

**CME Securities Clearing Inc CA-1 Exhibit P-1**

**[CMESC Header]**

**CMESC Inc. ("CMESC") Member Application  
Part 1: Basic Eligibility Information**

1. Legal Name of Company:  
\_\_\_\_\_
2. Form of Entity Organization (check one) and provide jurisdiction where entity was organized:  
  
\_\_\_ Corporation organized under the laws of \_\_\_\_\_  
    \_\_\_ C Corporation  
    \_\_\_ Subchapter S Corporation (check one)  
\_\_\_ Limited Liability Company organized under the laws of \_\_\_\_\_  
\_\_\_ Limited Partnership organized under the laws of \_\_\_\_\_  
\_\_\_ General Partnership organized under the laws of \_\_\_\_\_  
\_\_\_ Other (please specify): \_\_\_\_\_
3. Date Organized: \_\_\_\_\_
4. Tax Identification Number: \_\_\_\_\_
5. Main Business Address:  
\_\_\_\_\_  
  
    a. Phone number: \_\_\_\_\_  
    b. Website: \_\_\_\_\_
6. Local or Additional Address:  
\_\_\_\_\_  
  
    a. Phone number: \_\_\_\_\_  
    b. Website: \_\_\_\_\_
7. Provide the name, title, and contact information of the individual who will serve as the Designated Authorized Representative of the company in accordance with CMESC Rule 312:  
  
    a. Name: \_\_\_\_\_  
    b. Title: \_\_\_\_\_  
    c. Telephone: \_\_\_\_\_  
    d. Email: \_\_\_\_\_
8. Provide the name(s), title(s), and contact information of individuals authorized to communicate on behalf of the company with CMESC, its Board, or its Committees:  
  
    a. Name: \_\_\_\_\_  
    b. Title: \_\_\_\_\_  
    c. Telephone: \_\_\_\_\_  
    d. Email: \_\_\_\_\_

**CME Securities Clearing Inc CA-1 Exhibit P-1**

9. Is your company qualified to do business in the State of Illinois? \_\_\_\_ If yes, include supporting documentation. If no, provide an executed Agency Agreement to provide a place for service of process and indicate who will be appointed to receive process:
- \_\_\_\_\_
10. Is your company subject to any restrictions that would prohibit you from becoming a Member of CMESC and fulfilling all of the responsibilities and obligations as a Member of CMESC? \_\_\_\_ If yes, provide an explanation:
- \_\_\_\_\_
- \_\_\_\_\_
11. List all commodity and security exchanges/clearing organizations, U.S. and non U.S., at which membership privileges are held or pending. Please indicate the type of membership held (e.g., clearing or non-clearing). \_\_\_\_\_
- \_\_\_\_\_
12. Is your company:
- a. Registered with the Securities Exchange Commission (“SEC”) as a broker-dealer? If yes, please attach a true and complete copy of Part I, Part II, Part IIA, and/or Part II CSE of your most recent FOCUS Report and identify your designated examining authority (“DEA”) below.
  - \_\_\_\_\_
  - b. A bank that is subject to the supervision and regulation of its chartering authority in the U.S. at either federal (i.e., the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) and/or state (i.e., state banking agencies), or for non-U.S. banks, the foreign equivalent to such chartering authority(ies)? If yes, please attach a true and complete copy of your most recent CALL Report.
  - \_\_\_\_\_
  - c. Registered as a futures commission merchant (“FCM”) with the Commodity Futures Trading Commission (“CFTC”) ? If yes, please state your designated self-regulatory organization (“DSRO”). If yes, please attach a true and complete copy of the most recent financial reports you are required to file with the CFTC (if you are dually registered as a broker-dealer and file a FOCUS Report, then the most recent copy of your FOCUS Report).
  - \_\_\_\_\_
  - d. An Unregistered Investment Pool, as that term is defined in CMESC Rule 302. If so, please list your registered investment advisor and attach a certified statement of assets and liabilities on standard form signed by the registered investment advisor of such Unregistered Investment Pool.
  - \_\_\_\_\_
  - e. Other Categories? Please indicate the type of entity, whether you are a registered or regulated entity and your primary regulator. Attach a certified statement of assets, liabilities and equity on standard form signed by your Chief Financial Officer.
  - \_\_\_\_\_
13. Does your company have a regulatory capital requirement? \_\_\_\_\_ If so, what is your minimum regulatory capital requirement? \_\_\_\_\_

