

Clearing Member – Constituent (Custodial Participant) Agreement

This Agreement is made on this _____ day of _____, 20____, between 
IL&FS SECURITIES SERVICES LIMITED, a company having its registered office at IL&FS House,
Raheja Vihar, Chandivali, Andheri (East), Mumbai - 400072 registered as a Clearing Member
(hereinafter called the “Clearing Member”) with National Securities Clearing Corporation Limited
(hereinafter called “NSCCL”, which expression shall unless repugnant to the context or meaning
thereof include its successors, legal representatives and permitted assigns)

and

_____, a 
_____ having its / his / her 
Registered Office / Office / Place of Business / Residence at 

_____ 

(hereinafter called the “Constituent”, which expression shall unless repugnant to the context or
meaning thereof include its successors, legal representatives and permitted assigns)

WHEREAS :

- A) The Constituent is a(n) _____ and 
desires to effect purchase or sale of securities in the Futures and Options Segment of the
National Stock Exchange of India Limited (hereinafter called “NSEIL”) through more than
one Trading Member of NSEIL and clear and settle such trades through the Clearing Member
[who, in turn, agreed to clear and settle the trades executed by the Constituent through a
Trading Member or Trading Members], subject to the provisions contained in the Rules, Bye
Laws and Regulations of NSCCL (Futures & Options Segment)
- B) IL&FS Securities Services Limited is a Clearing Member of NSCCL and is, inter alia,
authorised to carry on the activities of clearing and settlement of deals, which are executed on
the Futures & Options Segment of NSEIL by the Trading Member [who has appointed the

Clearing Member to clear and settle his deals] or on behalf of Constituents [who have appointed the Clearing Member to clear and settle their deals]

- C) The Constituent has approached the Clearing Member to undertake clearing & settlement of deals and to discharge his duties and obligations towards NSCCL on his behalf and the Clearing Member, in turn, agreed to clear & settle the trades done by the Constituent through a Trading Member or Trading Members subject to the provisions contained in the Rules, Bye Laws and Regulations of NSCCL (Futures & Options Segment) and the terms and conditions contained herein
- D) The parties to this agreement are desirous of reducing the terms and conditions agreed, in writing, as contained herein :

Now, therefore, this agreement witnesseth as FOLLOWS:

- (1) At the request of the Constituent and in consideration of the Constituent 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 NSCCL and NSEIL, the Clearing Member hereby undertakes upon himself the obligations of clearing and settlement of the deals of the Constituent executed / done, through one or more Trading Members, on the Futures & Options Segment of NSEIL and to do all the acts, deeds and activities arising from and / or incidental to the clearing and settlement of such deals
- (2) Rights of the Clearing Member
 - (a) The Clearing Member shall be entitled to demand / receive from the Constituent such deposits in such form as he may specify from time to time
 - (b) Without prejudice to the generality of the above, the Constituent shall place with the Clearing Member an amount of Rs. 1 Lakh as deposit, which shall be maintained at any point of time. Subject to the provisions of Bye Laws, Rules and Regulations of NSCCL/NSEIL, in case of any shortfall in such deposit, the Clearing Member shall be entitled to initiate any action necessary to protect his interests in this regard against the Constituent
 - (c) The Clearing Member shall be entitled to receive such fees, charges, or commission, in respect of various services which he renders or agrees to render to the Constituent, from the Constituent at such intervals as may be mutually agreed upon
 - (d) The Clearing Member shall specify, subject to the requirements prescribed by NSCCL from time to time, the exposure limits upto which open positions can be taken by the Constituent. Such limits may be increased or reduced by the Clearing Member from time to time. The Clearing Member shall have the authority to initiate any action necessary to protect his interests in this regard, which may, inter alia, include restriction on further trading and closeout of open positions of the Constituent



