To be franked for Rs 300 and Notarized

NCDEX - TMs

CLEARING MEMBER - TRADING MEMBER AGREEMENT ("CMTM Agreement")

This Agreement is made on this _______ day of _________________ , 20____ at _______________

Between

M/s ISSL SETTLEMENT & TRANSACTION SERVICES LIMITED, a Company having its Registered Office at IL&FS House, Raheja Vihar, Chandivali, Andheri (East), Mumbai - 400072 (hereinafter called the "Clearing Member", which expression shall unless repugnant to the context or meaning thereof include its successors, legal representatives and permitted assigns)

And

____ ,
a Resident Individual / Sole Proprietorship (Proprietor : ____________________________________) / Hindu Undivided Family (Karta : ____________________________________) / Partnership Firm / Limited Liability Partnership / Domestic Body Corporate / Trust / Society / Association of Persons / Bank / Non Banking Finance Company / Domestic Financial Institution / ____ having its / their / his / her Registered Office / Office / Residence / Principle Place of Business at ____
____
____
____
(hereinafter called the "Trading Member", which expression shall unless repugnant to the context or meaning thereof include its successors, legal representatives and permitted assigns)

WHEREAS :

A) ____
has been admitted as a Trading Member / Trading cum Clearing Member (TM Code : __________ & FMC Regn No : _____________________________________) of National Commodity & Derivatives Exchange Limited (hereinafter referred to as "NCDEX" or "Exchange") and is required to clear and settle the deals executed by it / him by making an arrangement with a Clearing Member of the Exchange / Exchange's Clearing House and through whom the deals could be cleared and settled by the Trading Members in accordance with the Rules, Bye Laws and Regulations of NCDEX

B) ISSL Settlement & Transaction Services Limited has been admitted as Clearing Member (Membership Code : C50717 & FMC Regn No : NCDEX/CM/CORP/0073) of the Exchange and is permitted to carry on the activities of clearing and settlement of transactions / deals / trades (hereinafter referred to as "deals") effected / executed by the Trading Members on the trading platform of the Exchange

C) The Trading Member desires to clear and settle the deals executed by it / him on the Trading System of NCDEX through the Clearing Member and accordingly approached the Clearing Member to undertake clearing & settlement of deals executed by him and to discharge its / his duties & obligations towards NCDEX on its / his behalf and the Clearing Member has agreed to do the same on the terms and conditions contained herein

D) The Clearing Member has agreed to undertake upon itself, to the total exclusion of the Trading Member, the obligation of clearing and settlement of the deals of the Trading Member executed / done on / with the Exchange and to do all such acts, deeds and activities incidental to the clearing and settlement of the deals in consideration of the Trading Member agreeing to pay certain fees and charges and abide by the terms and conditions contained in this Agreement, Rules, Bye Laws and Regulation of the Exchange

E) For the purpose of this Agreement, the words "NCDEX" or "Exchange" wherever used shall include the Clearing House as recognized by the Exchange and shall include the Exchange when it is performing the activities of the Clearing House

Now, therefore, this agreement witnesseth as follows:

1) In consideration of Trading Member agreeing to pay certain fees and charges mentioned herein and abide by the terms and conditions contained in this agreement, Rules, Bye Laws and Regulations of NCDEX, the Clearing Member undertakes upon itself / himself, to the total exclusion of the Trading Member, the obligation of clearing and settlement of the deals of the Trading Member executed / done on the trading platform of NCDEX and to do all the acts, deeds and activities incidental to the clearing and settlement of the deals

2) Rights of the Clearing Member

a) The Clearing Member shall be entitled to demand / receive from the Trading Member such deposits in such form as it / he may specify from time to time

b) Without prejudice to the generality of the above, the Trading Member shall place with the Clearing Member a minimum deposit as may be mutually agreed between the Trading Member and Clearing Member which shall be maintained at any point of time. Subject to the provisions of Bye Laws, Rules and Regulations of NCDEX, in case of any shortfall in such deposit, the Clearing Member can initiate any action necessary to protect its / his interests in this regard against the Trading Member which may include restriction on further trading and close-out of open positions

c) The Clearing Member shall be entitled to receive such fees, charges, brokerage or commission in respect of various services which it / he renders or agrees to render to the Trading Member from the Trading Member at such intervals as may be mutually agreed upon