**CME Securities Clearing Inc CA-1 Exhibit P-1**

14. Please identify which of the minimum financial responsibility standards your company satisfies, as required by CMESC Rule 306(b):

- ☐ A broker-dealer with Net Capital of at least twenty million dollars (\$20,000,000), provided that such amounts are greater than SEC minimum capital requirements and, in the case of a broker-dealer dually registered as an FCM, greater than CFTC minimum adjusted net capital requirements.
- ☐ A bank with at least five hundred million dollars (\$500,000,000) in common equity tier 1 ("CET1") capital as defined by the bank's primary regulator, or for non-U.S. banks, the foreign regulatory equivalent of the CET1 measure, and meet applicable regulatory standards with respect to leverage and capital ratios.
- ☐ A futures commission merchant applicant that has adjusted Net Capital of at least twenty million dollars (\$20,000,000), provided that such amounts are greater than CFTC minimum capital requirements and, in the case of a futures commission merchant dually registered as a broker-dealer, greater than SEC minimum Net Capital requirements.
- ☐ An Unregistered Investment Pool applicant that identifies itself as (y) a hedge fund and has at least one hundred fifty million dollars (\$150,000,000) in net assets, as defined as total assets less total liabilities. Any Unregistered Investment Pool applicant that is not a hedge fund must also at least one hundred and fifty million dollars (\$150,000,000) in net assets, as measured by total assets less total liabilities. The Unregistered Investment Pool applicant must have an investment adviser registered with the SEC.
- ☐ Other Categories not covered by any of the categories above.

15. Provide the legal name, address, engagement partner, and contract information for your company's public accountant:

- a. Legal Name of Company: \_\_\_\_\_
- b. Address: \_\_\_\_\_
- c. Engagement Partner: \_\_\_\_\_
- d. Telephone: \_\_\_\_\_
- e. Email: \_\_\_\_\_

16. Does your company intend to nominate and authorize Users? ☐ If so, please indicate (i) whether it will nominate and authorize Independent Users, Supported Users, or both, and (ii) the approximate date that the firm company begin to nominate and authorize one or more User(s)

17. Has your company, or any person associated with your company as a partner, officer, or director, or any person occupying similar status or performing similar functions, or any person directly or indirectly controlling, controlled by, or under common control with your company:

- a. ☐ Been (i) expelled or suspended from membership or participation in, or barred or suspended from being associated with a member of, any self-regulatory organization, foreign equivalent of a self-regulatory organization, foreign or international securities exchange, contract market designated pursuant to Section 5 of the Commodity Exchange Act, or any substantially equivalent foreign statute or regulation, or futures association registered under Section 17 of the Commodity Exchange Act, or any

**CME Securities Clearing Inc CA-1 Exhibit P-1**

substantially equivalent foreign statute or regulation, or (ii) denied trading privileges on any such contract market or foreign equivalent?

- b. ☐ Been subject to an order of the SEC, other appropriate regulatory agency, or foreign financial regulatory authority denying, suspending for a period not exceeding 12 months, or revoking registration as a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, security-based swap dealer, or major security-based swap participant or limiting activities as a foreign person performing a function substantially equivalent to any of the above?
- c. ☐ Been subject to an order of the SEC, other appropriate regulatory agency, or foreign financial regulatory authority barring or suspending for a period not exceeding 12 months from being associated with a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, security-based swap dealer, major security-based swap participant, or foreign person performing a function substantially equivalent to any of the above?
- d. ☐ Been subject to an order of the CFTC denying, suspending, or revoking registration under the Commodity Exchange Act?
- e. ☐ Been subject to an order by a foreign financial regulatory authority denying, suspending, or revoking authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof?
- f. ☐ Been found to be a cause of any effective suspension, expulsion, or order of the character described in subparagraphs (a), (b), (c), (d), or (e) of this paragraph 17?
- g. ☐ Been associated with any person who is known, or in the exercise of reasonable care should be known, to be a person described by subparagraphs (a), (b), (c), (d), (e) or (f) of this paragraph 17?
- h. ☐ Ever been denied registration, or had a registration suspended, revoked, or conditioned by a governmental or regulatory authority?
- i. ☐ Ever failed in business, made a compromise with or assignment of assets for the benefit of creditors, or been a party to any voluntary or involuntary proceeding under any relevant bankruptcy law, taken advantage of any exemption law, or pleaded the statute of limitations to any claim of creditors?
- j. ☐ Ever used or been known by, or conducted business under, any other name?
- k. ☐ Ever been: (i) convicted of any felony, pled guilty, entered a plea of “no contest,” or entered into a voluntary settlement as to any violation of any criminal or penal code; or (ii) convicted of any misdemeanor or found guilty of, or liable for, violating a rule or regulation that involves embezzlement, theft, fraud, extortion, misappropriation of funds, forgery, or bribery, by any U.S. or foreign court, government or regulatory authority, or exchange/clearing organization?
- l. ☐ Been subject to any investigation or any charges that have been brought by any governmental or regulatory authority or exchange/clearing organization for violation of its laws or rules?

