their accounts as per instructions received from the Exchange and to report balances and other credit information to the Exchange.

#### **14.7 CLEARING ACCOUNT(S) OF EXCHANGE WITH THE SPECIFIED DEPOSITORY**

Unless otherwise prescribed in respect of any deals as may be specified by the Relevant Authority, no Clearing Member or any person claiming through him shall have or be deemed to have any right, title or interest in any commodities in the Clearing Account or other

account/(s), as the Relevant Authority may from time to time prescribe, of the Exchange with the Specified Depository. The Relevant Authority may specify from time to time the deals in respect of which all commodities deposited into the Clearing Account, as the Relevant Authority may from time to time prescribe, of the Exchange on account of any Clearing Member entitled thereto, shall hold other account (s), as agents and in trust for such Clearing Member. In such cases, transfer of accounts of commodities through depositories shall be deemed and taken to be a transfer of accounts of commodities to such Clearing Member.

#### **14.8 NOTICES AND DIRECTIONS**

All Clearing Members shall comply with the instructions, resolutions, orders, notices, directions and decisions of the Relevant Authority in all matters connected with the operations of the Depository Clearing System.

#### **14.9 CLEARING MEMBER ID**

A Clearing Member shall be allotted an identification number hereinafter referred to as "CM Id" which must appear on all forms used by the Clearing Member connected with the operations of the Depository Clearing System.

#### **14.10 EXCHANGE TO DELIVER COMMODITIES AT DISCRETION**

The Exchange shall have the discretion with regard to the nature of delivery that is through the depository clearing system or otherwise, the commodities received from a Clearing Member under these Regulations to another Clearing Member who is entitled under these Regulations to receive delivery of commodities of a like kind or to instruct a Clearing Member to give direct delivery of commodities which he has to deliver through the depository system.

#### **14.11 CHARGES FOR CLEARING**

The Relevant Authority shall from time to time prescribe the scale of clearing charges for the clearance and settlement of transactions through the Depository Clearing System.

#### **14.12 EXCHANGE BILLS**

The Exchange shall periodically render bills for the charges, fees, fines and other dues payable by trading / Clearing Members, which would also include the charges, fines and other dues payable on account of the business cleared and settled through the Depository Clearing System and debit the amount payable by such members to their accounts. All such bills shall be paid within a week of the date on which they are rendered.

#### **14.13 LIABILITY OF THE EXCHANGE**

The transactions on the Exchange will be deemed to have taken place between the Constituents and the Exchange shall not be deemed to guarantee the title, ownership, genuineness, regularity or validity of any commodity passing through the Depository Clearing

System and the only obligation of the Exchange in this matter shall be to facilitate the delivery and payment in respect of commodities between Clearing Members. No liability shall attach either to the Exchange or to the Relevant Authority or any member of the Relevant Authority by reason of anything done or omitted to be done by the Depository Clearing System in the course of its operations.

## **15. CLEARING HOUSE**

### **15.1 REGULATION OF CLEARING HOUSE**

The Relevant Authority shall prescribe the process from time to time for the functioning and operations of the Clearing House and to regulate the functioning and operations of the Clearing House for the settlement of non-depository deals. The Regulations relating to the Clearing House shall be deemed to form a part of any settlement process so provided.

### **15.2 EXCHANGE TO MAINTAIN CLEARINGHOUSE**

The Exchange shall maintain a Clearing House, which shall function as per the instructions, and supervision of the Exchange or such other Relevant Authority as may be specified from time to time. The Clearing House shall act as the common agent of the members for clearing contracts between members and for delivering commodities to and receiving commodities from members in connection with any of the contracts and to do all things necessary or proper for carrying out the foregoing purposes.

### **15.3 CLEARING HOUSE TO DELIVER COMMODITIES AT DISCRETION**

Subject to the above, the Clearing House shall have the discretion with regard to nature of delivery of commodities, which it has received from a member under these Regulations to another member who is entitled under these Regulations to receive delivery of commodities of a like kind or to instruct a member to give direct delivery of commodities which he has to deliver.

### **15.4 NO LIEN ON CONSTITUENT'S COMMODITIES**

When a member is declared a defaulter neither the Exchange nor the creditors of the defaulter shall be entitled to any lien on the commodities delivered by him to the Clearing House on account of his Constituents. A Constituent shall, on offering proof considered satisfactory by the Exchange or the Relevant Authority that such commodities were so delivered on his behalf, shall be entitled to receive from the Clearing House accordingly as the Exchange or delegated authority directs, either such commodities or the value thereof subject to payment or deduction of the amount if any due by him to the defaulter.

### **15.5 CLEARING CODE AND FORMS**

A member shall be allotted a Clearing Code, which must appear on all forms used by the member connected with the operation of the Clearing House. The Clearing Forms and Formats to be used by the members shall be as prescribed by the Clearing House and unless otherwise permitted no other form or format shall be used.

## **15.6 SIGNING OF CLEARING FORMS**

The member or his Clearing Assistant shall sign all Clearing Forms.

## **15.7 SPECIMEN SIGNATURES**

A member shall file with the Clearing House specimens of his own signature and of the signatures of his Clearing Assistants. The member and his Authorized Representative in the presence of an officer of the Exchange or of the Clearing House shall sign the specimen signature card.

## **16. PROVISIONS REGARDING MEMBER OF THE CLEARING HOUSE**

### **16.1 CLEARANCE BY MEMBERS ONLY**

Clearing Members including Professional Clearing Members only shall be entitled to clear and settle contracts through the Clearing House.

### **16.2 TRADING MEMBERS RESPONSIBILITY**

Without prejudice to the obligations of the Professional Clearing Members hereunder, the registration and approval of Professional Clearing Members as Clearing Members, shall not in any way affect the jurisdiction of the Exchange on the concerned Trading Member in respect of the trade(s) and/or contract(s) effected by him for or on account of his Constituent who settle trades through such Professional Clearing Members and such Trading Member shall continue to remain responsible, accountable and liable to the Exchange in this behalf till acceptance of such responsibility is confirmed by Professional Clearing Members

### **16.3 NOTICES AND DIRECTIONS**

All Clearing Members shall comply with the instructions, resolutions, orders, notices, directions and decisions of the Exchange in all matters connected with the operations of the Clearing House.

### **16.4 CHARGES FOR CLEARING**

The Exchange shall from time to time prescribe the scale of clearing charges for the clearance and settlement of transactions through the Clearing House.

### **16.5 CLEARING HOUSE BILLS**

The Clearing House shall periodically render bills for the charges, fees, fines and other dues payable by members to the Exchange which would also include the charges for the use of the property as well as the charges, fines and other dues payable on account of the business cleared and settled through the Clearing House and debit the amount payable by members to their accounts. All such bills shall be paid within a week of the date on which they are rendered.

### **16.6 LIABILITY OF THE CLEARING HOUSE**

The transactions on the Exchange will be deemed to have taken place between the Constituents and the Clearing House shall not be deemed to guarantee the title, ownership, genuineness, regularity or validity of any security, transfer deed or any other document passing through the Clearing House and the only obligation of the Clearing House in this matter shall be

to facilitate the delivery and payment in respect of commodities, transfer deed and any other documents between members.

#### **16.7 LIABILITY OF THE EXCHANGE**

No liability shall attach either to the Exchange or any member of the Exchange by reason of anything done or omitted by the Clearing House in the course of its operations nor shall the Exchange or the Executive Committee or any member of the Exchange be liable to answer in any way for the title, ownership, genuineness, of any commodities, or any other documents passing through the Clearing House nor shall any liability attach to the Exchange, the Exchange or any Member of the Exchange in any way in respect of such commodities and any other documents.

## **17. CLEARING AND OTHER FORMS**

### **17.1 CLEARING FORMS, SPECIAL RETURNS AND OTHER FORMS**

The clearing forms, special returns and other forms referred to in these Bye Laws and Regulations and not separately prescribed shall be in such other form or forms as the Relevant Authority may from time to time prescribe in addition thereto or in modification or substitution thereof.

### **17.2 CLEARING NUMBER AND CLEARING FORMS**

A Clearing Member shall be allotted a Clearing Number, which must appear on all forms used by the Clearing Member connected with the operation of the Exchange. The Clearing Forms and Formats to be used by the Clearing Members shall be as prescribed by the Clearing House and Depository Clearing System and unless otherwise permitted, no other form or format shall be used.

### **17.3 SIGNING OF CLEARING FORMS**

The Clearing Member or his clearing assistant shall sign all Clearing Forms.

### **17.4 FALSE OR MISLEADING STATEMENTS**

The Relevant Authority may fine, suspend or expel a Clearing Member who makes any false or misleading statement in the Clearing Forms required to be submitted in conformity with these Regulations or any resolutions, orders, notices, directions and decisions of the Relevant Authority there under.

## **18. ACCREDITED WAREHOUSE**

The Exchange shall specify accredited warehouse(s) through which delivery of a specific commodity shall be effected and which shall facilitate for storage of commodities in the manner as prescribed by the exchange from time to time.

### **18.1 PROCESS AND PROCEDURES FOR ACCREDITED WAREHOUSE**

The Exchange shall specify from time to time the processes, procedures, and operations that every accredited Warehouse, Constituents, Depository Participants and R & T Agents shall be required to follow for the participation, functioning and operations of the accredited warehouse. The Regulations relating to the accredited warehouse shall be deemed to form a part of any settlement process so provided.

### **18.2 FUNCTIONS OF ACCREDITED WAREHOUSE**

#### **18.2.1 WAREHOUSE(S) TO OFFER SERVICES**

Accredited Warehouse(s) shall provide the following services to the Constituents and Members of the Exchange:

- (a) Earmark separate storage area as specified by the Exchange for the purpose of storing commodities to be delivered against deals made on the Exchange. The Warehouse(s) shall also meet the specifications prescribed by the Exchange for storage of commodities from time to time.
- (b) Ensure and co-ordinate for grading of the commodities received at the Warehouse before they are being stored.
- (c) Store commodities in line with their grade specifications and validity period and shall facilitate maintenance of identity. On expiry of such validity period of the grade for such commodities, the Warehouse(s) shall segregate such commodities and store them in a separate area so that the same are not mixed with commodities, which are within the validity period as per the grade certificate issued by the approved Assayers

#### **18.2.2 DUTIES OF ACCREDITED WAREHOUSE**

Accredited Warehouse(s) shall discharge duties specified hereunder to the complete satisfaction of the Exchange. Warehouse(s):

- (a) shall use uniform and standard description of commodities and units of measurement in respect of the commodities stored pertaining to the Constituent of the Exchange. The Exchange reserves the right to advise the accredited Warehouse(s) any time, the standard description and units of measurement to be used by the Warehouse for the commodities stored

/ to be stored and deposited / to be deposited by the Constituents

(b) shall strictly adhere to the Warehousing norms stipulated for a commodity in particular or group of commodities in general by the Exchange from time to time.

(c) shall ensure that necessary steps and precautions are taken to ensure that the quantity and the grade of the commodity are maintained during the storage period.

(d) shall maintain the records for the commodities deposited with it by the Constituents, in electronic form in the manner and in the system as prescribed by specified Depository. Warehouse(s) shall avail the services of a Registrar & Transfer (R&T) agent approved and appointed by the Exchange for the above purpose. The Warehouse shall facilitate the uploading of instructions by the R&T agent using the system connected to the depository for the creation of electronic records of the Commodities received by the Warehouse in the Depository Clearing System. The Warehouse shall execute and complete necessary documentation with the R&T agent and the Depository in this regard.

(e) Unless and until expressly consented by the Exchange, the Warehouse shall not assign, shift, transfer and relocate the commodities held by it pertaining to the Constituents of the Exchange. The Warehouse(s), however, is/are entitled to move the commodities within the area earmarked in the warehouse for storing the commodities pertaining to the Constituents of the Exchange.