d) The Clearing Member shall specify, subject to the requirements prescribed by NCDEX from time to time, the exposure limits upto which open positions can be taken by the Trading Member. Such limits may be increased or reduced by the Clearing Member from time to time subject however, to the upper position limit prescribed by the Exchange or the regulatory authorities. The Clearing Member shall have the authority to initiate any action necessary to protect its / his interests in this regard which may, inter alia, include restriction on further trading and close-out of open positions of the Trading Member or withdrawal / disablement of trading facility of the Trading Member by making necessary requests to NCDEX for initiating such action

e) The Clearing Member shall be entitled to collect from Trading Member margin(s) of such amounts of such kinds, as he may deem necessary, which at any point of time shall not be less than the amount stipulated by the Exchange from time to time. The Clearing Member shall have authority to collect such additional margin(s) as the Clearing Member may deem necessary or as per the requirement of the Exchange

f) All monies (cash and cash equivalents), securities or other property (including commodities, whether in physical or dematerialized form), which the Clearing Member may hold on account of the Trading Member, shall be subject to a general lien for the discharge of the Trading Member's obligations

g) The Clearing Member shall be entitled to receive from the Trading Member such amounts as may be required to be paid towards daily mark to market settlement, final settlement or such other settlement as per the requirement of NCDEX at such intervals as may be mutually agreed upon

h) The Clearing Member shall be entitled to receive from the Trading Member a statement containing (i) the details in respect of margin amount, due and paid by the Trading Member to the Clearing Member on his own account, which the Clearing Member had paid to the Exchange for the purpose of meeting margin requirements and (ii) a list of client codes, names of the clients, client-wise margin amount, collected by the Trading Member from his clients and paid to the Clearing Member, which the Clearing Member had paid to the Exchange for the purpose of meeting margin requirements. Such statements to be furnished by the Trading Member to the Clearing Member periodically or as may be specified by NCDEX providing the amounts paid by the Trading Member on it / his own account and on behalf of it / his clients shall be conclusive and binding on itself / himself, the Clearing Member and all his clients of the Trading Member unless the contrary is proved to the satisfaction of the Exchange

i) The Clearing Member shall, in the case of non-payment of dues by the Trading Member towards margins, daily mark to market settlement, final settlement or such other settlement, fees, brokerage, commission and / or charges and penalties payable by the Trading Member but actually paid / met by the Clearing Member etc, have the authority, subject to the provisions in the Rules, Bye Laws and Regulations of the Exchange, to initiate any action necessary to protect its interests against the Trading Member including restriction on further trading or square-off / close-out / liquidate open positions of the Trading Member and his / her / its Constituents or withdrawal / disablement of the trading facility of the Trading Member by making necessary requests to NCDEX for initiating such action. In such case, any loss arising due to the closing out of open positions will be recovered from the Trading Member

j) Without prejudice to clause (2)(i) above, in the event of non-payment of dues by the Trading Member as described above and in respect of trade obligations of the Trading Member, the Clearing Member will in addition to his / its right to adjust such dues / obligations from the collaterals placed by the Trading Member with him / it, have the authority to withdraw or disable the trading facility of the Trading Member by intimation to NCDEX

k) The Clearing Member shall have the right to require the Trading Member to undertake registration of all his constituents and to comply with the requirements of 'Constituent Registration Form' and 'Risk Disclosure Document'. For this purpose, the Clearing Member shall be entitled to collect such information from the Trading Member about the constituents of the Trading Member as the Clearing Member may require, including the information pertaining to constituents' positions

l) The Clearing Member shall have the right to require the Trading Member to allot each constituent a distinct constituent code

m) The Clearing Member shall have the right to inspect the books of accounts, records, documents and computerized or other electronic data of the Trading Member and for the purpose, shall have free access to the premises occupied by Trading Member or by any other person on his behalf

3) Obligations of the Clearing Member

a) The money deposited by each Trading Member shall be kept in a separate account by the Clearing Member, distinct from his own account and the Clearing Member shall provide the details to the Exchange as and when may be required

b) The Clearing Member shall inform the Trading Member about the exposure limits (including any increase or reduction in such limits) upto which open positions can be taken by the Trading Member

c) The Clearing Member shall be liable to pay to the Trading Member such amounts towards daily mark to market settlement, final settlement and such other settlement as per the requirements of NCDEX

d) The Clearing Member shall be required to refund any excess margin money to the Trading Member as per mutual agreement

e) The Clearing Member shall settle the accounts on a periodical basis as may be mutually agreed between the Clearing Member and the Trading Member which should be in accordance with the Byelaws, Rules & Regulations of NCDEX