**CME Securities Clearing Inc CA-1 Exhibit P-1**

- m. ☐ Currently have any judgments, liens, attachments, or other encumbrances filed against it/him/her?
- n. ☐ Ever met any of the criteria set out in CMESC Rule 308(a), to the extent your response to this question is not already covered by your responses to the questions in subparagraphs (a) through (m) of this paragraph 17?

If your response is “Yes” to any of the above questions, please identify which question(s) you have answered in the affirmative and provide a description below and include any supporting documentation: \_\_\_\_\_

18. Is your company subject to any other action or condition that might adversely affect its ability to meet the standards of financial responsibility, operational capacity, experience, and competence established by CMESC? ☐

The complete Member Application along with the supporting documentation and any relevant identification or background information requested by CMESC should be submitted by the Member via email or to the following address:

CMESC Inc.  
Credit Risk Department  
20 S. Wacker Drive  
Chicago, IL 60606

**CME Securities Clearing Inc CA-1 Exhibit P-1**

**[CMESC Header]**

**CMESC Inc. ("CMESC") Member Application  
Part 2: Representation, Consent, Waiver, Acknowledgment, and Authorization**

On behalf of my company, \_\_\_\_\_ ("Applicant"), I provide the following representations, consents, waivers, acknowledgments, and authorizations as part of this Application for Member privileges to clear Eligible Securities Transactions through CMESC:

I represent that Applicant meets all of the requirements for the CMESC Member privileges applied for. I do hereby agree that, if Applicant is accepted as a CMESC Member, Applicant and its representatives will observe and be bound by the By-Laws, Certificate of Incorporation, all Rules (as that term is defined in the CMESC Rulebook), and Procedures (as that term is defined in the CMESC Rulebook) of CMESC, as each may be amended from time to time. All Rules of CMESC, including but not limited to the Rules contained in the CMESC Rulebook as amended from time to time, and all of the Procedures of CMESC, including but not limited to the Procedures contained in the CMESC Procedures Manual as amended from time to time, are hereby incorporated fully herein as if set out fully herein.

I authorize CMESC to obtain information from sources that it deems appropriate in order to adequately evaluate and process this application. In addition, I authorize CMESC to disclose or release any information regarding Applicant to U.S. or foreign securities regulators or markets. Such disclosure or release may only be made based on a regulatory need, or if otherwise authorized by the information-sharing agreements or procedures of the Intermarket Surveillance Group, the Intermarket Financial Surveillance Group, or the International Information Sharing Memorandum of Understanding and Agreement of March 15, 1996, or as otherwise permitted or required by law.

I further acknowledge and agree to abide by all requirements for Member privileges. I further represent that all current and future Member clearing activity of Applicant will conform to the requirements for such clearing activity established by CMESC.

I understand that any person or firm that obtains CMESC Member privileges by fraudulent representations or concealment, or by any material misstatement, shall be subject to suspension or expulsion pursuant to CMESC Rules and Procedures, as applicable.

I attest that the information provided in this Application is accurate and complete. I further acknowledge that confirming inaccurate and/or incomplete information may subject me and the Applicant to CMESC disciplinary action and/or penalties.

**CME Securities Clearing Inc CA-1 Exhibit P-1**

I represent that I have the authority to legally bind Applicant with respect to any and all representations, consents, waivers, acknowledgments, and authorizations set forth above.

