

¹MODEL TM-CM AGREEMENT FORMAT
[ON STAMP PAPER OF RS. 100 IN MUMBAI]
(To be signed and stamped on all pages by designated directors)

*[**THE CLEARING MEMBER SHALL ENTER INTO A SEPARATE AGREEMENT WITH EACH OF THE TRADING MEMBER ON WHOSE BEHALF HE WILL BE CLEARING TRADES**.]*

Agreement between CLEARING MEMBER and TRADING MEMBER

This agreement is made and executed at this day of 20... between:

M/s. _____, a company registered under the provisions of the Companies Act, 2013 (including any modification or re-enactment thereof), being a Clearing Member of India International Clearing Corporation (IFSC) Limited, having Clearing Member Code No. _____ and registered as a Clearing Member with Securities and Exchange Board of India (“SEBI”) under Registration No. _____ (if applicable), having its registered office at _____ (hereinafter called “the Clearing Member”) which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns of the **One Part**

A n d

M/s. _____, a company registered under the provisions of the Companies Act, 2013 (including any modification or re-enactment thereof), being a Trading Member of the India International Exchange (IFSC) Limited, having Trading Member Code No. _____ and registered as a Trading Member with SEBI under Registration No. _____, having its registered office at _____ (hereinafter called “the Trading Member”) which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns of the **Other Part**

WHEREAS

- I. The Trading Member has requested the Clearing Member to clear and settle the Trading Member's deals executed on the trading system of the India International Exchange (IFSC) Limited (“the Exchange”), and the Clearing Member has agreed to do so in accordance with the Rules, Bye-laws and Regulations of the Exchange/ India International Clearing Corporation (IFSC) Limited (“Clearing Corporation”), regulatory framework laid down by SEBI and the terms and conditions contained in this Agreement;
- II. For the purpose of the arrangement as specified in clause (I) above, the Clearing Member and the Trading Member are required to enter into an agreement which clearly state the nature of the relationship between the two and also should specify the duties, responsibilities, obligations and code of conduct of the concerned parties; and
- III. The Clearing Member and Trading Member are accordingly executing this Agreement.

¹ The Clearing Member and Trading Member may vary the terms and conditions of the Model TM CM Agreement without diluting the principles enshrined in the Model Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AND THE CLEARING MEMBER AND THE TRADING MEMBER AGREE AS FOLLOWS:

(1) Deposit from Trading Member:

- (i) The Trading Member shall deposit and maintain on a continuing basis a minimum amount of Rs. _____ as an interest-free deposit with the Clearing Member. (****IF THE PARTIES AGREE TO AN INTEREST BEARING DEPOSIT THEN APPROPRIATE PROVISIONS SHOULD BE INSERTED FOR RATE OF INTEREST, INTEREST PAYMENT DATE, ETC.****)
- (ii) The Trading Member shall from time to time deposit with the Clearing Member such further amounts as may be required by the Clearing Member from time to time. (****PARTIES MAY INSERT TERMS OF SUCH FURTHER AMOUNTS. IF THE PARTIES AGREE TO AN INTEREST BEARING DEPOSIT THEN APPROPRIATE PROVISIONS SHOULD BE INSERTED FOR RATE OF INTEREST, INTEREST PAYMENT DATE, ETC. ELSE IT SHOULD BE STATED THAT THE DEPOSIT WOULD BE INTEREST FREE.****)
- (iii) In case of any failure or delay on the part of the Trading Member in payment of any deposit or if the Trading Member fails to maintain the minimum deposit mentioned above with the Clearing Member or in case of any shortfall in deposit, then the Clearing Member may prohibit/restrain the Trading Member from trading or creating any further positions till the failure has been rectified or may close-out all or any of the Trading Member's positions to the extent deemed necessary by the Clearing Member or may exercise any other right or power which the Clearing Member may have under this Agreement or the Rules, Bye-laws and Regulations of the Exchange/Clearing Corporation.
- (iv) The Trading Member shall pay to the Clearing Member such deposits in such form as the Clearing Member may specify from time to time in order to ensure compliance with the Rules, Bye-laws and Regulations of the Clearing Corporation/Exchange.