### **18.2.3 VERIFICATION OF COMMODITIES STORED IN WAREHOUSE**

The Exchange reserves the right to physically verify itself or through any agencies / experts, at any time, the commodities deposited by the Constituents and/or warehouse facilities in general or for compliance of the warehousing norms stipulated by the Exchange for the specific commodities.

### **18.2.4 RELEASE OF COMMODITIES STORED IN WAREHOUSE**

As and when the Buyers intend to take physical delivery of the commodities, held by them in their respective Demat accounts, they would make such requests to their respective depository participant (DP) with whom they hold the Demat account. The DP will upload such requests to the specified Depository who will in turn forward the same to the R&T Agent concerned. After due verification of the authenticity, the R&T Agent will forward delivery details to the warehouse who in turn will arrange to release the commodities after due verification of the identity of recipient.

### **18.2.5 CHARGES FOR WAREHOUSE SERVICES**

Warehouse(s) shall charge from the Constituents of the Exchange, storage and other charges as may be mutually agreed in advance between the Exchange and Warehouse(s) from time to time. For the purpose of operational convenience, the DPs who will be opening the Demat account for the Constituents will arrange to collect the storage charges from them and pay the same to the Warehouse at agreed periodic intervals. The Warehouse(s) is entitled to levy all incidental charges such as insurance; assaying, handling charges or any such charges directly from the Constituent depositing the commodities as may be applicable. The Exchange shall not

be responsible in any manner for payment of any of the charges of Warehouse.

The Exchange may also explore the possibility of availing the services of Collateral Management Agent (CMA), who can offer the warehousing facilities for the Constituents of the Exchange. In such a case the Constituents shall be required to shift their holdings in the warehouses approved / identified by such CMA.

## **19. REGISTRAR & TRANSFER AGENT (R & T AGENT)**

### **19.1 APPROVED R&T AGENT**

The Exchange shall specify Approved R&T Agent(s) through which commodities shall be dematerialized and which shall facilitate for dematerialization / rematerialization of commodities in the manner as prescribed by the Exchange from time to time.

### **19.2 PROCESS AND PROCEDURES FOR R&T AGENT**

The Exchange shall specify from time to time the processes, procedures, and operations that every accredited warehouse, Depository Participants and Constituents shall be required to follow for the participation, functioning and operations of the R&T Agent. The Regulations relating to the R&T Agent shall be deemed to form a part of any settlement process so provided.

### **19.3 FUNCTIONS OF R&T AGENT**

#### **19.3.1 SERVICES BY R&T AGENT**

R&T Agent(s) shall provide following services to the Constituents and accredited warehouse of the Exchange:

- (a) Establish connectivity with approved warehouse(s) and support them with physical infrastructure as deemed fit for the purpose.
- (b) Verify the information regarding the commodities accepted by the accredited warehouse and assign the identification number allotted by the Depository in line with the grade/validity period.
- (c) Further process the information so received and ensure the credit of commodity holding to the Demat account of the Constituent.
- (d) Ensure that the credit of commodities goes only to the Demat account of the Constituents held with the Exchange empanelled DPs
- (e) On receiving request for Rematerialization (physical delivery) through the depository, R&T Agent(s) shall arrange for issuance of authorization to the relevant warehouse for the delivery of commodities.

#### **19.3.2 MAINTENANCE OF RECORDS AND CO-ORDINATION ACTIVITIES**

R&T Agent(s) shall maintain proper records of beneficiary position of Constituents holding dematerialized commodities in Warehouse(s) and in the Depository for a period and also as on a particular date. R&T Agent(s) shall furnish the same to the Exchange as and when demanded by the Exchange. R & T agent (s) shall also co-ordinate with DPs and Warehouses for billing of charges for services rendered on periodic intervals.

R&T Agent(s) shall also reconcile Dematerialized commodities in the Depository and Physical

commodities at the Warehouse(s) on periodic basis and co-ordinate with all parties concerned for the same.

## **20. ASSAYER**

### **20.1 APPROVED ASSAYER**

The Exchange shall specify Approved Assayer(s) through which grading of commodities received at approved warehouse(s) for delivery against deals made on the Exchange can be availed by the Constituents of Clearing Members.

### **20.2 PROCESS AND PROCEDURES FOR ASSAYER**

The Exchange shall specify from time to time the processes, procedures, and operations that every Warehouse, Constituents and R&T Agent shall be required to follow for the participation, functioning and operations of the Assayer. The Regulations relating to the approved Assayer shall be deemed to form a part of any settlement process so provided.

### **20.3 FUNCTIONS OF ASSAYERS**

#### **20.3.1 SERVICES BY ASSAYER**

Assayer(s) shall provide following services to the Constituents and Members of the Exchange:

(a) Inspect the Warehouse(s) identified by the Exchange on periodic basis to verify the compliance of technical / safety parameters detailed in the Warehousing Accreditation norms of the Exchange by the Warehouse(s). The compliance certificate so given by the Assayer would form the basis of Warehouse accreditation by the Exchange.

(b) Make available grading facilities to the Constituents in respect of the specific commodities traded on the Exchange at specified warehouse. The Assayer shall ensure that the grading to be done, in a certificate format prescribed by the Exchange from time to time, in respect of specific commodity shall be as per the norms specified by the Exchange in the respective Contract specifications

(c) Grading certificate so issued by the Assayer would specify the grade as well as the validity period up to which the commodities would retain the original grade, and the time up to which the commodities are fit for trading subject to environment changes at the warehouses.

#### **20.3.2 DUTIES OF ASSAYER(S)**

(a) The issuance of the certificate of compliance by the Assayer would imply that in the event of deterioration of quality of the commodity before the expiry of the validity period assigned by the Assayer, the Assayer would make good the losses that may be incurred. However, the Exchange shall not liable for any losses arising out of such cases.

(b) Assayer(s) shall not allow to store any commodity that does not meet the grading norms and parameters specified by the Exchange and that the Assayer(s) shall make available to the Constituents the grading certificate when the commodities are allowed to be stored in the warehouses.

(c) Assayer(s) shall ensure that it shall at all given times maintain proper records in respect of grading of specific commodities and validity period of the commodity in electronic form along with the details with regard to the certificate issued by them from time to time.

### **20.3.3 INSPECTION OF GRADING FACILITIES**

The Exchange reserves the right to physically verify / inspect itself or through any agencies / experts, at any time, the grading facilities and processes of the approved Assayers as and when felt necessary.

## C ARBITRATION

(amended vide circular NCDEX/Legal 001/2005/031 dated 7<sup>th</sup> February, 2005. Amended version as follows)

### 21.1 DEFINITIONS

- (a) 'Arbitrator' means a sole arbitrator or a panel of arbitrators.
- (b) 'Applicant' means the person who makes the application for initiating arbitral proceedings.
- (c) 'Respondent' means the person against whom the Applicant lodges an arbitration application, whether or not there is a claim against such person.

### 21.2 SEAT OF ARBITRATION

- (a) The Relevant Authority may provide for different seats of arbitration for different regions of the country either generally or specifically and in such an event the seat of arbitration shall be the place so provided by the Relevant Authority. Save as otherwise specified by the Relevant Authority, the seat of arbitration shall be Mumbai.

<sup>1</sup> (b) Deleted by Circular No.31 of 2005 dated February 7, 2005

### 21.3 JURISDICTION OF COURTS

In matters where the Exchange is a party to the dispute, the Civil Courts at Mumbai shall have exclusive jurisdiction and in all other matters, proper courts within the area covered under the respective Regional Arbitration Center shall have jurisdiction in respect of the arbitration proceedings falling / conducted in that Regional Arbitration Center.

<sup>2</sup> (Deleted para 2)

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<sup>1</sup> 21.2 (b) The premises/location where arbitration shall take place shall be Mumbai

The Applicant, Member, shall file the application in that Regional Arbitration Center (RAC).<sup>1</sup>

<sup>2</sup> Notwithstanding anything contained herein above and unless otherwise specifically agreed writing between the member and the constituent in respect of any claims, disputes and differences arising out of internet trading between the constituent and the member, the seat of Arbitration shall be the regional arbitration centre within the area in which, the constituent ordinarily resides at the time of relevant trading, provided, however in respect of a non-resident Indian constituent, the seat of Arbitration shall be the regional Arbitration centre in the area of which the correspondence office of the member is situated.<sup>2</sup>

## **21.4 REFERENCE OF THE CLAIM, DIFFERENCE OR DISPUTE**

- <sup>1</sup> 21.4.1: The applicant shall file a reference of the dispute for mediation/ conciliation/arbitration at the registered office of the Exchange or at such other place/s as may be notified by the Exchange from time to time. <sup>1</sup>
- <sup>1</sup> 21.4.2: The application for reference to arbitration shall be submitted in the prescribed form to the Exchange for processing and approval. The Exchange may initiate steps to resolve the disputes so referred through conciliation or mediation as the case may be, initially and if in the opinion of the Relevant Authority, the conciliation or mediation has failed to resolve the dispute, the matter shall be referred by the Exchange for arbitration. <sup>1</sup>
- <sup>2</sup> 21.4.3 Save as otherwise specified by the Relevant Authority, if the value of the claim, difference or dispute is more than Rupees fifty lacs on the date of application, then such claim, difference or dispute shall be referred to a panel of three arbitrators and if the value of the claim, difference or dispute is upto Rupees fifty lacs, then the same shall be referred to a sole arbitrator. Provided however, that the Relevant Authority may from time to time, increase or decrease the value of claim upto which the dispute shall be referred to a sole arbitrator or a panel of three arbitrators as the case may be.
- <sup>3</sup> 21.4.4 Where any claim, difference or dispute arises between agent of the Member and Client of the agent of the Member, in such claim, difference or dispute, the Member, to whom such agent of the Member is affiliated, shall be impleaded as a party. <sup>3</sup>
- <sup>3</sup> 21.4.5 In case the Warehouse refuses or fails to communicate to the Constituent the transfer of commodities, the date of dispute shall be deemed to have arisen on
- i. the date of receipt of communication of warehouse refusing to transfer the commodities in favor of the Constituent; or
  - ii. the date of expiry of 5 days from the date of lodgment of dematerialized request by the Constituent for transfer with the seller, whichever is later;

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<sup>1</sup> Inserted by Circular dated February 7, 2005

<sup>2</sup> Inserted by Circular dated February 7, 2005

<sup>3</sup> Clause 21.4.(b) and ( C) shall stand renumbered as 21.4.4. previous number 21.4.5

## **21.5 CRITERIA AND PROCEDURE FOR SELECTION OF PERSONS**

### **21.5.1 ELIGIBLE TO ACT AS ARBITRATORS**

<sup>1</sup> (a) For facilitating the appointment of arbitrator, a list of persons eligible to act as arbitrators shall be notified by the Exchange from time to time from amongst persons who possess requisite qualification, experience and knowledge as felt appropriate by the Relevant Authority and parties will not have a right to challenge the appointment of arbitrator except as provided in the Arbitration and Conciliation Act, 1996 as amended from time to time. The Relevant Authority shall have absolute right at any time to add or delete the name of any person from the list of arbitrators.

### **21.6 PROCEDURE FOR APPOINTMENT OF ARBITRATORS**

(a) The Applicant and the Respondent against whom the claim has been made by the Applicant shall submit to the Exchange in the order of descending preference, names of such number of persons as specified hereunder from amongst the list of eligible persons specified by the Exchange for the respective seats of arbitration. The number of persons to be so selected by the Applicant and the Respondent shall be five if the seat of arbitration is at Mumbai and three in other cases. Such names shall be submitted in Form No. II/IIA by the Applicant along with Form No. I/IA. The Respondent shall submit the names in Form No. II/IIA within seven days of the receipt of Form No. I/IA from the Exchange. Upon receiving the Form No. II/IIA from both the Applicant as well as the Respondent, the Exchange shall, as provided for herein, identify the person/s who shall act as the arbitrator.