- (e) The Clearing Member shall be entitled to collect from the Constituent, 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 NSCCL 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 NSCCL
 - (f) The Clearing Member shall be entitled to receive from the Constituent such amounts as may be required to be paid towards daily mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of option contracts, exercise settlement of option contracts or such other settlement, as per the requirement of NSCCL
 - (g) The Clearing Member shall have authority to close out / liquidate the open positions of the Constituent in accordance with the Rules / Byelaws and Regulations of NSCCL, in the case of non-payment of dues by the Constituent towards margins, additional margins, daily mark to market settlement of futures contracts, final settlement of futures contract, premium settlement of option contracts, exercise settlement of option contracts or such other settlement, fees, commission and / or charges, by making necessary requests to NSEIL / NSCCL for initiating such action. In such case, any loss arising due to the closing out of open positions shall be payable by the Constituent and will be recovered from the Constituent by the Clearing Member
 - (h) The Clearing Member shall have the right to inspect the books of accounts, records, documents and computerized data of the Constituent for which the Clearing Member shall have free access to the premises occupied by the Constituent or by any other person on his behalf
- (3) Obligations of the Clearing Member
- (a) The money deposited by each Constituent shall be kept in a separate account by the Clearing Member, distinct from his own account and shall provide the details of margins collected for the trades executed by the Constituent, to NSCCL as per the requirements of NSCCL
 - (b) The Clearing Member shall inform the Constituent about the exposure limits (including any increase or reduction in such limits) upto which open positions can be taken by the Constituent
 - (c) The Clearing Member shall be liable to pay to the Constituent any amount becoming due and receivable by the constituent towards daily mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of option contracts, exercise settlement of option contracts and such other settlement as per the requirements of NSCCL



- (d) The Clearing Member shall be required to refund any excess margin money to the Constituent as per mutual agreement
 - (e) The Clearing Member may settle the accounts on a periodical basis, if mutually agreed between the Clearing Member and the Constituent, which should be in accordance with the Byelaws, Rules & Regulations of NSCCL
 - (f) In the event of default by the Clearing Member or his being declared a defaulter by NSEIL/ NSCCL, the amount paid by the Constituent and got deposited with NSCCL shall remain safe and shall not be utilised to meet the Clearing Member's own liabilities and/ or the liabilities of his other Constituents. In such cases, the Clearing Member shall render all assistance to the Constituent for transfer of Constituent's positions to some other Clearing Member, if such event occurs
 - (g) In the event of failure by the Clearing Member in the payment of any dues to the NSCCL as well as the Constituent, the Constituent shall, with the prior approval of NSCCL, have the right to transfer his own open positions immediately to another Clearing Member. The Clearing Member shall be obliged to pay to the Constituent for any costs incurred for transfer of the open positions, if such event occurs
 - (h) In case the Clearing Member is declared a defaulter by NSEIL/ NSCCL, and the Constituent transfers his open positions to some other Clearing Member, the Clearing Member shall be obliged to pay for any costs incurred for transfer of the open positions
 - (i) If due to the default of the Clearing Member, the open positions of the Constituents are closed-out and any loss is incurred due to such close-out, the Clearing Member shall reimburse such loss to all the Constituents except to the Constituents because of whom the Clearing Member has defaulted
 - (j) The Clearing Member shall treat the information pertaining to the Constituent as confidential. The Clearing Member shall not disclose the same to any other person except to the governmental, statutory, regulatory or legal authorities on a request made by these authorities in writing
 - (k) The Clearing Member shall be required to provide reports/ statements of mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of options contracts, exercise settlement of option contracts or such other settlement, margin amounts and open positions to the Constituent, for such period as may be mutually agreed
- (4) Rights of the Constituent
- (a) The Constituent shall be entitled to have all the deals, executed through any Trading Member or Trading Members on the Futures & Options Segment of NSEIL, cleared and settled through the Clearing Member