f) In the event of Clearing Member being declared a defaulter by the Exchange, the money held by the Clearing Member of the Trading Member (irrespective of whether it is of Trading Member's own account or on account of Trading Member's constituents) shall remain safe and shall not be utilized to meet the Clearing Member's liabilities. In such cases, the positions of the constituents and the Trading Members except that Trading Member because of whom the Clearing Member has defaulted shall be transferable to some other Clearing Member

g) In the event of failure by the Clearing Member in the payment of any dues to the Exchange as well as Trading Member, the Trading Member shall, with the prior approval of the Exchange, have the right to transfer his own open positions as well as the open positions of his constituents immediately to another Clearing Member. The Clearing Member shall be obliged to pay to the Trading Member for any costs incurred for such transfer of the open positions. Such transfer shall be as per norms prescribed by the Relevant Authority

h) The Clearing Member shall immediately inform NCDEX in case the Trading Member has defaulted in his payments

i) If due to the default of the Clearing Member, the open position of the Trading Member is closed-out and any loss is incurred due to such close-out, the Clearing Member shall reimburse such loss to the Trading Member except to the Trading Member because of whom the Clearing Member has defaulted

j) The Clearing Member shall treat the information pertaining to the Trading Member and of the constituents of such Trading Member as confidential. The Clearing Member shall not disclose the same to any person except as required under Law

k) The Clearing Member shall be required to provide reports / statements of mark to market settlement, final settlement or such other settlement, margin amounts and open positions to the Trading Member

4) Rights of the Trading Member

a) The Trading Member shall be entitled to have all the deals, entered into by him on the trading platform of NCDEX, cleared and settled through the Clearing Member

b) The Trading Member shall be entitled to receive intimation from the Clearing Member about the exposure limits (including any increase or reduction in such limits) upto which open positions can be taken by the Trading Member

c) The Trading Member shall be entitled to receive reports / statements of mark to market settlement, final settlement or such other settlement, margin amounts and open positions from the Clearing Member

d) The Trading Member shall be entitled to receive from the Clearing Member such amounts towards daily mark to market settlement, final settlement and such other settlement as may be required to be paid by the Clearing Member as per the requirements of NCDEX

e) In the event of the Clearing Member being declared a defaulter by NCDEX, the Trading Member, unless Clearing Member has defaulted because of default by the Trading Member, shall be entitled to transfer its / his open positions to some other Clearing Member with the prior approval of the Exchange and recover any costs incurred for such transfers from the Clearing Member

f) In the event of failure by the Clearing Member in the payment of any dues to the Exchange or Trading Member, the Trading Member shall, with the prior approval of the Exchange, have the right to transfer his own open positions as well as the open positions of his constituents immediately to another Clearing Member. The Trading Member shall also have the right to recover from the Clearing Member any costs incurred for such transfer of open positions

g) In case the open position of the Trading Member is closed-out due to the default of the Clearing Member, the Trading Member, unless the Clearing Member has defaulted because of default by the Trading Member, shall be entitled to recover such loss arising on account of such closing-out from the Clearing Member

h) The Trading Member shall be entitled to receive intimation from the Clearing Member before the Clearing Member undertakes inspection of books of accounts, records, documents etc. of the Trading Member

5) Obligations of the Trading Member

a) The Trading Member shall pay to the Clearing Member such deposits in such form as the Clearing Member may specify from time to time

b) Without prejudice to the generality of the above, the Trading Member shall place with the Clearing Member a minimum initial deposit as may be mutually agreed between the Trading Member and the Clearing Member, which shall be maintained at any point of time. Subject to the provisions of Bye Laws, Rules and Regulations of NCDEX, in case of any shortfall in such deposit, the Clearing Member can initiate any action necessary to protect its / his interest in this regard against the Trading Member which may include restriction on further trading and close-out of open positions and the Trading Member shall be bound by it

c) The Trading Member shall pay to the Clearing Member such fees, charges, brokerage or commission in respect of various services which he renders or agrees to render to the Trading Member at such intervals as may be mutually agreed upon by them. Trading Member shall also be liable to pay the transaction fee and other charges levied by the Exchange to the Clearing Member in the manner and within time period as stipulated by the Exchange to enable the Clearing Member to remit the same to the Exchange within time prescribed by the Exchange

d) The Trading Member shall pay to the Clearing Member margins of such amounts as may be prescribed by NCDEX from time to time including additional margins, if any, or such higher amount of margins as may be mutually agreed with the Clearing