(b) The Exchange shall identify the sole arbitrator to whom the arbitration application will be referred in the following manner:

- i. The Exchange shall identify the most common arbitrator to whom the highest preference has been given by both the Applicant and the Respondent.
- ii. If no common arbitrator is identifiable, the Relevant Authority shall select an arbitrator from the lists of persons eligible to act as arbitrators excluding the persons selected by the Applicant and the Respondent. If after excluding the persons selected by the Applicant and the Respondent no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by either the Applicant or Respondent.

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<sup>1</sup> Substituted by Circular dated February 7, 2005 for the previous clause --- For facilitating the appointment of arbitrator, a list of persons eligible to act as arbitrators may be constituted annually by the relevant authority from amongst persons who possess requisite qualifications, experience and knowledge in the commodity business. The names of the list of eligible persons shall be as specified by the Exchange from time to time.

- iii. In the event of the failure of Applicant and the Respondent to submit any names of eligible persons to act as arbitrators, the Relevant Authority shall select the sole arbitrator from the lists of persons eligible to act as arbitrators.
- (c) The Exchange shall identify the panel of arbitrators to whom the arbitration application will be referred in the following manner:
- i. The Exchange shall identify three most common arbitrators in the order of preference given by both the Applicant and the Respondent.
  - ii. In case of matters to be referred to a panel, if no common arbitrator is identifiable or only one or two common arbitrators are identifiable, the first, the second and/or the third arbitrator as the case may be shall be selected by the Relevant Authority from the list of eligible persons excluding the persons selected by the Applicant and the Respondent. If after excluding the persons selected by the Applicant and the Respondent no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by either the Applicant or Respondent.
  - iii. In the event of the failure of Applicant and the Respondent to submit any names of eligible persons to act as arbitrators the Relevant Authority shall select the panel of arbitrators from the lists of persons eligible to act as arbitrators.
  - iv. The panel of arbitrators so appointed shall select one among themselves to act as a presiding arbitrator within 7 days of receipt of intimation from the Exchange appointing them to act as an arbitrator. In case of failure or lack of consensus among the panel to select a presiding arbitrator, the Relevant Authority shall select the presiding arbitrator.

(d) If the Applicant refuses to choose the persons eligible to act as arbitrators or fails to submit Form II/IIA, and the Respondent submits Form II/IIA, then the Relevant Authority shall select an arbitrator from the balance list of eligible persons excluding the persons selected by the Respondent. If after excluding the persons selected by the Respondent no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by the Respondent.

(e) If the Applicant submits Form II/IIA and the Respondent fails to submit the same, then Relevant Authority shall select an arbitrator from the balance lists of eligible persons excluding the persons selected by the Applicant.

(f) If the arbitrator chosen as per the above procedure is not able to take up the matter for whatsoever reasons then the Relevant Authority shall select an arbitrator from the remaining names on the list of eligible persons excluding the persons selected by the Applicant and/or the Respondent. If after excluding the persons selected by the Applicant and the Respondent no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by either the Applicant or Respondent.

## **21.7 VACANCY IN THE OFFICE OF THE ARBITRATOR**

If the office of the sole arbitrator or any one or more of the arbitrators in the panel of arbitrators falls vacant after the appointment thereto, the Exchange shall fill up the vacancy within 7 days of such vacancy. For this purpose, the list of names of eligible persons in Form No. II/IIA already submitted by the Applicant and by the Respondent shall be considered.

## **21.8 DEPOSIT TOWARDS COST OF ARBITRATION**

<sup>1</sup> (a) The parties to the claim, difference or dispute shall bear cost of arbitration. For this purpose, both the parties to arbitration shall make a deposit with the Exchange along with Form No. I/IA or Form No. III/IIIA as the case may be, for defraying the costs that may be incurred for conducting the arbitration proceeding provided when there is failure, neglect or refusal by Respondent, being a Constituent, to make a deposit accordingly, the Applicant shall be responsible for making such deposit without prejudice however to its right to recover the same from such Respondent in terms of the award. The Exchange shall have the right to recover the deposit from the Member from the moneys due to it if the Member fails to make the deposit. In case of failure by the party making the reference to provide such deposit or if the amount lying with the Exchange to the account of the member being insufficient to meet the requirement, the arbitration proceedings may be suspended up to a period of 15 days and where such suspension continues beyond such period by reason of non-payment, the proceedings shall be terminated forthwith in respect of the claim or counter claim as the case may be.

(b) Without prejudice to provisions of Clause (a) above, in any claim, difference or dispute to which a agent of the Member is a party, if the agent of the Member fails to make the deposit with the Exchange in accordance with the provisions of Clause (a) above, then the Member to whom such agent of the Member is affiliated shall be liable to make the deposit with the Exchange.

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(a) The parties to the claim, difference or dispute shall bear cost of arbitration. For this purpose, both the parties to arbitration shall make a deposit with the Exchange along with Form No. I/IA or Form No. III/IIIA as the case may be, for defraying the costs that may be incurred for conducting the arbitration proceeding provided when there is failure, neglect or refusal by Respondent, being a Constituent, to make a deposit accordingly, the Applicant shall be responsible for making such deposit without prejudice however to its right to recover the same from such Respondent in terms of the award. The Exchange shall have the right to recover the deposit from the Member from the moneys due to it if the Member fails to make the deposit.

<sup>1</sup> (c) The amount of deposit, which has to be deposited by the parties to the dispute shall be as determined by the Relevant Authority from time to time keeping in view the amount of claim and the cost of arbitration and such amount shall be deposited by the parties in equal shares towards the cost of arbitration. The balance if any after adjusting the cost of arbitration therefrom shall be returned to respective party(ies). All deposits towards costs and expenses shall be made with the Exchange and no payment shall be released to the arbitrators directly by the parties. <sup>1</sup>

(d) Notwithstanding what is mentioned at (c) above, the Exchange may call for such additional deposits as it may deem fit if in its opinion the deposits already made will be insufficient to defray the expenses of arbitration. Such additional deposits shall partake the character of deposit and shall be dealt with accordingly.

## 21.9 PROCEDURE FOR ARBITRATION

(a) The Applicant shall submit to the Exchange application for arbitration in Form No. I/IA, (three copies in case of sole arbitrator and five copies in case of panel of arbitrators) along with the following enclosures:

- i. The Statement of Case (containing all the relevant facts about the dispute and relief sought)
- ii. The Statement of Accounts
- iii. Copies of Member - Constituent Agreement
- iv. Copies of the relevant Contract Notes, Invoice and Delivery Challan

(b) The Applicant shall also submit to the Exchange the following along with Form No. I/IA

- i. A cheque/pay order/demand draft for the deposit payable at the seat of arbitration in favor of National Commodity & Derivatives Exchange Limited
- ii. Form No. II/IIA containing list of names of the persons eligible to act as arbitrators

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<sup>1</sup> Replaced by the following previous provision :

(c) The amount of deposit, which has to be deposited is determined by the amount of the claim and is as specified below:

Sr. No.	Amount of Claim	Amount of Deposit
1	Up to Rs. 5 lacs	Rs. 6000/- (deposit to be taken from the Member)
2	More than Rs. 5 Lacs but less than or equal to Rs. 25 Lacs	Rs. 8000/-
3	Above Rs. 25 Lacs	Rs. 12000/-

The balance, if any, from the above deposit after adjusting the cost of arbitration there from shall be returned to respective party(ies). The Exchange shall have the discretion to modify at any time the above schedule of Deposit.

(c) If any deficiency/defect in the application is found, the Exchange shall call upon the Applicant to rectify the deficiency/defect and the Applicant shall rectify the deficiency/defect within 15 days of receipt of intimation from the Exchange. If the Applicant fails to rectify the deficiency/defect within the prescribed period, the Exchange shall return the deficient/defective application to the Applicant. However, the Applicant shall have the right to file a revised application, which shall be considered as a fresh application for all purposes and dealt with accordingly.

(d) Upon receipt of Form No. I/IA, the Exchange shall forward a copy of the statement of case and related documents to the Respondent.

(e) Upon receiving Form No. I/IA, the Respondent shall submit Form II/IIA to the Exchange within 7 days from the date of receipt. If the Respondent fails to submit Form II/IIA within the time period prescribed by the Exchange, then the arbitrator shall be appointed in the manner as specified in the Regulation

(f) Upon receiving Form No. II/IIA from the Respondent, the arbitrator shall be appointed as per the procedure prescribed in Regulation

(g) The Respondent(s) shall within 15 days from the date of receipt of Form No. I/IA from the Exchange, submit to the Exchange in Form No. III/IIIA three copies in case of sole arbitrator and five copies in case of panel of arbitrators along with the following enclosures:

- \* The Statement of Reply (containing all available defenses to the claim)
- \* The Statement of Accounts
- \* Copies of the Member Constituent Agreement,
- \* Copies of the relevant Contract Notes, Invoice and Delivery Challan
- \* Statement of the set-off or counter claim along with statements of accounts and copies of relevant contract notes and bills
- \* The Respondent shall also submit to the Exchange a cheque/pay order/demand draft for the deposit payable at the seat of arbitration in favor of National Commodity & Derivatives Exchange Limited along with Form No. III/IIIA
- \* If the Respondent fails to submit Form III/IIIA within the prescribed time, then the arbitrator may proceed with the arbitral proceedings and make the award ex-parte.
- \* Upon receiving Form No. III/IIIA from the Respondent the Exchange shall forward one copy to the Applicant. The Applicant shall within ten days from the date of receipt of receipt of copy of Form III/IIIA, submit to the Exchange, a reply to any counterclaim, if any, which may have been raised by the respondent in its reply to the applicant.
- \* The Exchange shall forward the reply to the respondent.
- \* The time period to file any pleading referred to herein may be extended for such further periods as may be decided by the Relevant Authority in consultation with the arbitrator depending on the circumstances of the matter.

## **21.10 REQUIREMENT FOR HEARINGS**

<sup>1</sup> (a) No hearing shall be required to be given to the parties to the dispute if the value of the claim difference or dispute is Rs.75,000 or less. In such a case the arbitrator/s shall proceed to decide the matter on the basis of documents submitted by both the parties provided however the arbitrator for reasons to be recorded in writing may hear both the parties to the dispute.

<sup>2</sup> (b) If the value of claim, difference or dispute is more than Rs.75,000, the arbitrators shall offer to hear the parties to the dispute unless both parties waive their right for such hearing in writing.

### **<sup>3</sup> (c ) Discretion to pass interim orders:**

The arbitrator/s may issue such orders or directions as may be deemed necessary including orders or directions for safeguarding, interim custody, preservation, protection, storage, sale or disposal of the whole or part of the subject matter of the dispute or for its inspection or sampling without prejudice to the rights of the parties or the final determination of the dispute.

## **21.11 NOTICE OF HEARING**

Unless otherwise specified, the Exchange shall in consultation with the arbitrator determine the date, the time and place of the first hearing. Notice for the first hearing shall be given at least ten days in advance, unless the parties shall, by their mutual consent, waive the notice. The arbitrator shall determine the date, the time and place of subsequent hearings of which the Exchange shall give a notice to the parties concerned.

### **<sup>4</sup> Attendance at hearing**

The arbitrator/s may commence, proceed with, continue or conclude the reference notwithstanding any failure by a party to comply with any of the directions of the arbitrator/s and may also proceed with the arbitral proceedings in the absence of any or both the parties who fail or neglect to attend at the time and place appointed by the arbitrator/s, inspite of due notice. <sup>4</sup>

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<sup>1</sup> In clause (a) the amount Rs. 25,000/- shall be replaced by Rs.75,000/-

<sup>2</sup> In clause (b) the amount Rs. 25,000/- shall be replaced by Rs.75,000/-

<sup>3</sup> A new clause 21.(10) ( c) shall be inserted as per Circular dated February 7, 2005

<sup>4</sup> A new para with the heading "Attendance at Hearing" shall be Inserted in clause 21.(11) after the existing clause.