Signed and accepted by an authorized representative\* of Applicant.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Date)

*\*An authorized representative is a general partner, managing member, officer, or director authorized to make the representations, consents, waivers, authorizations, and acknowledgements contained in the Application and to sign this CMESC Member Application: Part 2 on behalf of Applicant.*

**CME Securities Clearing Inc CA-1 Exhibit P-1**

**[CMESC Header]**

CMESC Inc. ("CMESC") Member Application  
Part 3: Member Agreement

Upon admission as a CMESC Member, this Member Agreement ("Agreement") made by and among \_\_\_\_\_ ("Member"), and CMESC, collectively referred to as the "Parties" or individually as a "Party," shall become effective.

**1. GENERAL**

- 1.1 Member may submit Eligible Securities Transactions for clearing by CMESC, subject to meeting financial and operational requirements set out in the CMESC Rules and Procedures as well as any other requirements as CMESC may impose on clearing Eligible Securities Transactions from time to time.
- 1.2 As a condition of becoming and remaining a Member, Member agrees:
- a. To abide by CMESC By-Laws, Rules, and Procedures;
  - b. That CMESC By-Laws, Rules, and Procedures shall be a part of the terms and conditions of every contract or transaction which Member may make or have with CMESC;
  - c. To grant CMESC all liens, rights, and remedies set forth in CMESC By-Laws, Rules, and Procedures, and to execute any documents required by CMESC to create and enforce such liens, rights, and remedies;
  - d. To pay to CMESC all fees and other compensation provided by or pursuant to CMESC By-Laws, Rules, and Procedures for clearance and for all other services rendered by CMESC to Member;
  - e. To pay such fines as may be imposed on Member in accordance with CMESC By-Laws, Rules, and Procedures;
  - f. To permit inspection of its books and records at all times by representatives of CMESC and to furnish CMESC with all information in respect of the Member's business and transactions as the Corporation or its officers may require;
  - g. To make such payments to the Guaranty Fund as may be required from time to time, as CMESC may determine;
  - h. To comply with applicable capital and margin requirements of CMESC, as CMESC may determine;
  - i. That the determination of CMESC by CMESC's Board of all questions affecting the charges to which its contribution to the Guaranty Fund are or may be subject shall be final and conclusive;
  - j. To develop and implement a written compliance program approved in writing by senior



**CME Securities Clearing Inc CA-1 Exhibit P-1**

management reasonably designed to achieve and monitor the Member's compliance with, as applicable, (1) anti-money laundering, know-your-customer, and sanctions requirements, including the Bank Secrecy Act (31 U.S.C. § 5311 et seq.), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.) ("IEEPA"), the Trading with the Enemy Act (50 U.S.C. App. § 1 et seq.) ("TWEA"), and the executive orders and regulations issued pursuant thereto, including the regulations issued by the Department of the Treasury and, as applicable, the CFTC; and (2) the Foreign Account Tax Compliance Act (26 U.S.C. § 1471 et seq.) and the executive orders and regulations issued pursuant thereto.

- k. To be bound by any amendment to CMESC By-Laws, Rules, or Procedures with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of the By-Laws, Rules, or Procedures; provided, however, that no such amendment shall affect its right to cease to be a Member, or alter the provisions of Chapter 4 of CMESC Rules unless before such amendment becomes effective Member is given an opportunity to give written notice to CMESC of its election that CMESC shall cease to act for it; and
  - l. That this Agreement with CMESC shall inure to the benefit of and be binding upon the Parties thereto and their respective successors and assigns.
- 1.3 Capitalized terms in this Agreement shall have the meaning provided in the Definitions of the CMESC Rules. In the event of conflict between the CMESC By-Laws, Rules, and Procedures and this Agreement, the CMESC By-Laws, Rules, and Procedures shall prevail.

**2. REPRESENTATIONS AND WARRANTIES**

**2.1 Member hereby represents and warrants that:**

- a. It is authorized and has the legal right to enter into this Agreement under its articles of association, by-laws, or any other governing document and to perform its obligations as Member hereunder and in accordance with CMESC Rules and Procedures;
- b. It has taken all necessary actions to authorize the execution of this Agreement;
- c. Member's execution of this Agreement and compliance with the CMESC Rules and Procedures does not violate any applicable law or agreement, document, or instrument binding on or applicable to the Member;
- d. Member requires no further licenses, filings with, or other acts by or in respect of any regulatory body or other governmental authority or court in connection with this Agreement;
- e. Member meets all requirements established by the CMESC Rules and Procedures in order to submit Eligible Securities Transactions for clearing by CMESC;
- f. Member has established and shall maintain accounts as specified and approved by the