Member. The margins shall be deposited by the Trading Member within such time and in such form as may be specified by the Clearing Member

e) The Trading Member shall collect the margins from his constituents on a gross basis

f) The Trading Member shall be liable to pay to the Clearing Member such amounts towards daily mark to market settlement, final settlement and such other settlement as per the requirement of NCDEX

g) The Trading Member acknowledges that all contracts which are not squared off and where information for giving and taking delivery is given by the Trading Member, would be transactions for purchase and sale of the physical commodity and between Trading Member and Clearing Member, the Trading Member would coordinate with his constituents to facilitate settlement the contracts as per the Bye Laws, Rules and Regulations of the Exchange and in the event of default, the Trading member shall be liable to pay to the Clearing Member all penalties and charges to which the Clearing Member shall be made liable on account of any such default

h) The Trading Member shall co-ordinate with the Clearing Member to ensure that all requirements for giving or taking delivery as the case may be, are fulfilled. The Trading Member shall also ensure to comply with all statutory requirements in respect of sale or purchase of goods including payment of taxes, local levies and other statutory / regulatory charges as prescribed under applicable laws from time to time

i) All penalties / charges, etc. levied by the Exchange towards the non-compliance of delivery obligations or any other requirement pertaining thereof, shall be borne by the Trading Member. In the event of such penalty / charges being settled by the Clearing Member, the Trading Member shall be liable to reimburse such monies to the Clearing Member

j) The Trading Member shall be liable to the Clearing Member for all liabilities towards settlement of Sales Tax / VAT in the event of Trading Member or any of its constituents takes / gives physical delivery and shall ensure that his constituents comply with the Sales Tax / VAT laws as applicable to the transactions. The Trading Member shall bear any service tax or Cess liability as may be applicable under any law for the time being in force, on the Fees / Charges levied by the Clearing Member

k) The Trading Member hereby authorizes the Clearing Member, to buy, sell, square-off, close-out or in any way dispose off any part or all of the contracts / collaterals / commodities in physical or dematerialized form as the case may be, standing to the credit of the Trading Member should the Clearing Member deem it necessary for its protection. The Trading Member undertakes to indemnify and keep indemnified the Clearing Member against all losses, financial or otherwise on account of such action, and to reimburse all such incidental expenses thereof incurred by the Clearing Member

l) The Trading Member shall submit to the Clearing Member a statement containing (i) the details in respect of margin amount due and paid by the Trading Member to the

Clearing Member on his own account, which the Clearing Member had paid to the Exchange for the purpose of meeting margin requirements and (ii) a list of client codes, names of the clients, client-wise margin amount, collected by the Trading Member from his clients and paid to the Clearing Member, which the Clearing Member had paid to the Exchange for the purpose of meeting margin requirements. Such statements shall be furnished by the Trading Member to the Clearing Member periodically as may be specified by the Exchange providing the amounts paid by the Trading Member on his own account and on behalf of his constituents which shall be conclusive and binding on the Trading Member, the Clearing Member and all his constituents unless the contrary is proved to the satisfaction of the Exchange

m) The accounts shall be settled on a periodical basis as may be mutually agreed between the Clearing Member and the Trading Member in accordance with the Byelaws, Rules & Regulations of NCDEX

n) The Trading Member shall be obliged to reimburse any loss caused due to the closing out / liquidation of his open positions by the Clearing Member, in the case of nonpayment of dues by the Trading Member towards margins, daily mark to market settlement, final settlement or such other settlement, fees, charges, brokerage, commission, penalties and expenses

o) The Trading Member shall do all such acts, deeds and activities which are necessary for the purpose of compliance by the Clearing Member of the Rules, Bye Laws & Regulations of NCDEX

p) The Trading Member shall issue a 'Constituent Registration Form' and a 'Risk Disclosure Document' before accepting or placing orders on behalf of the constituents and provide such details to the Clearing Member

q) The Trading Member shall undertake the registration of all its Clients / Constituents allot each Constituent a distinct constituent code as may be prescribed by the Exchange. The Trading Member shall comply with the requirements of the Constituent Registration Form and the Risk Disclosure Document and any other 'Know Your Customer' requirement as may be prescribed the Exchange or any regulatory authority from time to time

r) The Trading Member shall issue contract note to his constituents for issuance of contract notes in compliance of Rules, Bye Laws and Regulations of the Exchange and shall also be responsible for payment of stamp duties on such contract notes if applicable in accordance with applicable law

s) The Trading Member shall provide such information about his constituents as the Clearing Member may require including the information pertaining to constituents' positions

t) The Trading Member shall maintain separate bank accounts to distinguish the (i) moneys received from or on account of and moneys paid to or on account of each of his Constituents; and (ii) the moneys received and paid on Trading Member's own account and provide such details to the Clearing Member. The moneys belonging to one Constituent shall not be utilized for meeting the obligations of the Trading Member or some other Constituent