## **21.12 ADJOURNMENT OF HEARING**

If any party to the reference wants to make an application for adjournment of hearing by the arbitrator the party shall make an application in writing giving reasons for seeking adjournment to the Exchange sufficiently in advance to enable the Exchange to forward such request to the arbitrator. The arbitrator at his discretion may grant the adjournment subject to such conditions as deemed fit by him.

Any person representing the Constituent in the arbitral proceedings shall be permitted to do so on production of a power of attorney duly executed and notarized by the Constituent in his favor, provided however in case of a Member, he shall appear in the hearings on his own or through his authorized representative. For the purpose of this Regulation, an authorized representative in case of a Member who is

- (a) an individual -an employee or authorized person, as defined in these Regulations, of such Member; or
- (b) a partnership firm -any partner or employee or authorized person, as defined in these Regulations, of such Member; or
- (c) a company - any director or employee or authorized person, as defined in these Regulations, of such Member.

## **21.13 ARBITRAL AWARD ON AGREED TERMS**

If after the appointment of an arbitrator, the parties settle the dispute, then the arbitrator shall record the settlement in the form of an arbitral award on agreed terms.

## **21.14 MAKING OF ARBITRAL AWARD**

- (a) The arbitral award shall be in writing and made in three originals duly dated and signed by the sole arbitrator or in case of a panel of arbitrators by all the three arbitrators.
- (b) The arbitrator shall file all the three original awards with the Exchange, which shall arrange to send one original each to the parties to the dispute and the Exchange shall retain the stamped original award.

## **<sup>1</sup> 21.15 COUNTER-CLAIM AND REPLY TO COUNTER-CLAIM**

The Respondent in an arbitration proceedings may make a counter-claim against the Claimant provided the counter-claim arises under the same transaction as the original claim. The Respondent shall submit the counterclaim with full details supported by all documents and information forming the basis of counterclaim within the period laid down in the Regulations for submission of the defence statement/reply to the original claim. The original Claimant may, within such period, or within such extended time as may be permitted by the arbitrator/s, submit a statement in reply to the counter-claim.

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<sup>1</sup> A new clause shall be added after clause 21.14 and shall be numbered as 21.15

Notwithstanding anything to the contrary stated in the Regulation, the arbitrator or the panel of arbitrators as the case may be, appointed to adjudicate upon the original claim shall also adjudicate upon the counterclaim and there will be no change in the number and/or the persons constituting the arbitral tribunal for adjudicating the original claim.

Copy of the reply to the counter-claim and all appended documents, if any, shall be sent to the party making the counter claim for information.

<sup>1</sup> **21.16 INTEREST**

(a) The arbitrator may include in the sum for which the award is made interest at such rate on such sum and for such period as the arbitrator deems reasonable.

(b) A sum directed to be paid by an award shall, unless the award otherwise directs, carry interest at the rate of eighteen per centum per annum from the date of the award to the date of payment.

<sup>2</sup> **21.17 ARBITRATION FEES AND CHARGES, COSTS, ETC.**

(a) The fees and expenses payable to arbitrator shall be as determined by the Relevant Authority from time to time.

(b) All fees and charges relating to the appointment of the arbitrator and conduct of arbitration proceedings shall be borne by the parties to the reference equally or in such proportions as may be decided by the arbitrator.

(c) The costs, if any, to be awarded to either of the party in addition to the fees and charges that have to be borne by the parties for conducting the arbitration shall be decided by the arbitrator.

(d) Unless the arbitrator directs otherwise each party shall bear their own expenses of traveling and other incidental expenses incurred.

<sup>3</sup> (e) **Other fees and expenses incurred:** The arbitrator/s shall be entitled to allow fees and expenses of witnesses, expenses connected with the selection and carriage of sample and examination of goods, Licensed Measure's Department or Assayers'/quality certifying agencies' charges, conveyance, hire, cost of legal or technical advice or proceedings in respect of any matter arising out of the arbitration and any other incidental expenses and charges in connection with or arising out of the reference or award as the arbitral tribunal may, in its absolute discretion, think fit.

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<sup>1</sup> The existing clause 21.15. shall be renumbered as 21.16.

<sup>2</sup> The existing clause 21.16. shall be renumbered as 21.17.

<sup>3</sup> A new clause (e) with the title "other Fees and Expenses incurred" shall be inserted after the existing clause 21.17. (d)

**<sup>1</sup> 21.18 COMBINING OF CLAIMS**

Where there are two or more applications for arbitration and the issue involved in the dispute arises out of similar transactions, the Relevant Authority may, if in his opinion it is proper to do so, with the consent of the parties, fix the hearings of the disputes to be heard jointly or refer the applications for separate hearings where the parties do not so consent. Where the applications are heard jointly, the awards, however, shall be given separately for each dispute.

**<sup>2</sup> 21.19 ADMINISTRATIVE ASSISTANCE, WHICH MAY BE PROVIDED BY THE EXCHANGE**

The Exchange shall-

- (a) maintain a register of references;
- (b) receive all applications for arbitration and communications addressed by the parties before or during the course of arbitration proceedings or otherwise in relation thereto;
- (c) receive payment of all costs, charges, fees and other expenses;
- (d) give notices of hearing and all other notices to be given to the parties before or during the course of the arbitration proceedings or otherwise in relation thereto;
- (e) communicate to the parties all orders and directions of the arbitrator;
- (f) receive and record all documents and papers relating to the reference and keep in custody all such documents and papers except such as the parties are allowed to retain;
- (g) communicate the award on behalf of the arbitrator;
- (h) generally do such things and take all such steps as may be necessary to assist the arbitrator in the execution of their function.

**<sup>3</sup> 21.20 DUTY OF THE PARTIES TO THE DISPUTE**

The parties shall do all acts necessary to enable the arbitral tribunal to make an award expeditiously and shall not do or cause or allow to be done, any act which may delay the proceedings or prevent arbitral tribunal from making an award expeditiously, and if any party does cause or allow to be done any act that may cause such delay, that party shall pay such costs as the arbitral tribunal deems reasonable.

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<sup>1</sup> A new regulations No.21.18 “COMBINING OF CLAIMS” shall be inserted after the existing clause 21.17

<sup>2</sup> The existing clause 21.17 is renumbered as 21.19.

<sup>3</sup> A new regulation 21.20 “Duty of the Parties to the Dispute” shall be added after the clause 21.19

### <sup>1</sup> **21.21 EXPERT ADVICE**

The arbitrator/s shall have discretion at any time before making the final award and at the expense of the parties concerned, to consult and obtain the opinion of any person having special knowledge relating to the particular industry, commodity, produce or branch of trade concerned in the reference or any expert or qualified accountant and may also at the expenses of the parties, consult solicitors, counsel or advocates upon any technical question of law, evidence, practice or procedure arising in the course of the reference and the Arbitrator may rely upon such advice and shall be at liberty to determine, on merits, the question of requesting the expert for participating in the oral hearing and to testify thereat on the points at issue.

### <sup>2</sup> **21.22 LANGUAGE**

The language of the arbitration proceedings and the award shall be English. If any documents filed by the parties are in a language other than English, the party filing such documents shall simultaneously furnish an English translation of the documents.

### <sup>3</sup> **21.23 MODE OF COMMUNICATION**

a) Any communication sent by the Exchange to either of the parties shall be deemed to have been properly delivered or served, even if such communication is returned to the Exchange as unclaimed / refused / undelivered, if the same is sent to the ordinary business address and/or ordinary place of residence and/or last known address of the party, in any one or more of the following ways: -

- (i) by post,
- (ii) by registered post,
- (iii) under certificate of posting
- (iv) by speed post/courier services,
- (v) by telegram,
- (vi) by affixing it on the door at the last known business or residential address,
- (vii) by oral communication to the party in the presence of a third person,
- (viii) by advertising it in at least one prominent daily newspaper having circulation in the area where the last known business or residential address of Respondent is situated,
- (ix) by sending a message through the Trading System,
- (x) by electronic mail or fax
- (xi) by hand delivery

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<sup>1</sup> A new regulation 21.21 "Expert Advice" shall be inserted after clause 21.20

<sup>2</sup> A new regulation 21.22 "Language" shall be inserted after clause 21.21

<sup>3</sup> The existing clause 21.18 shall be renumbered as 21.23

- (b) Any communication sent by either of the parties to the Exchange shall be made in any one or more of the following ways:
- (i) by post (ordinary or registered or speed) or Courier service
  - (ii) by telegram
  - (iii) by fax
  - (iv) by hand delivery

**Form No. I Arbitration Application**

Name of Applicant:

Status: Member of the Exchange/ Constituent

Office/residential address of Applicant

Tel: Off \_\_\_ res. \_\_\_

Fax: Off \_\_\_ res. \_\_\_

Mobile Tel. No.

To,

Arbitration Department,

National Commodity and Derivatives Exchange Limited  
Mumbai

Sirs,

I/We, am/are a Member of the Exchange/Constituent of \_\_\_\_\_\* (please mention name of Member).

I/We hereby apply for adjudication by arbitration of the claim, difference and dispute within the meaning of the Bye laws, Rules and Regulations of the Exchange which has arisen and is now pending between me and the following person

Name:

Status: Member of the Exchange/ Constituent\*

Office /residential Address:

Tel: Off \_\_\_ res. \_\_\_

Fax: Off \_\_\_ res. \_\_\_

The amount of claim in the matter is:

(a) Rs. \_\_\_\_\_ (in words) (Rupees \_\_\_\_\_ only)

(b) In case of Commodities give details

i) Commodity Name/s ii) Calculate Market Value of Commodities as on the date of application  
(Add the market value of commodities to the claim amount giving the break up of the claim)

Please find enclosed a Cheque/Pay order/ Demand Draft No. \_\_\_\_\_ dated \_\_\_\_\_  
issued by \_\_\_\_\_ bank in favor of National Commodity and

Derivatives Exchange Limited for an amount of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only)  
payable at Mumbai/Delhi/ Calcutta/ Chennai towards  
Arbitration deposit for defraying costs and expenses of arbitration.

I/We state that I do not want a hearing from the arbitrator/ I do want a  
hearing from the arbitrator \*

Signature of Applicant

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

Place \_\_\_\_\_

Note:

1) The Applicant shall put his/her signature on all the pages of the documents submitted along with this form and if the Applicant is a firm/company, the rubber stamp of the firm/company shall be affixed on all the pages. If the Applicant is a firm/company then the authorized representative of the Applicant has to submit the authority letter/board resolution as the case may be along with this form.

2) Five names are to be suggested from the list of persons eligible to act as arbitrators.

\* Strike whichever is not relevant.

**Form No. IA Arbitration Application**

Name of Applicant:  
Status: Constituent  
Office/Residential Address of Applicant

Tel: Off \_\_\_ res. \_\_\_  
Fax: Off \_\_\_ res. \_\_\_

Mobile Tel. No.

To,  
Arbitration Department,  
National Commodity and Derivatives Exchange Limited,  
Mumbai

Sirs,

I/We, am/are a Constituent of \_\_\_\_\_ (please mention name of Member).

I/We hereby apply for adjudication by arbitration of the claim, difference and dispute within the meaning of the Bye laws, Rules and Regulations of the Exchange which has arisen and is now pending between me and the following

Warehouse Name:

Status:

Registered Office:

Tel: Off \_\_\_ res. \_\_\_

Fax: Off \_\_\_ res. \_\_\_

The amount of claim in the matter is:

(a) Rs. \_\_\_\_\_ (in words) (Rupees \_\_\_\_\_ only)

(b) Commodities details

i)	Commodity	Name/s	_____
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ii) Date of transaction on the Exchange \_\_\_\_\_  
Please find enclosed a Cheque/Pay order/ Demand Draft No. \_\_\_\_\_  
dated \_\_\_\_\_ issued by \_\_\_\_\_ bank in favor of National Commodity  
and  
Derivatives Exchange Limited for an amount of Rs. \_\_\_\_\_  
(Rupees \_\_\_\_\_ only) payable at Mumbai towards Arbitration deposit for  
defraying costs and expenses of arbitration.  
I/We state that I do not want a hearing from the arbitrator/ I do want a  
hearing from the arbitrator \*

Signature of Applicant

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

Place: \_\_\_\_\_

Note:

1) The Applicant shall put his/her signature on all the pages of the documents submitted along with this form and if the Applicant is a firm/company, the rubber stamp of the firm/company shall be affixed on all the pages. If the Applicant is a firm/company then the authorized representative of the Applicant has to submit the authority letter/board resolution as the case may be along with this form.