**CME Securities Clearing Inc CA-1 Exhibit P-1**

Corporation in accordance with applicable CMESC Rules and Procedures;

- g. Member has established User due diligence policies and procedures as required under CMESC Procedure 3-6 (“User Due Diligence Policies and Procedures”) and will perform due diligence of each person it nominates and authorizes as a User in compliance with the requirements set forth in CMESC Rule 306(c)(iii).
- h. Member complies with all provisions of the CMESC Rules and Procedures; and
- i. Member shall notify CMESC immediately if Member becomes aware of any breach of a representation or warranty hereunder.

**3. CONFIDENTIALITY**

- 3.1 CMESC shall use reasonable efforts to ensure that no unauthorized party gains access to or knowledge of any matters relating to the business of the Member (“Information”) which it becomes aware of through clearing Eligible Securities Transactions submitted by Member for clearing by CMESC. CMESC shall use reasonable efforts to ensure that the Information is not used for any other purposes than those relating to clearing Eligible Securities Transactions hereunder.
- 3.2 Member shall use reasonable efforts to ensure that confidential information concerning the business, customers, clients, or suppliers of CMESC which Member becomes aware of through the clearing of its Eligible Securities Transactions by CMESC is not disclosed to any person without the prior consent of CMESC.
- 3.3 The duty of confidentiality shall not extend to information which is or becomes public through no breach of a Party’s confidentiality obligations hereunder.
- 3.4 Each Party may disclose any information as may be required by applicable law.
- 3.5 The existence of this Agreement, its suspension, or its termination is not required to be kept confidential.
- 3.6 Unless the Parties otherwise agree, these confidentiality provisions shall survive the termination of this Agreement by 2 years.

**4. TERMINATION**

- 4.1 Member may voluntarily withdraw as Member by providing CMESC with notice in accordance with CMESC Rule 903(a). Any such termination shall not affect Member’s obligations to CMESC, or CMESC’s rights, with respect to Eligible Securities Transactions submitted by Member to CMESC before the applicable Member Withdrawal Date, as provided in the CMESC Rules and Procedures.

**CME Securities Clearing Inc CA-1 Exhibit P-1**

- 4.2 In accordance with CMESC Rules 901 and 902, CMESC may cease to act for Member with respect to any transaction, or transactions generally, and may take further action as provided in the CMESC Rules and Procedures. If CMESC terminates this Agreement because CMESC ceases to act for Member, Member shall only be entitled to such notice as provided for in CMESC Rules and Procedures.
- 4.3 In the event that Member's Member status is suspended or terminated for any reason, or CMESC determines that the Member is no longer eligible or approved to submit Eligible Securities Transaction for clearing by CMESC, this Agreement shall terminate.

**5. AMENDMENT**

Changes to this Agreement require the written consent of each Party.

**6. NOVATION, SETTLEMENT**

- 6.1 Pursuant to CMESC Rules and Procedures, an Eligible Securities Transaction submitted by Member and accepted by CMESC for clearing, shall be novated.
- 6.2 With respect to each novated Eligible Securities Transaction submitted by Member, Member will become the legal counterparty to CMESC for such Eligible Securities Transactions and be legally obligated to settle such transaction with CMESC by delivering and receiving securities or cash directly to and from CMESC, as applicable.
- 6.3 Pursuant to CMESC Rules and Procedures, any Repo Transaction submitted by Member for clearing by CMESC, and accepted by CMESC for clearing, shall be novated.
- 6.4 With respect to each novated proprietary Repo Transaction submitted by Member, Member will become the legal counterparty to CMESC for such Repo Transaction and be legally obligated to settle such transaction with CMESC by delivering and receiving securities or cash directly to and from CMESC for both legs of the Repo Transaction submitted for clearing, as provided in CMESC Rules 1504.
- 6.5 Pursuant to CMESC Rules and Procedures, any Cash Treasury Transaction submitted by Member for clearing by CMESC, and accepted by CMESC for clearing, shall be novated
- 6.6 With respect to each novated proprietary Cash Treasury Transaction submitted by Member, Member will become the legal counterparty to CMESC for such Cash Treasury Transaction and be legally obligated to settle such transaction with CMESC by delivering and receiving securities or cash directly to and from CMESC for both legs of the Cash Treasury Transaction submitted for clearing, as provided in CMESC Rules 1504.
- 6.7 Release of Clearing Data.
- a. The term "Clearing Data" shall mean transaction and other data which is received by the

**CME Securities Clearing Inc CA-1 Exhibit P-1**

Corporation in the clearance and/or settlement process of the Corporation, or such data, reports, or summaries thereof, which may be produced as a result of processing such data.