(2) Exposure limit:

- (i) The Trading Member shall have the following exposure limits:
(****VARIOUS EXPOSURE LIMITS TO BE INSERTED****)
- (ii) The Clearing Member may from time to time in its discretion unilaterally increase or decrease the Trading Member's exposure limits, subject to the requirements prescribed by the SEBI/Exchange/Clearing Corporation ("Relevant Authority") from time to time.
- (iii) In case the Trading Member exceeds his prescribed exposure limit, the Clearing Member may, at the Clearing Member's option and discretion, require the Trading Member to forthwith deposit additional amounts with the Clearing member and/or reduce the Trading Member's exposure to limits acceptable to the Clearing Member by closing out the Trading Member's open positions and/or may restrict, withdraw or disable the clearing and settlement facility provided to the Trading Member under prior intimation of at least 24 hours to the Exchange/Clearing Corporation and/or exercise any other right or power which the Clearing Member may have under this Agreement or the Rules, Bye-laws and Regulations of the Clearing Corporation/the Exchange.

(3) Fees:

- (i) The rate of fee to be charged by the Clearing Member to the Trading Member in respect of various services provided by the Clearing Member shall be as mutually agreed between the parties or as provided below:

Sr. No.	Nature of Service	% of Fee
1.		
2.		
3.		

The above mentioned rates shall not be varied save and except with the mutual consent of the Trading Member and the Clearing Member recorded in writing.

- (ii) 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.

(4) Types of Services offered:

The Clearing Member shall provide the following services to the Trading Member:
[**TO BE INSERTED BY MEMBERS. e.g. clearing and settlement service, advisory services, portfolio management services, etc.**]

- a. _____
b. _____
c. _____

(5) Payment of margins:

- (i) Subject to the requirements prescribed by the Relevant Authority, the Clearing Member shall collect margins from the Trading Member. However, if the Clearing Member finds it necessary, he shall be entitled to levy and collect additional margins from the Trading Member over and above those imposed by the Relevant Authority and the Trading Member shall be liable to pay the additional margins within the time stipulated by the Clearing Member.
- (ii) Clearing Member shall be entitled to collect from Trading Member margin(s) of such amounts in such manner, as it may deem necessary, which at any point of time shall not be less than the amount stipulated by Clearing Corporation from time to time.
- (iii) The Trading Member shall be entitle to collect margins from his Clients on a gross basis. The Trading Member hereby agrees to accurately and promptly report to the Clearing Member of all margins collected by the Trading member and the identities of the Clients who have paid such margins. Any loss or damage caused to the Clearing Member on account of any misrepresentation or omission relating to the reporting of any margin or client identity by the Trading Member shall be reimbursed by the Trading Member to the Clearing Member. The Clearing Member shall ensure that the Trading Member collects the margins from it / his constituents on such basis as may be prescribed by Relevant Authority from time to time.

(6) Liquidation/close-out of positions:

The Clearing Member shall be entitled to liquidate/close-out positions of the Trading Member for non-payment of margins, outstanding dues, exposure beyond limit specified or any other default on the part of the Trading Member.

(7) Liability to reimburse losses:

The Trading Member shall be liable to forthwith reimburse to the Clearing Member any losses or financial charges arising from liquidation/close-out of positions, incurred by the Clearing Member.

(8) Client Registration by the Trading Member:

The Trading Member shall comply with the provisions of the Rules, Bye-laws and Regulations of the Exchange and circulars/notices issued by SEBI/the Exchange relating to Know Your Client / registration of Clients and Risk Disclosure Document. The Trading Member shall promptly provide to the Clearing Member such details and documents as the Clearing Member may from time to time require to satisfy itself that the Trading member is in compliance with this clause.