2) Five names are to be suggested from the list of persons eligible to act as arbitrators.

\* Strike out whichever is not relevant.

**Form No.II**

In the matter of an Arbitration under the Bye laws, Rules and Regulations of National Commodity and Derivatives exchange Limited

Arbitration Matter No.\_\_\_\_\_/200\_\_

BETWEEN

M/s\_\_\_\_\_

Mr./Mrs./Ms.\_\_\_\_\_

...

**Applicant**

**(TM/C)\***

Office/Residential Address \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res.\_\_\_\_\_

Fax: Office \_\_\_\_\_ Res.\_\_\_\_\_ Mobile/Pager No.\_\_\_\_\_

**AND**

M/s \_\_\_\_\_ Mr./Mrs./Ms.\_\_\_\_\_

... Respondent (TM/C)\* Office/Residential Address \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res.\_\_\_\_\_ Fax: Office \_\_\_\_\_

\_\_\_\_\_ Res. \_\_\_\_\_ Mobile/Pager

No. \_\_\_\_\_

To,  
Arbitration Department,

National Commodity and Derivatives Exchange Limited,

Mumbai

Sirs,

In the said matter, the names of persons chosen by me/us as arbitrators from the list of eligible persons to act as arbitrators are given below in descending order of preference

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4.  
5. \_\_\_\_\_ 6. \_\_\_\_\_ 7. \_\_\_\_\_

Yours faithfully,

Signature

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

Place: \_\_\_\_\_

**Note:** Five names are to be suggested from the list of persons eligible to act as arbitrators.

'TM' stands for "Member" and 'C' stands for "Constituent".

\* Strike whichever is not relevant.

Form NO. II A

In the matter of an Arbitration under the Bye laws, Rules and Regulations of National Commodity and Derivatives Exchange Limited Arbitration Matter

Arbitration Matter No. \_\_\_\_\_/200\_\_

BETWEEN

M/s \_\_\_\_\_

Mr./Mrs./Ms. \_\_\_\_\_  
Office/Residential Address \_\_\_\_\_

...

Applicant

(C)\*

Tel: Office \_\_\_\_\_ Res. \_\_\_\_\_

Fax: Office \_\_\_\_\_ Res. \_\_\_\_\_

Mobile/PagerNo. \_\_\_\_\_

AND

M/s \_\_\_\_\_ ... Respondent (W)\*

Registered Office \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res. \_\_\_\_\_ Fax: Office

\_\_\_\_\_ Res. \_\_\_\_\_ Mobile/Pager

No. \_\_\_\_\_

To,

Arbitration Department,  
National Commodity and Derivatives Exchange Limited,  
Mumbai

Sirs,  
In the said matter, the names of persons chosen by me/us as arbitrators from the list of eligible persons to act as arbitrators are given below in descending order of preference:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_

Yours faithfully,

Signature

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

Place: \_\_\_\_\_

Note: Five names are to be suggested from the list of persons eligible to act as arbitrators. 'C' stands for "Constituent" and 'W' stands for "Warehouse".

Form - III

In the matter of an Arbitration under the Bye laws, Rules and Regulations of National  
Commodity and Derivatives Exchange Limited Arbitration Matter No. \_\_\_\_/200\_\_

**BETWEEN**

M/s \_\_\_\_\_

Mr./Mrs./Ms. \_\_\_\_\_ ... **Applicant** (TM/C)\*

Office/Residential Address \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res. \_\_\_\_\_ Fax: Office

\_\_\_\_\_ Res. \_\_\_\_\_ Mobile/Pager

No. \_\_\_\_\_

**AND**

M/s \_\_\_\_\_ Mr./Mrs./Ms. \_\_\_\_\_

... **Respondent (TM/C)\*** Office/Residential Address \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res. \_\_\_\_\_ Fax: Office

\_\_\_\_\_ Res. \_\_\_\_\_ Mobile/Pager

No. \_\_\_\_\_ To,

Arbitration Department,

Sirs,

In connection with the application for arbitration submitted by Mr./Mrs./Ms./M/s

\_\_\_\_\_ the Applicant above named, I/We enclose herewith three / five copies of my/our reply along with the enclosures as specified in regulation \_\_\_.

Please also find enclosed a Cheque/Pay order/ Demand Draft No. \_\_\_\_\_ dated \_\_\_\_\_ issued by \_\_\_\_\_ bank in favor of National Commodity and Derivatives Exchange Limited for an amount of Rs. \_\_\_\_\_ (Rupees \_ \_\_\_\_\_ only) payable at Mumbai towards Arbitration deposit for defraying costs and expenses of arbitration.

I/We state that I do not want a hearing from the arbitrator/ I do want a hearing from the arbitrator.\*

Yours faithfully

Signature of Respondent/s

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

Place: \_\_\_\_\_

**Note:** The Respondent shall put his/her signature on all the pages of the documents submitted along with this form and if the Respondent is a firm/company, the rubber stamp of the firm/company shall be affixed on all the pages. If the Respondent is a firm/company then the authorized representative of the Respondent has to submit the authority letter/board resolution as the case may be along with this form.

'TM' stands for "Member" and 'C' stands for "Constituent"

\* Strike whichever is not relevant.

Form - III A

**Reply by the Respondent to Arbitration Application**

In the matter of an Arbitration under the Bye laws, Rules and Regulations of National Commodity and Derivatives Exchange Limited Arbitration Matter No.\_\_\_\_\_/200\_\_ BETWEEN

M/s \_\_\_\_\_

Mr./Mrs./Ms. \_\_\_\_\_ ... Applicant (C)\*

Office/Residential Address \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res. \_\_\_\_\_

Fax: Office \_\_\_\_\_ Res. \_\_\_\_\_

Mobile/Pager No. \_\_\_\_\_

AND

M/s \_\_\_\_\_ ... Respondent (W)\*

Registered Office \_\_\_\_\_

Tel: Office \_\_\_\_\_ Res. \_\_\_\_\_ Fax: Office

\_\_\_\_\_ Res. \_\_\_\_\_ Mobile/Pager

No. \_\_\_\_\_

To,  
Arbitration Department,  
National Commodity and Derivatives Exchange Limited

Sirs,

In connection with the application for arbitration submitted by Mr./Mrs./Ms./M/s \_\_\_\_\_ the Applicant above named, I/We enclose herewith three /five copies of our reply along with the enclosures as specified in regulation \_\_\_\_\_.

Please also find enclosed a Cheque/Pay order/ Demand Draft No. \_\_\_\_\_ dated \_\_\_\_\_ issued by \_\_\_\_\_ bank in favor of National Commodity and Derivatives Exchange Limited for an amount of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) payable at Mumbai towards Arbitration deposit for defraying costs and expenses of arbitration.

I/We state that I do not want a hearing from the arbitrator/ I do want a hearing from the arbitrator.\*

Yours faithfully

Signature of Respondent/s

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

Place: \_\_\_\_\_

Note: The Respondent shall affix the rubber stamp of the company on all the pages. The authorized representative of the Respondent has to submit the authority letter/board resolution as the case may be along with this form.

'C' stands for "Constituent" and 'W' stands for "warehouse".

- Strike out whichever is not relevant.

D: MISCELLANEOUS

## **22 INSPECTION**

### **22.1 INSPECTION AUTHORITY**

Where it appears to the Exchange so to do, it may appoint one or more persons as inspecting authority to undertake inspection of books of accounts, other records and documents of the Members for any of the purposes specified in Regulations.

- a) The Inspecting authority appointed by the Exchange may be either its own officials or outside professionals.
- b) When the Exchange appoints outside professionals as an inspecting authority, it shall notify the Member the names and addresses of the professionals or firms so appointed as an inspecting authority at the time of inspection.
- c) When outside professionals are appointed as an inspecting authority in respect of a Member and such professionals are already related in any other capacity with the Member then such member shall forthwith inform the Exchange of such relationship.
- d) Where after appointment of any outside professional as an inspecting authority in respect of a Member, the Member or any of its associates engages the inspecting authority for its services in any other capacity, the inspecting authority shall not engage itself in such other professional capacity with the Member or any of its associates without prior consent of the Exchange.

The purposes referred to in regulation above shall be as follows, namely:

- a) to ensure that the books of accounts and other books are being maintained in the manner required;
- b) to ensure that provisions of the Forward Contracts (Regulation) Act, 1952 is being complied with;
- c) to ensure that various provisions of NCDEX Bye-laws, Rules and Regulations and any directions or instructions issued there under are being complied with;
- d) to investigate into the complaints received from investors, other members of the Exchange or any other person on any matter having a bearing on the activities of the Member;
- e) to investigate suo-moto, for any reason where circumstances so warrant an inspection into the affairs of the Member in public interest;
- f) to examine whether any notices, circulars, instructions or orders issued by the Exchange from time to time relating to trading and other activities of Members are being complied with;
- g) to comply with any of the directives issued in this behalf by any regulating authority including Government of India.

### **22.2 NOTICE**

Before undertaking any inspection under regulation, the Exchange shall give a reasonable

notice to the Member for that purpose.

Notwithstanding anything contained in regulation, where the Exchange is of the opinion that no such notice should be given, it may direct in writing that the inspection of the affairs of the Member be taken up without such notice.

Exchange officials or the inspecting authority who is directed by the Exchange to undertake the inspection, shall undertake the inspection and the Member against whom an inspection is being carried out shall be bound to discharge his obligations as provided below

### **22.3 OBLIGATIONS OF A MEMBER ON INSPECTION**

It shall be the duty of every director, officer and employee of the Member, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control or arrange to produce where such books, accounts and other documents when they are in any other person's custody or control and furnish him such statements and information within such time as the said inspection authority may require.

The Member shall allow the inspecting authority to have reasonable access to the premises occupied by him or by any other person on his behalf and also extend reasonable facilities for examining any books, records, documents and computerized data in his possession or any other person and also provide copies of documents or other materials which in the opinion of the inspecting authority are relevant.

The inspecting authority, in the course of inspection shall be entitled to examine or record statements of any member, director, officer and employee of the Member or of any associate of such Member.

It shall be the duty of every director, officer and employee of the Member or where an associate is examined, such associate to give to the inspecting authority all assistance in connection with the inspection, which the Member may be reasonably expected to give.

The inspecting authority shall be entitled to examine the records relating to the Member's financial affairs held with its bankers or any other agency, which the inspecting authority may find it relevant.

The inspecting authority shall have access to accounts and other records relating to the Member or such access as authorized by the Exchange to accounts and other records relating to any associate of the Member as are within the power of the Member to provide.

### **22.4 SUBMISSION OF REPORT**

The inspecting authority shall, as soon as possible submit an inspection report to the Exchange. All documents, papers, returns or their copies submitted to the inspecting authority may be retained by it on behalf of the Exchange. It shall maintain complete confidentiality thereof and

no disclosure of any information contained therein shall be made to any person, firm, company or authority unless required by any law for the time being in force and without approval of the Exchange in this regard.

- a) The Exchange shall after consideration of the inspection report communicate the findings to the Member to give him an opportunity of being heard before any action is taken by the Exchange on the findings of the inspecting authority.
- b) On receipt of the explanation, if any, from the Member the Exchange may call upon Member to take such measures as the Exchange may deem fit in public interest.
- c) Notwithstanding anything contained in regulation, where the Exchange is of the opinion that no such hearing should be provided in certain circumstances, it may take action forthwith without giving an opportunity of being heard.