- b. Absent valid legal process or as set forth in these Rules, the Corporation will only release Clearing Data relating to a particular Member or User to such Member or User upon its request; provided, however, that the Corporation may release Clearing Data relating to a particular User to the Member(s) that authorize that User.
- c. The Corporation, in its sole discretion, may release Clearing Data relating to Members or Users to regulatory organizations and self-regulatory organizations, as well as to clearing organizations affiliated with or designated by contract markets trading specific futures products under the oversight of the CFTC; provided, however, that nothing in the Rules or Procedures shall prevent the Corporation from releasing Clearing Data to others, provided that such data shall be in a form as to prevent the disclosure, whether patently or in easily discernible format, of proprietary and/or confidential, financial, operational, or trading data of a particular Member or User or group of Members or Users. Additionally, the Corporation may release Clearing Data as required by law or regulation.

**7. MARGIN AND GUARANTY FUND**

Member shall pay initial margin and Guaranty Fund to CMESC as required by CMESC Rules and Procedures.

**8. MONITORING**

- 8.1 Member acknowledges and agrees that CMESC will monitor Member's clearing activity conducted pursuant to this Agreement for compliance with all applicable laws and regulations, including, without limitation, the CMESC Rules and Procedures.
- 8.2 Member acknowledges its responsibility to monitor its employees, agents, and customers for compliance with CMESC Rules and Procedures, the rules and regulations of any self-regulatory organizations of which Member is a member, and all applicable federal and state laws.
- 8.3 Member acknowledges and agrees to conduct due diligence of each applicant for User status it nominates before nominating the applicant and is deemed to represent to the Corporation that it has conducted such due diligence as required by CMESC Rule 306(c) and the Member's User Due Diligence Policies and Procedures each time it nominates an applicant to become a User.
- 8.4 Member acknowledges and agrees to conduct routine periodic due diligence of its authorized Users in accordance with its User Due Diligence Policies and Procedures and CMESC Procedure 3-6.

**9. INDEMNITY**

**CME Securities Clearing Inc CA-1 Exhibit P-1**

Member agrees to indemnify, defend, and hold CMESC harmless from and against all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and attorney's fees, arising from or as a result of Member's breach of its obligations under this Agreement or CMESC Rules and Procedures, or otherwise from its use of clearing services provided by CMESC pursuant to this Agreement.

**10. DISCLAIMER OF WARRANTY**

CMESC clearing services provided to Member by CMESC pursuant to this Agreement are provided "as is" and without warranty of any kind. All warranties, conditions, representations, indemnities, and guarantees with respect to the CMESC and any clearing services provided to Member hereunder, whether express or implied, or statutory, arising by law, custom, prior oral or written statements by CMESC or its agents, affiliates, licensors, or otherwise (including but not limited to any warranty of satisfactory quality, accuracy, uninterrupted use, timeliness, truthfulness, sequence, completeness, merchantability, fitness for particular purpose, or non-infringement and any implied warranties arising from trade usage, course of dealing, or course of performance) are hereby overridden, excluded, and disclaimed.

**11. NO LIABILITY FOR ELIGIBLE SECURITIES TRANSACTIONS**

Member understands and agrees that CMESC is not liable in any manner to any person, including Member, or any person for whom Member is authorized to act, for the failure of any person to perform settlement or other obligations related to Eligible Securities Transactions submitted by Member for clearing by CMESC.

**12. NO CONSEQUENTIAL DAMAGES**

Under no circumstances will CMESC, or its agents, affiliates, or licensors, be liable for any loss, damage, claim, or expense, including without limitation any direct, consequential, indirect, special, punitive, or incidental damages or lost profits, whether foreseeable or unforeseeable, based in Member's claims or the claims of its customers, employees, or agents (including but not limited to claims for loss of data, goodwill, use of money, or use of CMESC, interruption in use or availability of CMESC, stoppage of other work, or impairment of other assets), arising out of breach or failure of express or implied warranty, breach of contract, misrepresentation, negligence, strict liability in tort, or otherwise. This section will not apply only when and to the extent that applicable law specifically requires liability, despite the foregoing exclusion and limitation.