- (b) The Constituent 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 Constituent
 - (c) The Constituent shall be entitled to receive reports / statements of mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of option contracts, exercise settlement of option contracts or such other settlement, margin amounts and open positions from the Clearing Member, for such period as may be mutually agreed
 - (d) The Constituent shall be (liable) entitled to (pay to) receive from the Clearing Member such amounts towards daily mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of option contracts, exercise settlement of option contracts and such other settlement as per the requirement of NSCCL
 - (e) In the event of the Clearing Member being declared a defaulter by NSCCL, the Constituent, except the Constituent because of whom the Clearing Member has defaulted, shall be entitled to transfer his open positions to some other Clearing Member 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 NSCCL as well as the Constituent, the Constituent shall, with the prior approval of NSCCL have the right to transfer his own open positions immediately to another Clearing Member. The Constituent shall also have the right to recover from Clearing Member any costs incurred for transfer of the open positions
 - (g) In case the open positions of the Constituents are closed-out due to the default of the Clearing Member, the Constituent, except the Constituents because of whom the Clearing Member has defaulted, shall be entitled to recover such loss from the Clearing Member
- (5) Obligations of the Constituent
- (a) The Constituent 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 Constituent shall place with the Clearing Member an amount of Rs. 1 Lakh as deposit which shall be maintained at any point of time. Subject to the provisions of Bye Laws, Rules and Regulations of the NSCCL/ NSEIL, the Clearing Member shall be entitled to initiate any action necessary to protect his interest in this regard against the Constituent



- (c) The Constituent shall pay to the Clearing Member such fees, charges, or commission in respect of various services which he renders or agrees to render to the Constituent at such intervals as may be mutually agreed upon by them
- (d) The Constituent shall pay to the Clearing Member margins of such amounts as may be prescribed by NSCCL 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 Constituent within such time and in such form as may be specified by the Clearing Member
- (e) The Constituent shall be liable (entitled) to pay to (receive from) the Clearing Member such amounts towards daily mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of option contracts, exercise settlement of option contracts and such other settlement as per the requirement of NSCCL
- (f) The accounts shall be settled on a periodical basis as may be mutually agreed between the Clearing Member and the Constituent
- (g) The Constituent shall be obliged to reimburse to the Clearing Member any loss caused due to the closing out / liquidation of his open positions initiated by the Clearing Member, on account of non-payment of dues by the Constituent towards margins, additional margins, daily mark to market settlement of futures contracts, final settlement of futures contracts, premium settlement of option contracts, exercise settlement of option contracts or such other settlement, fees, charges, commission, penalties and expenses, any other sum, as per the requirement of NSCCL
- (h) The Constituent shall do all such acts, deeds and activities that are necessary for the purpose of strict compliance with the Rules, Bye Laws & Regulations of NSEIL/ NSCCL by the Clearing Member
- (i) If due to the default of the Constituent, the open position of the Constituent is closed-out and any loss is incurred due to such closeout, the Constituent shall be liable to reimburse such loss to the Clearing Member

(6) Termination of the Agreement

The Agreement entered into between the Clearing Member and the Constituent may be terminated by the parties by giving at least one month written notice to the other party or as may be mutually consented. Such cancellation or termination shall not have any effect on transactions executed before the time and date of termination and the parties shall enjoy the same rights and shall have same obligations in respect of such executed transactions

(7) Notice



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

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

(8) Force Majeure

No liability shall result to either party for delay in performance or non-performance of the obligations under the Agreement caused and/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

(9) 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

(10) 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

(11) Arbitration

- (a) All disputes, differences or questions arising out of or in relation to the agreement including the interpretation of the terms contained herein with 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 the arbitration in accordance with the Rules, ByeLaws and Regulations of NSCCL



(12) Jurisdiction

This Agreement shall be subject to the exclusive jurisdiction of the Courts in Mumbai

IN WITNESS THEREOF, the parties to this agreement have caused these presents to be executed as of the day and year first above written

Signed for and on behalf of

CLEARING MEMBER :
By :
Signature :
Title :
Witness :

Signed for and on behalf of

CONSTITUENT :
By :
Signature :
Title :
Witness :



(If a Corporate Body,
affix Common Seal
and Countersign as
per BR & AoA)



Witness :

(1)



(2)