## **22.5 COLLECTION AND DISSEMINATION OF INFORMATION**

The Exchange may call upon the Members to furnish such information and /or explanation with regard to any constitution, dealings, settlement, account and/or other related matters.

The Exchange shall maintain the details of the clients of the members in confidence and that it shall not disclose to any person/ entity such details of the client as mentioned in the client registration form or any other information pertaining to the client except as required under the law or by any authority.

Notwithstanding anything contained in any of the Regulations, the Exchange may at its discretion disseminate to regulatory authorities or to the general public, any information including information relating to any trades, dealings, settlement of dealings, accounting, disciplinary action initiated/taken against Members and/or other matters relevant for enforcement or regulatory purposes.

## **23 CONFLICT BETWEEN RULES, BYE LAWS AND REGULATION**

In event of any conflict between Regulations and Bye Laws, the contents of Bye Laws shall supersede and in the event of any conflict between Rules and Bye Laws or Rules and Regulations, the Rules shall supersede.

Without prejudice to the generality of above, in case of any ambiguity or any confusion with regard to any of the provisions of Regulation, the clarification given by Exchange shall be binding.

## **24. MODIFICATION**

Subject to the provisions of the Forward Contracts (Regulation) Act, 1952, the Exchange shall have right to modify, substitute or alter these regulations at any time if deemed appropriate by the Exchange in the interest of the regulation of the commodity and/ or derivatives market.

## **25 MEASURES TO MEET EMERGENCIES**

If in the opinion of the Relevant Authority of Exchange, an emergency exists or has arisen or is likely to occur or if in its opinion the conditions are such as to make free trading in commodities / contracts extremely difficult, the Relevant Authority of Exchange may by a resolution take such action as it deems fit for stabilizing the market. Any power exercised by the Relevant Authority under this provision shall be subject to directions, if any, issued by the Forward Markets Commission.

## **26 FORWARD CONTRACTS (REGULATION) ACT, 1952**

Notwithstanding anything contained in these Regulations, these Regulations shall be subject to the provisions of Forward Contracts (Regulation) Act, 1952 and Rules framed thereunder as in force from time to time and directions of Forward Market Commission.

## **27 SAVINGS**

### **27.1**

Save as otherwise specifically provided in these Regulations, the Exchange, Clearing House/Corporation, its directors, employees and agents while performing functions of regulating, promoting, facilitating, assisting, operating or performing any function under Rules, Bye laws and these Regulations, shall not be deemed to have incurred any liability and accordingly no claim or recourse shall lie against the Exchange, Clearing Houses, their employees, directors or authorized persons.

### **27.2**

No claim, suit, prosecution or other legal proceedings shall lie against the Exchange/Clearing House, their directors, employees or any authorized persons in respect of anything which is in good faith done or intended to be done in order to regulate the functions of Exchange or done or intended to be done in pursuant to any orders issued by Forward Market Commissions or any other authority under law for the time being in force.

# ANNEXURES

## 28 ANNEXURE A - CONTRACT NOTE AS BROKERS & AGENTS

CONTRACT NOTE

(Regulation 5.5)

Name of Partner/  
Proprietor/ Authorized Signatory

Tel. No.

CONTRACT NOTE ISSUED BY MEMBERS ACTING FOR CONSTITUENTS  
AS BROKERS & AGENTS

Tlx. No.

Fax No

Dealing Office Address / Tel. No. / Tlx. No. / Fax No.

Name of the Member

Address of the

Member

NCDEX Regn. No. Of the Member

Trading Code No. Of the Member  
No.

Contract

To,  
Constituent Name / Unique Client Code No. / Constituent Order Ref.  
No.

Stamp as required under  
Schedule 1 to the Indian  
Stamp Act

DATE:

SETT. NO.:

SETT. FROM: TO:

Sir / Madam,

I / We have this day done by your order and on your account the following transactions:

Commodities / Futures Contracts BOUGHT FOR YOU									Commodities / Futures Contracts SOLD FOR YOU					
Order No.	Trade No.	Trade Time	Quantity	Kind of Commodity / Contract	Purchase Rate	Brokerage	Rate Plus Brokerage Net Rate	Amount Rs.	Quantity	Kind of Commodity / Contract	Sale Rate	Brokerage	Rate Minus Brokerage Net Rate	Amount Rs.

YOUR CHEQUE REQUESTED FOR THE COST SHOWN HEREIN PLEASE PAY IMMEDIATELY FOR YOUR PURCHASES / DEBIT

YOUR DEPOSITORY TRANSFER REQUESTED IMMEDIATELY FOR SALE DONE

### Note :

For Purchases Transactions: You will be liable to pay the local sales tax, levies and other charges as permitted by the local State sales tax laws and the bye-laws and regulations to the seller, for issue of valid local sales tax certificate/declaration form to the seller and for compliance of local sales tax laws and regulations.

For Sale Transactions: You will be responsible for recovery of the local sales tax, levies and other charges as permitted by the local State sales tax laws and the bye-laws and regulations, for issue of sales invoice and valid local sales tax certificates / declaration forms to the buyer and for compliance of local sales tax laws and permitted by the local regulations.

### OTHER LEVIES, IF ANY:

Purchase / Sale Rate excludes local sales tax, levies and charges which will be recovered by the seller / recoverable by you separately on the final settlement price in the case of transactions culminating into deliveries Brokerage has been charged as stated and has been at rates not exceeding the official scale of brokerage and indicated separately.

This contract is subject to the Rules, Byelaws and Regulations and usages of National Commodity & Derivatives Exchange Limited, Mumbai.

In matters where the Exchange is a party to the dispute, the Civil Courts at Mumbai shall have exclusive jurisdiction and in all other matters, proper courts within the area covered under the Regional Arbitration Center shall have jurisdiction in respect of the arbitration proceedings falling under or conducted in that Regional Arbitration Center.

In the event of any claim (whether admitted or not) difference or dispute arising between you and me/us out of these transactions the matter shall be referred to arbitration as provided in the Rules, Bye-laws and Regulations of National Commodity & Derivatives Exchange Limited, Mumbai.

This contract constitutes and shall be deemed to constitute as provided overleaf an agreement between you and me/us that all claims (whether admitted or not), differences and disputes in respect of any dealings, transactions and contracts of a date prior or subsequent to the date of this contract (including any question whether such dealings, transactions or contracts have been entered into or not) shall be submitted to and decided by arbitration as provided in the Rules, Bye-laws and Regulations of National Commodity & Derivatives Exchange Limited, Mumbai.

The provisions printed overleaf form a part of the contract.

Place

Yours faithfully,

Date

Member of National Commodity & Derivatives Exchange Limited

## EXTRACTS FROM THE BYELAWS & REGULATIONS PERTAINING TO ARBITRATION

(1) All claims, differences or disputes between the Trading Members *inter se* and between Trading Members and Constituents arising out of or in relation to dealings, contracts and transactions made subject to the Bye-Laws, Rules and Regulations of the Exchange or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfillment or the rights, obligations and liabilities of the parties thereto and including any question of whether such dealings, transactions and contracts have been entered into or not shall be submitted to arbitration in accordance with the provisions of these Byelaws and Regulations.

(2) In all dealings, contracts and transactions, which are made or deemed to be made subject to the Byelaws, Rules and Regulations of the Exchange, the provisions relating to arbitration as provided in these Byelaws and Regulations shall form and shall be deemed to form part of the dealings, contracts and transactions and the parties shall be deemed to have entered into an arbitration agreement in writing by which all claims, differences or disputes of the nature referred to in clause (1) above shall be submitted to arbitration as per the provisions of these Byelaws and Regulations.

(3) All claims, differences or disputes referred to in clause (1) above shall be submitted to arbitration within six **one** month from the date on which the claim, difference or dispute arose or shall be deemed to have arisen. **The time taken in arbitration proceedings, if any, initiated and conducted as per the provisions of the Act and the time taken by the Relevant Authority to administratively resolve the claim, differences or disputes shall be excluded for the purpose of determining the period of six months.**

\* "TCM" stands for "Trading Clearing Member" and "C" stands for "Constituent."

For more details please refer to the Byelaws and Regulations of National Commodity & Derivatives Exchange

**29 ANNEXURE B – CONTRACT NOTE AS PRINCIPALS**

CONTRACT NOTE  
(Regulation 5.5)

Tel. No.  
Tlx. No.

CONTRACT NOTE ISSUED BY MEMBERS ACTING AS PRINCIPALS

Fax no

Name of Partner/

Proprietor/ Authorized Signatory

Dealing Office Address / Tel no. / Tlx no. / Fax no.

Name of the Member

Address of the Member NCDEX

Regn. No. Of the Member

Trading Code No. of the Member

Contract No.

To,

Constituent Name / Unique Client Code No. / Stamp as required under DATE

Constituent Order Ref. No. schedule 1 to the Indian Stamp Act SETT. NO.  
SETT. FROM : TO:

Sir/ Madam,

I / We have this day ENTERED INTO following transactions with you as PRINCIPAL(S) TO PRINCIPAL(S) :

		Commodities / Contracts SOLD TO YOU					Commodities / Contracts BOUGHT FROM YOU			
Order No.	Trade No.	Trade Time	Quantity	Kind of Commodity / Contract	Rate	Amount Rs.	Quantity	Kind of Commodity / Contract	Rate	Amount Rs.

YOUR CHEQUE REQUESTED FOR THE COST SHOWN HEREIN PLEASE PAY IMMEDIATELY FOR YOUR PURCHASES / DEBIT

YOU ARE REQUESTED TO EXECUTE DEPOSITORY TRANSFER REQUEST IMMEDIATELY

Note :

For Buy Transactions: You will be responsible for recovery of the local sales tax, levies and other charges as permitted by the local State sales tax laws and the bye-laws and regulations, for issue of sales invoice and valid local sales tax certificates / declaration forms to us for compliance of local sales tax laws and regulations.	For Sale Transactions: You will be liable to pay the local sales tax, levies and other charges as permitted by the local State Tax Laws and the bye-laws and regulations to us, for issue of valid local sales tax certificates / declaration forms to us and for compliance of local sales tax laws and regulations.
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**OTHER LEVIES, IF ANY:**

The Purchase / Sale Rate excludes local sales tax, levies and charges which will be recovered by you / recoverable from you separately on the final settlement price in the case of transactions culminating into deliveries Brokerage has been charged as stated and has been at rates not exceeding the official scale of brokerage and indicated separately.

This contract is subject to the Rules, Byelaws and Regulations and usages of National Commodity & Derivatives Exchange Limited, Mumbai.

In matters where the Exchange is a party to the dispute, the civil courts at Mumbai shall have exclusive jurisdiction and in all other matters, proper courts within the area covered the Regional Arbitration Centre shall have jurisdiction in respect of the Arbitration proceedings falling under or conducted in that Regional Arbitration Centre.

In the event of any claim (whether admitted or not) difference or dispute arising between you and me/us out of these transactions the matter shall be referred to arbitration as provided in the Rules, Bye-laws and Regulations of National Commodity & Derivatives Exchange, Mumbai.

This contract constitutes and shall be deemed to constitute as provided overleaf an agreement between you and me/us that all claims (whether admitted or not), differences and disputes in respect of any dealings, transactions and contracts of a date prior or subsequent to the date of this contract (including any question whether such dealings, transactions or contracts have been entered into or not) shall be submitted to and decided by arbitration as provided in the Rules, Bye-laws and Regulations of National Commodity & Derivatives Exchange Limited, Mumbai.

The provisions printed overleaf form a part of the contract.

Place

Yours faithfully

Date

Member of National Commodity & Derivatives Exchange Limited

## EXTRACTS FROM THE BYELAWS & REGULATIONS PERTAINING TO ARBITRATION

(1) All claims, differences or disputes between the Trading Members *inter se* and between Trading Members and Constituents arising out of or in relation to dealings, contracts and transactions made subject to the Bye-Laws, Rules and Regulations of the Exchange or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfillment or the rights, obligations and liabilities of the parties thereto and including any question of whether such dealings, transactions and contracts have been entered into or not shall be submitted to arbitration in accordance with the provisions of these Byelaws and Regulations.