u) The Trading Member shall keep such books of accounts as will be necessary to distinguish the (i) moneys received from or on account of and moneys paid to or on account of each of his constituents; and (ii) the moneys received and paid on member's own account and provide such details to the Clearing Member

v) The Trading Member hereby agrees and undertakes to do all things, which may be necessary in order to transfer his Constituents' positions to the Clearing Member or another Trading Member in the event of his default. The Trading Member shall be obliged to pay for any costs incurred for transfer of open positions. In such case, the Constituent money shall remain safe and shall not be utilized to meet the Trading Member's liabilities. In the event of default due to failure of a specific Constituent to fulfill his obligation, the money of other constituents shall remain safe and cannot be utilized to meet the obligation of the defaulting Constituent

w) If due to the default of the Trading Member, the open position of the Trading Member is closed-out and any loss is incurred by the Clearing Member due to such close-out, the Trading Member shall reimburse such loss to the Clearing Member

x) The Trading Member shall allow the Clearing Member to have free 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 /electronic data in his possession

y) The Trading Member shall not clear and settlement trades done by it / him through any other Clearing Member during the currency of this Agreement

6) GENERAL

The Clearing Member and the Trading Member agree to get themselves registered with the Forward Markets Commission, Service Tax and / or Sales Tax / VAT Authorities and / or any other Government / Regulatory Authority(ies), if required under Law and undertake to abide by the relevant Laws, Rules, Bye Laws and Regulations in force from time to time

7) Termination of the Agreement

The Agreement entered into between the Clearing Member and the Trading Member may be terminated by either Party by giving at least 15 days written notice. Such cancellation or termination shall not have any effect on the transactions / deals executed before the date of termination and all rights, liabilities and obligations already accrued and the parties shall enjoy the same rights and shall have same obligations in respect of such transactions

8) Notice

Any communication between the Clearing Member and Trading Member shall be made in any one or more of the following ways :

a) delivering it by post
b) sending it by registered post
c) sending it under certificate of posting
d) sending it by express delivery post / courier services
e) sending it by telegram
f) affixing it on the door at the last known business or residential address
g) advertising it at least once in any prominent daily newspaper

h) sending a message through the Trading System
i) an electronic mail or fax

9) Force Majeure

No liability shall result to either party for delay in performance or non-performance of the obligations under the Agreement caused or contributed to by any event of force majeure. For purposes of this Clause, “Force Majeure” means and includes wars, insurrections, revolution, fires, floods, epidemic, quarantine restrictions, declared general strikes in relevant industries, act of God, act of governmental, statutory, regulatory or legal authority and such other acts or events beyond the control of the non-performing party

10) No Assignment

Neither party shall be entitled to assign or otherwise transfer this Agreement or any benefits, rights, obligations or interests herein whether in whole or in part to any other agency without the prior written consent of the other

11) Supersession

This Agreement shall supersede all previous communications between the Clearing Member and Trading Member with respect to clearing and settlement of deals, both oral or written, and the provisions herein contained shall not be omitted, added to, modified or amended in any manner except in writing and signed by both the parties hereof

12) Non-waiver

No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no rights, powers, remedies herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each right, power or remedy shall be cumulative

13) Arbitration

a) All disputes, differences or questions arising out of or in relation to the agreement including the interpretation of the terms contained herein or in the Rules, Bye Laws and Regulations of NCDEX or in regard to the obligations, failure or breach thereof by any of the parties and / or of any matter whatsoever arising out of the Agreement, shall in the first instance be resolved mutually by the parties

b) If the parties fail to resolve the same mutually, then the same shall be referred to arbitration in accordance with the Rules, Bye Laws and Regulations of NCDEX

14) Jurisdiction

It is agreed that in any legal proceedings before any court in respect any suit or legal proceedings where Exchange is party to the suit or legal proceedings, the Courts in Mumbai shall have exclusive jurisdiction

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

CLEARING MEMBER :
By :
Signature :
Title :
Witness :

Signed for and on behalf of the

TRADING MEMBER :
By :
Signature :
Title :
Witness :

If the TM is a Corporate :
The Common Seal of the Company was affixed pursuant to the Resolutions passed at the Meeting of the Board of Directors held on ________________________ in the presence of Mr _______________________________ and Mr __________________________ , Directors, who have subscribed their respective signatures hereto in token thereof and countersigned by Mr ____________________ , being the person duly authorised in that behalf