(9) Segregation of Client's money:

The Trading Member shall keep the money deposited by his Clients in a separate account, distinct from his own account and he shall provide the details and supporting evidence of the segregated accounts to the Clearing Member forthwith upon demand by the Clearing Member.

(10) Client Identification:

The Trading Member shall allot each Client a distinct constituent code as required by the SEBI/the Exchange from time to time. For the purpose of shifting of positions and safeguarding the money of Clients, the Trading Member agrees and undertakes to structure his Client's codes in such manner as the Clearing Member may from time to time require.

(11) Default by Trading Member/Client:

In the event of a default of the Trading Member on his own account, the Client money shall remain safe and shall not be utilised to meet the Trading Member's liabilities. In such cases, the Client's positions shall be transferred by the Clearing Member to another Trading Member or closed out. In the event of a default due to failure of a specific Client to fulfil his obligation, the money of other Clients shall remain safe and shall not be utilised to meet the obligation of the defaulting Client as set out in the Rules, Bye-laws and Regulations of the Clearing Corporation/the Exchange. The Trading Member hereby agrees and undertakes to do all things, which may be necessary in order to transfer his Client's positions to the Clearing Member or another Trading Member in the event of his default.

(12) Default by Clearing Member:

In the event of default by the Clearing Member on his own account, the money of Trading Members except to the extent of liability due to the Clearing Member and Trading Members' Clients shall remain safe and shall not be utilised to meet the Clearing Member's liabilities. In such cases, the positions of the Clients and the Trading Members shall be transferable to some other Clearing Member or be closed out in accordance with the provisions of the Rules, Bye-laws and Regulations of Clearing Corporation/the Exchange. The Clearing Member hereby agrees and undertakes to do

all things, which may be necessary in order to transfer his Trading Member's or Client's positions to another Clearing Member in the event of his default.

(13) Loss on account of close out:

Any and all loss on account of close out of Client positions because of failure of the Clearing Member or the Trading Member shall be recovered from the Clearing or Trading Member respectively.

(14) Intimation to Exchange in cases of default of the Trading Member:

The Clearing Member shall immediately inform the Clearing Corporation and the Exchange in case the Trading Member defaults in his payments or other obligations.

(15) Arbitration:

In case of claims, difference or disputes between the Clearing Member and Trading Member, the Clearing Member or the Trading Member shall avail the arbitration, mediation and other dispute resolution mechanism offered by International Arbitration Centre situated in International Financial Service Centre, Gujarat.

(16) Termination:

Subject to the Rules, Bye-laws and Regulations, this agreement may be terminated by either party by giving one month's notice to the other party. However such termination shall not affect the rights and obligations of a party hereunder in respect of any deals entered into prior to such termination and the parties shall enjoy the same rights and shall have same obligations in respect of such deals.

(17) 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.

(18) Jurisdiction:

The agreement shall be subject to the exclusive jurisdiction of the courts which exercise jurisdiction over the International Financial Services Centre, Gujarat.

(19) In addition to the specific rights set out in this Agreement, the parties hereto shall be entitled to exercise any other rights which they may have under the Rules, Bye-laws and Regulations of the Exchange/Clearing Corporation or circulars/notices issued by relevant authority.

(20) Words and expressions which are used in this Agreement, but which are not defined herein shall, unless the context otherwise requires, have the same meaning as assigned thereto in the Rules, Bye-laws and Regulations of Exchange/Clearing Corporation.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the date first above mentioned.

Signature:
Clearing Member
Signed before:

Signature:
Trading Member
Signed before:

Name of the Witness: _____ **Name of the Witness:** _____

Note:

- 1. All references to the specific quantity/rate/fee mentioned in this agreement are from time to time subject to change, as so agreed to in writing between parties.**
- 2. All references to deposit in this agreement shall be deemed to mean cash and deposit other than cash. In the event, deposit other than cash is taken, both parties are required to record the same in writing.**
- 3. The Clearing Member shall enter into an Agreement with each of the Trading Member on whose behalf he will be clearing and settling the trades.**