(2) In all dealings, contracts and transactions, which are made or deemed to be made subject to the Byelaws, Rules and Regulations of the Exchange, the provisions relating to arbitration as provided in these Byelaws and Regulations shall form and shall be deemed to form part of the dealings, contracts and transactions and the parties shall be deemed to have entered into an arbitration agreement in writing by which all claims, differences or disputes of the nature referred to in clause (1) above shall be submitted to arbitration as per the provisions of these Byelaws and Regulations.

(3) All claims, differences or disputes referred to in clause (1) above shall be submitted to arbitration within six **one** month from the date on which the claim, difference or dispute arose or shall be deemed to have arisen. **The time taken in arbitration proceedings, if any, initiated and conducted as per the provisions of the Act and the time taken by the Relevant Authority to administratively resolve the claim, differences or disputes shall be excluded for the purpose of determining the period of six months.**

\* "TM" stands for "Trading Member" and "C" stands for "Constituent." For more details please refer of the Byelaws and Regulations of National Commodity & Derivatives Exchange Limited

### **30 ANNEXURE C - MEMBER AND CONSTITUENT AGREEMENT**

This agreement is made at \_\_\_\_\_ this day of \_\_\_\_\_, 2003 by and between \_\_\_\_\_, a company / trust / firm / individual / co-operative society or any other body duly formed and registered under the \_\_\_\_\_ Act, having its registered office address at \_\_\_\_\_, (hereinafter called "MEMBER"), and \_\_\_\_\_, a company / trust / firm / individual or any other body duly formed and registered under the \_\_\_\_\_ Act, having its registered office address at \_\_\_\_\_ (hereinafter called "CONSTITUENT").

#### **WITNESSTH:**

Whereas the member is registered as TRADING AND CLEARING MEMBER (Member) of NATIONAL COMMODITY AND DERIVATIVES EXCHANGE (hereinafter called NCDEX or the Exchange).

Whereas the CONSTITUENT is desirous of investing/trading in those contracts admitted for dealing on NCDEX as defined in the Bye - Laws of NCDEX.

Whereas the CONSTITUENT has satisfied itself of the capability of the MEMBER to deal in those contracts admitted for dealing on NCDEX and wishes to execute his orders through him and the Constituent shall continue to satisfy himself of such capability of the MEMBER before executing any orders through him.

Whereas the MEMBER has satisfied and shall continuously satisfy himself about the genuineness and financial soundness of the CONSTITUENT and objectives relevant to the services to be provided

Whereas the MEMBER has taken steps and shall take steps to make the CONSTITUENT aware of the precise nature of the MEMBER's liability for

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business to be conducted, including any limitations on that liability and the capacity in which it acts.

In consideration of the Member agreeing to handle the transaction on NCDEX on my/ our behalf, I/We, the Constituent hereby agree that

- 1) I / We have read the Risk Disclosure Document appended hereto and understand the trading & risks involved in the trading of these instruments and am/are fully responsible for my/our dealings in these instruments.
- 2) I / We shall be bound by the constitutions, byelaws, rules, regulations, and customs of NCDEX
- 3) I / We shall deposit with you monies, securities or other property, which may be required to open and/or maintain my/our account.
- 4) I / We shall not, either acting alone or in concert with others, directly or indirectly, hold and control excess number of permitted contracts as fixed from time to time by the Exchange.
- 5) I / We shall not exercise a long or short position where, acting alone or in concert with others, directly or indirectly I / We will have exercised in excess of the limit of permitted contracts as may be fixed from time to time by the Exchange.
- 6) All monies, securities or other property, which you may hold on my / our account, shall be subject to a general lien for the discharge of my / our obligations to you under this agreement.
- 7) I / We hereby authorize you, should you deem it necessary for your protection to buy, sell or close out any part or all of the contracts held in my/our account with you. I/We will reimburse any or all such incidental expense incurred by you.

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Now, THEREFORE, in consideration of the mutual understanding as set forth in this agreement, the parties hereto have agreed to the terms and conditions, as follows:

1. The agreement entered into between the Member and the Constituent shall stand terminated by mutual consent of the parties by giving at least one-month notice to each other. Such termination shall not have any effect on the transactions executed till the date of termination and the parties shall enjoy same rights and shall have same obligations in respect of such transactions.
2. In the event of the death or insolvency of the Constituent or his otherwise becoming incapable of receiving and paying for or delivering or transferring commodities which the Constituent has

ordered to be bought or sold, the Member may with the approval of the Exchange, close out the transaction of the Constituent and the Constituent or his legal representative shall be liable for any losses, costs, damages including statutory / regulatory charges, if any and be entitled to any surplus which may result therefrom.

3. All trades, transactions and contracts are subject to the Rules, Bye-Laws and Regulations of the Exchange and shall be deemed to be and shall take effect as wholly made, entered into and to be performed for the purpose of giving effect to the provisions of the Rules, Bye - Laws and Regulations of the Exchange.

4. The Member hereby undertakes to maintain the details of the Constituent as mentioned in the Constituent registration form or any other information pertaining to the Constituent, in confidence and that he shall not disclose the same to any person/entity except as required by the Exchange or as required under the law;

Provided however that the Member shall be allowed to share the details of the Constituent as mentioned in the Constituent registration form or any other information pertaining to the Constituent with parties / entities other than required under law with the express permission of the Constituent.

**5. Provisions in case of Default:** In the event of a default of a Member on his own account, the Constituent's money shall not be utilized to meet the Member's liabilities. In such cases, the Constituent's positions shall be either transferred to another solvent member or closed-out as per the provisions of the Rules, Byelaws and Regulations of the Exchange. The loss, if any, caused to the Constituent because of such action would be recoverable by the Constituent from the Member. In the event of failure of the Constituent to fulfill his obligations to the Member, the Exchange or the Clearing House, the Constituent's position may be closed out and the money, if any, of the Constituent available with the Member or with any other Member or the Exchange, may be adjusted against the Constituent's liabilities / obligations.

The Professional Clearing Member (PCM), if opted by the Constituent to settle his trades, shall confirm all trades executed as PCM trades on the day the order is executed. In the event of non-confirmation and /or rejection of the trade by such PCM, the Constituent shall be liable to pay forth with the applicable margin as enunciated by the Member on the same day.

**6. Collateral:** The Constituent shall pay to the Member such amount as an initial deposit (collateral / initial deposit) as decided by the Member, and in such form as may be approved by the Member up-front, on or before creating a position in any contract. The Member shall reserve the mark up margin (commonly referred to as 'haircut margin') from the collateral, which shall not be utilized for margin requirements. The collateral reduced by markup / haircut margin shall thereafter be utilized against creating and maintaining the position by the Constituent. The mark up margin shall be subject to the change from time to time as may be decided by the Member and / or the exchange.

**7. Utilization by Member of the Initial Deposit by the Constituent:**The initial deposit so paid shall be first utilized towards initial margin requirement as calculated by the Exchange from time to time and the balance if any, after such adjustment against initial margin payments, will be available for adjustment against daily margin requirement, Mark to Market (MTM) loss on open positions created by the Constituent. The Constituent shall forward in advance a written request to the Member for adjustment MTM loss against the cash portion of the collateral.

**8. Payment of Margins:** The daily margin requirement can be adjusted against the collateral maintained by the Constituent with the Member. The Member shall accept from the Constituent further order, which, if executed, will add to the open positions, only if the balance collateral is adequate to meet the initial margin on such new positions. If the balance collateral is not adequate for adjusting the daily margin requirement, the Constituent shall deposit the additional margins as required by the Member. The Constituent shall also be obliged to pay the shortfall of the daily margin, if any, on the immediate succeeding business day when the Member raises such additional margin requirement. The Constituent shall not be permitted to create any new open positions, until receipt of such additional margin.

If the Constituent defaults in paying the daily margin, the Member shall be entitled to liquidate / close out all or any of the Constituent's positions, without prejudice to the Member's right to refer the matter to arbitration. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent. The Member is permitted in its sole and absolute discretion to impose additional margin (even though not imposed by the Exchanges, the Clearing Corporation / Clearing House) and the Constituent shall be obliged to fulfill such additional margin requirements.

**9 Receipts & Payment of Premium MTM:** The Member will block up-front from the collateral maintained with it the MTM loss on open positions. The Member shall accept from the Constituent further order, which, if executed, will add to the open positions, only if the balance collateral is sufficient to meet the requisite margin on such new positions. The Constituent shall be obliged to pay the amount of MTM loss blocked against the collateral on the immediate succeeding business day. The Member will adjust the Constituent's liability towards MTM loss against the initial deposit maintained in cash by the Constituent, provided a written request is given by the Constituent to the Member to this effect. If the Constituent defaults in paying in the MTM loss, the Member shall be entitled to liquidate/ close out all or any of the Constituent's positions, without prejudice to the Member's right to refer the matter to arbitration. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent.

On a written request from the Constituent, MTM profit (on derivative positions) shall be adjusted towards the collateral maintained with the Member. These adjustments pertaining to MTM profit shall be treated as additional collateral brought in by the Constituent and the Member shall reserve the mark up margin from this collateral, which shall not be utilized for margin requirements. The total collateral (inclusive of mark to market inflows) reduced by markup shall thereafter be utilized against creating and maintaining the position by the Constituent.

10. If the complete recovery is not possible then, the Member shall be entitled to liquidate / close out all or any of the Constituent's other outstanding positions, without prejudice to the Member's right to recover the damage from the Constituent. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent.

11. The Constituent acknowledges that all contracts culminating in delivery(which are not squared off and information for giving and taking delivery is given by the Constituents) would be transactions for purchase and sales between the Constituents inter-se and the Constituents would

be personally liable to each other though the contract and relationships are governed and regulated by the Bye Laws, Rules and Regulations of the Exchange.

12. The Exchange may cancel a trade suo-moto without giving any reason thereof. In the event of such cancellation, MEMBER shall be entitled to cancel relative contract(s) with CONSTITUENT.

13. All trades, transactions and contracts are subject to the Rules and Regulations of the Exchange and shall be deemed to be and shall take effect as wholly made, entered into and to be performed in the city of Mumbai and the parties to such trade shall be deemed to have submitted to the jurisdiction of the Courts in Mumbai for the purpose of giving effect to the provisions of the Rules and Regulations of the Exchange.

#### **Trade Obligations:**

The Constituent shall accept all trades executed, resulting from the orders placed with the Member, irrespective of the fact that the order is executed partially or in full, on the Exchange.

In the event of non-confirmation of custodial trades by PCM for any reason whatsoever, all exchange-levied margins, MTM losses (on open position), will be borne by the Member for the unconfirmed trades. In such case, the Constituent shall pay to the Member, all margins levied by the Exchange on the unconfirmed trades. In addition to the above, the Member shall have an option to call for collateral from the Constituent, to meet the subsequent daily margin obligation / MTM losses on the unconfirmed trades. The Constituent shall be obliged to pay the daily margin, MTM on the immediate succeeding business day, of the day when the Member raises such margin requirement. The Member shall not permit the Constituent to create any new open positions, until receipt of such additional margin requirement.

If the Constituent defaults in paying the daily margin, MTM, if any, the Member shall be entitled to liquidate / close out all or any of the Constituent's positions, without prejudice to the Member's right to refer the matter to arbitration. Any and all losses and financial charges on account of such liquidation / closing out shall be charged to and borne by the Constituent.

#### **Deliveries:**

The Constituent will be responsible for providing information for the purposes of giving / taking delivery against his Net Open Position along-with information necessary for giving / taking delivery within stipulated period as specified by the Exchange from time to time. Member shall submit the same to the Exchange.