**13. ACKNOWLEDGEMENT OF CLEARING AGENCY OBLIGATIONS**

- 13.1 CMESC is registered with the SEC as a clearing agency pursuant to Section 17A of the Securities Exchange Act;
- 13.2 CMESC must comply with the Securities Exchange Act and has jurisdiction over its participants to enforce compliance with the Securities Exchange Act as well as the rules, regulations, and interpretations of the CMESC.
- 13.3 Accordingly, Member agrees that CMESC, when required to do so in fulfillment of its obligations, may, in accordance with CMESC Rules and Procedures, temporarily or

**CME Securities Clearing Inc CA-1 Exhibit P-1**

permanently, and unilaterally, condition, modify, or terminate any right of any or all individuals or entities, including Member, to use the clearing services provided by CMESC hereunder.

- 13.4 CMESC shall undertake reasonable efforts to notify Member of any such condition, modification, or termination, and Member shall promptly comply with any requirement that may be contained in such notice within such period of time and may be determined in good faith by CMESC to be necessary and consistent with its statutory obligations.
- 13.5 Any individual or entity that receives such notice shall have available to it such procedural protections as are provided to it by CMESC Rules and Procedures.

**14. FORCE MAJEURE**

Each Party to this Agreement will not be liable for delay or failure to perform its obligations hereunder (other than a failure to pay amounts when due) caused by an event that is beyond the Party's control; provided, however, that such Party will not have contributed in any way to such event.

**15. SEVERABILITY**

Each provision of this Agreement will be deemed to be effective and valid under applicable law, but if any provision of this Agreement is determined to be invalid, void, or unenforceable under any law, rule, administrative order, or judicial decision, that determination will not affect the validity of the remaining provisions of this Agreement.

**16. ARBITRATION**

In connection with the following agreement to arbitrate, each Party understands that: (i) arbitration is final and binding on the Parties; (ii) the Parties are waiving their right to seek remedies in court, including the right to jury trial; (iii) pre-arbitration discovery is generally more limited than and different from court proceedings; (iv) the arbitrators' award is not required to include factual findings or legal reasoning, and any Party's right to appeal or seek modification of rulings by the arbitrators is strictly limited; and (v) the panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry. Subject to the preceding disclosures, each Party agrees that any controversy arising out of or relating to this Agreement, CMESC's Rules, Procedures, or By-Laws, or Member's CMESC Member privileges (including if such action concerns a User authorized by Member) or the breach thereof will be resolved and settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or in accordance with such other rules and procedures as are agreed to by the Parties. The arbitration proceeding shall be conducted in New York, New York, unless otherwise agreed to by the Parties. The Parties further agree that this Agreement and CMESC's Rules, Procedures, and By-Laws and all amendments thereto shall be governed by and construed in all respects by the laws of the State of New York, without giving effect to principles of conflict of law. Judgment upon arbitration may be entered in any court, state or federal, having jurisdiction; provided, however, that nothing herein will prevent each Party from: (i) petitioning a regulatory body regarding a matter in question over which the regulatory body has administrative jurisdiction; or (ii) pursuing injunctions before any administrative or judicial forum provided that all monetary and other relief is submitted for arbitration.

**CME Securities Clearing Inc CA-1 Exhibit P-1**

**17. ENTIRE AGREEMENT**

This Agreement supersedes any previous arrangement, understanding or agreement between the Parties related hereto. The Parties each acknowledge that, on entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance, or warranty other than as expressly set out in this Agreement or other written arrangements in force between or among the Parties. Nothing in this clause shall limit or exclude any liability for fraud.

Signed and accepted by an authorized representative\* of Member.

\_\_\_\_\_  
(Signature) (Title)

\_\_\_\_\_  
(Printed Name) (Date)

*\*An authorized representative is a general partner, managing member, officer, or director authorized to make the representations, consents, waivers, authorizations, and acknowledgements contained in the Application and to sign this CMESC Member Application: Part 3A on behalf of Member.*