The Exchange at the end of stipulated period shall match the information provided by the Member against Net Open Positions of the Constituent and shall confirm the Delivery / Receipt to be effected against Delivery information submitted by the Member

Constituent shall co-ordinate with the Member to ensure that all requirements for giving / taking delivery are fulfilled. Constituent shall also ensure to comply with all statutory requirements laid down regarding Sale / Purchase of goods including payment of taxes, local levies and other

statutory / regulatory charges as prescribed under applicable laws from time to time.

Constituent shall submit documents such as Invoices, Sales Tax exemption or concession forms or any other documents as required under the prevalent laws and forward the same to the Counter-party                      Constituent                      or                      any                      other Member of the Exchange within stipulated period as specified by the Exchange from time to time.

Constituent shall be liable to pay sales tax under the local State sales tax law or the Central Sales Tax Act, 1956, as the case may be and will be solely responsible for complying with all the provisions and regulation of the applicable sales tax law.

In WITNESS THEREOF, the parties to agreement have caused these presents to be executed as of the day and year first above written.

SIGNED for and on behalf of

THE Member :

By :  
Signature :  
Title :  
Witness :

SIGNED for and on behalf of

THE Constituent:

By :  
Signature :  
Title :  
Witness :

## **31 ANNEXURE D - RISK DISCLOSURE DOCUMENT**

(THIS DOCUMENT SHOULD BE READ BY EACH AND EVERY PROSPECTIVE CONSTITUENT BEFORE ENTERING INTO DERIVATIVES TRADING AND SHOULD BE READ IN CONJUNCTION WITH REGULATIONS OF NATIONAL COMMODITY & DERIVATIVES EXCHANGE (NCDEX))

NCDEX has not passed the merits of participating in this trading segment nor has NCDEX passed the adequacy or accuracy of this disclosure document. This brief statement does not disclose all of the risks and other significant aspects of trading. In light of the risks, you should undertake such transactions only if you understand the nature of the contracts (and contractual relationships) into which you are entering and the extent of your exposure to risk. Risk of loss in trading in derivatives can be substantial. You should carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances. Derivatives trading thus require not only the necessary financial resources but also the financial and emotional temperament. In case of any consequences or loss in the Futures segment, the Constituent shall be solely responsible for such loss and the Exchange shall not be responsible for the same and it will not be open for any client to take the plea that no adequate disclosure was made or he was not explained the full risk involved by the member. The client will be solely responsible for the consequences and no contract can be rescinded on that account.

### **RISKS INVOLVED IN TRADING IN DERIVATIVES CONTRACTS**

#### **Effect of "Leverage" or "Gearing"**

The amount of margin is small relative to the value of the derivatives contract so the transactions are 'leveraged' or 'geared'.

Derivatives trading, which is conducted with a relatively small amount of margin, provides the possibility of great profit or loss in comparison with the principal investment amount. But transactions in derivatives carry a high degree of risk.

You should therefore completely understand the following statements before actually trading in derivatives and also trade with caution while taking into account one's circumstances, financial resources, etc. If the prices move against you, you may lose a part of or whole margin equivalent to the principal investment amount in a relatively short period of time. Moreover, the loss may exceed the original margin amount.

- I. Futures trading involves daily settlement of all positions. Every day the open positions are marked to market based on the Settlement price. If the settlement price has moved against you, you will be required to deposit the amount of loss (notional) resulting from such movement. This margin will have to be paid within a stipulated time frame, generally before commencement of trading next day.
- II. If you fail to deposit the additional margin by the deadline or if an outstanding debt occurs in your account, the broker/member may liquidate a part of or the whole position. In this case, you will be liable for any losses incurred due to such closeouts.
- III. Under certain market conditions, an investor may find it difficult or impossible to execute transactions. For example, this situation can occur due to factors such as illiquidity i.e. when there are insufficient bids or offers or suspension of trading due to price limit or circuit breakers etc.
- IV. In order to maintain market stability, the following steps may be adopted: changes in the margin rate, increases in the cash margin rate or others. These new measures may be applied to the existing open interests. In such conditions, you will be required to put up additional margins or reduce your positions.
- V. You must ask your broker to provide the full details of the derivatives contracts you plan to trade i.e. the contract specifications and the associated obligations.

### **Risk-reducing orders or strategies**

The placing of certain orders (e.g., "stop-loss" orders, or "stop-limit" orders), which are intended to limit losses to certain amounts, may not be effective because market conditions may make it

impossible to execute such orders. Strategies using combinations of positions, such as "spread" positions, may be as risky as taking simple "long" or "short" positions.

### **Suspension or restriction of trading and pricing relationships**

Market conditions (e.g., illiquidity) and/or the operation of the rules of certain markets (e.g., the suspension of trading in any contract or contact month because of price limits or "circuit breakers") may increase the risk of loss due to inability to liquidate/offset positions.

### **Deposited cash and property**

You should familiarize yourself with the protections accorded to the money or other property you deposit particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property that has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall. In case of any dispute with the member, the same shall be subject to arbitration as per the byelaws/regulations of the Exchange.

### **Commission and other charges**

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

### **Trading facilities**

The Exchange offers electronic trading facilities, which are computer-based systems for order routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearinghouse and/or member firms. Such limits may vary; you should ask the firm with which you deal for details in this respect.

This document does not disclose all of the risks and other significant aspects involved in trading on a derivatives market. The Constituent should therefore study derivatives trading carefully before becoming involved in it.

I hereby acknowledge that I have received and understood this risk disclosure statement.

**Customer Signature**

(If Partner, Corporate, or other Signatory, then attest with company seal.)

DD-MM-YYYY

**32 ANNEXURE E - MODEL REGISTRATION APPLICATION FORM FOR INDIVIDUAL CONSTITUENTS**

To,  
XYZ Member,  
NCDEX Membership Registration Number,

Please affix your recent Passport size photograph

Address.

Dear Sir,

We request you to register us as your client and in this regard the following information is furnished:

Full Name	
Office Details	
Address	
City	
State	
Pin Code	
Telephone No.	

Fax No.	
---------	--

E-mail Address	
----------------	--

Residence Details	
-------------------	--

Address	
---------	--

City	
------	--

State	
-------	--

Pin Code	
----------	--

Telephone No.	
---------------	--

Fax No.	
---------	--

E-mail Address	
----------------	--

Date of Birth	DD / MM / YYYY
---------------	----------------

Sex	Male / Female
-----	---------------

Occupation	
------------	--

Residential Status	Resident Indian / Non-Resident Indian / Others
--------------------	---

Particular of Bank Account	
----------------------------	--

Name of Bank	
--------------	--

Branch with Address & Telephone No.	
--	--

Account Type			
Account Number			
Date of Opening Account			
Annual Income in Last 3 Years			
Year 1			
Year 2			
Year 3			
Income Tax No (PAN / GIR)			
Sales Tax Registration Details			
Local Sales Tax	State - Registration Number - Validity Date (Please give details of all States where you are registered)		
Central Sales Tax	Registration Number - Validity Date		
Constituent Profile	Producer / Trader / Consumer		
Interested in Commodities	Agro Commodities / Precious Metals / Base Metals / All		
Collateral Details	Collateral's Declared Value	% Haircut	Assigned Value

	Cash		
--	------	--	--

	Marketable Securities		
	Bank Guarantees		
	Immovable Property		
	Jewellery		
	Others (Specify)		

Depository Account Details	
Depository Id	
DP Id	
Client Id	
Whether Registered with any other Member	Yes / No
If Yes	
Broker Name	
Broker Code	
Name of Exchange	
Introduced By	
Name	



any government agency, it may be given to them.

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**FOR NON-INDIVIDUAL CONSTITUENTS**

To,  
XYZ Member,

Please affix recent Passport size  
photograph of all

Authorized Signatories.

NCDEX Membership Registration Number,

Address.

Dear Sir,

We request you to register us as your client and in this regard the following information is furnished:

Name of the Company/Firm	
Registered Office Details	
Address	
City	
State	
Pin Code	
Telephone No.	
Fax No.	
E-mail Address	

Correspondence Office Details	
Address	
City	
State	
Pin Code	
Telephone No.	
Fax No.	
E-mail Address	
Date of Incorporation	DD / MM / YYYY
Date of Commencement of Business	
Details of Promoters / Partners / Key Managerial Personnel of the Company / Firm	As per Annexure - E(1)
Copies of the Annual Report of last 3 years	If company has not completed three financial years of its operation, copy of annual reports for such completed financial years.
Net Worth (Certified) as on DD-MM-YYYY (Excluding	
Revaluation Reserves)	

Particular of Bank Account	
Name of Bank	
Branch with Address & Telephone No.	
Account Type	
Account Number	
Date of Opening Account	
Income Tax No (PAN / GIR)	
Annual Income in the past 3 years	
Year 1	
Year 2	
Year 3	
Sales Tax Registration Details	
Local Sales Tax	State -Registration Number - Validity Date (Please give details of all States where you are registered)
Central Sales Tax	Registration Number - Validity Date
Constituent Profile	Producer / Trader / Consumer
Interested in Commodities	Agro Commodities / Precious Metals /

		Base Metals / All		
Collateral Details	<b>Collateral's</b>			
	<b>Declared Value</b>	<b>% Haircut</b>	<b>Assigned Value</b>	
	Cash			
	Marketable Securities			
	Bank Guarantees			
	Immovable Property			
	Jewellery			
	Others (Specify)			
Depository Account Details				
Depository Id				
DP Id				
Client Id				
Whether Registered with Other Broker		Yes / No		
If Yes				
Broker Name				
Broker Code				

Name of Exchange	
------------------	--

The information furnished above is true to the best of my knowledge and belief, and I undertake to inform you of any changes therein immediately in writing. I am agreeable to enter into an agreement to abide by your terms and conditions.

Place Authorized Signatory with Seal

Date Name

**Notes:**

- I. Please submit a letter from the banker certifying account number and the period from which this account is in operation
- II. Please submit a Copy of Memorandum and Articles of Association / Partnership Deed.
- III. Original documents may be verified at the time of filing of application.
- IV. The information given above would be confidential. However, if the information is required by any government agency, it may be given to them.

**Checklist of Enclosures for Corporate Clients:**

- I. Details of the Corporate Entity:
- II. Copy of Memorandum and Articles of Association / Partnership Deed.
- III. Resolution of Board Authorizing the Company Official(s) to deal with the Member / Authorization from Partners to deal with Member
- IV. Copies of Annual Reports of last three years.
- V. Net Worth Certificate by a Chartered Accountant.
- VI. Letter from the Banker, certifying the Account Number and the period from which

this

Account is in operation.

VII. Copy of Income Tax return.

VIII. Personal Details of Promoters / Directors:

IX. Copy of Income Tax return.

X. Salary Certificate.

XI. Proof of Residence (Copy of Passport / Ration Card / Driving License / Voters Identity Card)

XII. Letter from the Banker certifying the Account Number.

**ANNEXURE E(1) - DETAILS OF PROMOTERS / PARTNERS / KEY MANAGERIAL PERSONNEL**

Full Name	
Designation	
Residence Details	
Address	
City,	
State,	
Pin Code,	
Telephone No.	
Fax No.	
E-mail Address	
Qualification	
Experience	
Equity Stake	
Income Tax No (PAN / GIR)	
Residential Status	Resident Indian / Non-Resident Indian / Others
Bank Account Details	

Name of Bank	
Branch with Address & Telephone No.	
Account Type	
Account Number	
Date of Opening Account	
Passport No.	
Place of Issue	
Expiry Date	
Driving License No.	
Ration Card No.	
Voters Identity Card	

Place Signature Date Name

**Amendment to Regulations – A history**

Sr. No. / Amendment No.	Date of Amendment	Regulation No.
1	March 15, 2004	5.1
2	July 13, 2004	9.2 9.3.1
3	August 16, 2004	9.32
4	September 15, 2004	9.5
5	February 7, 2005	21
6	January 11, 2006	3.23
7	January 11, 2006	4.3
8	January 11, 2006	9.2
9	February 24, 2006	3.23
10	February 8, 2007	8A
11	August 29, 2008	9.2