

Dated []

EUROPEAN CENTRAL COUNTERPARTY N.V. (1)

and

[CLEARING PARTICIPANT] (2)

CLEARING PARTICIPANT AGREEMENT

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THIS CLEARING PARTICIPANT AGREEMENT is made on [***] **BETWEEN:**

- (1) **European Central Counterparty N.V.**, a company with limited liability (*naamloze vennootschap*) established in Amsterdam, the Netherlands, with its registered office at Strawinskylaan 1847, Tower I, Level 3, 1077 XX, Amsterdam, registered in the commercial register of Amsterdam under number 34268194 (hereinafter referred to as **EuroCCP**), and
- (2) [**CLEARING PARTICIPANT**], a company [***] established in [***], with its registered office at [***], registered in the commercial register of [***] under number [***] (hereinafter referred to as the **Clearing Participant** and collectively with EuroCCP as the **Parties**).

WHEREAS:

- (A) EuroCCP has been appointed as a central counterparty for Securities traded on the Exchange(s);
- (B) In this capacity EuroCCP has established rules relating to its Clearing Services (hereinafter the **Clearing Rules**);
- (C) The Clearing Participant wishes to be recognised by EuroCCP as a Clearing Participant of Securities traded on the Exchange(s) as specified in the application in the capacity of General Clearing Participant/Direct Clearing Participant¹. EuroCCP, having determined based on the information provided by the Clearing Participant that the Clearing Participant satisfies the recognition criteria as set out in the Clearing Rules, agrees to recognise the Clearing Participant as such subject to the terms and conditions of this Agreement.

NOW IT IS HEREBY AGREED as follows:

1 Purpose

This Agreement sets out the terms and conditions on which EuroCCP will make available to the Clearing Participant the services set out in the Clearing Rules, and on which the Clearing Participant will carry on its activities related to the clearing and settlement of Trades.

2 Definitions

Terms used in this Agreement shall, unless specifically provided otherwise, have the meanings stipulated in the Clearing Rules.

3 Declaration and undertaking

- 3.1 The Parties consider themselves clearing professionals and declare that they have the resources and expertise required to comply with the terms of this Agreement.
- 3.2 The Clearing Participant warrants that the information supplied by the Clearing Participant in connection with the recognition application was and is at the date of this Agreement true and accurate in all material aspects.
- 3.3 The Clearing Participant will ensure that at all times during the term of this Agreement it will satisfy the criteria for recognition by EuroCCP as in force from time to time and as shall be notified in accordance with the Clearing Rules.
- 3.4 Each of the Parties will ensure that at all times during the term of this Agreement it will comply with the relevant laws and regulations which are applicable to it in respect thereof.

¹ Delete as appropriate.

- 3.5 EuroCCP is authorised as a Central Counterparty pursuant to Section 14 sub 1 Regulation (EU) No 648/2012 of the European Parliament and the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR) by the Dutch Central Bank (DNB), EuroCCP undertakes that during the term of this Agreement it will be regulated by DNB and the Netherlands Authority for the Financial Markets (AFM) and/or any other competent authority within the EU (to the extent its regulation is required by law) and aims to fully observe the Principles for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions (PFMIs) of April 2012, where that is not the case, this will only be to the extent as approved by the relevant competent authorities. EuroCCP will inform the Clearing Participant as soon as reasonably possible of a material change in its regulatory status.

4 Main obligations of the Parties

For the purpose of this Agreement, the Parties undertake to comply at all times with the Clearing Rules currently in force and as amended from time to time, and with this Agreement.

5 Collaboration and communication between Parties

- 5.1 The Clearing Participant will send to EuroCCP by fax and/or email a scanned signed copy of a Statement of Authority for each Trading Participant with which it has concluded a Clearing Agreement after which EuroCCP will admit the Trading Participant. EuroCCP will confirm the admittance of the Trading Participant by email to the Clearing Participant within thirty (30) minutes after receipt of the Statement of Authority. If the Clearing Participant sends EuroCCP the Statement of Authority for the Trading Participant by fax and/or e-mail before 12:00 CET, then EuroCCP will commence clearing services in relation to that Trading Participant on the next Clearing Day. For Statements of Authority received by EuroCCP after this deadline, EuroCCP will commence clearing services for that Trading Participant the Clearing Day after the next Clearing Day.
- 5.2 In the event that the Clearing Participant suspends or terminates a Statement of Authority, the Clearing Participant will promptly give notice by fax and/or email to that effect to EuroCCP and the relevant Exchange(s). Upon receipt by EuroCCP of a notification from the relevant Exchange(s) that the relevant Exchange(s) has (have) taken appropriate measures in its systems to procure that such Trading Participant can no longer conclude Trades on the relevant Exchange(s) in the name of the Clearing Participant, EuroCCP will promptly confirm to the Clearing Participant by fax and/or email that the Statement of Authority is suspended or terminated, as the case may be, and will refuse to clear and settle any Trades for that Trading Participant. Until such confirmation the Statement of Authority will remain in full force and effect as between EuroCCP and the Clearing Participant. EuroCCP will verify by telephone whether the Clearing Participant received the fax and/or email with the aforementioned confirmation
- 5.3 EuroCCP undertakes to consult with the Clearing Participant at least thirty (30) calendar days prior to the implementation of any change to the Clearing Rules that has a material impact on the Clearing Participant's clearing and settlement activities falling within EuroCCP's scope.
- 5.4 The consultation referred to in clause 5.3 will not occur if it is impossible due to extreme urgency requiring immediate action, as determined in good faith by EuroCCP, in order to preserve the interests of EuroCCP. In such circumstances, EuroCCP will promptly send the Clearing Participant a written notice detailing the change that has been implemented without it being consulted and describing the circumstances of extreme urgency as well as the interests at stake.
- 5.5 EuroCCP will use its best efforts to structure its Clearing Rules and organise its operations so that all Clearing Participants receive equality of treatment, without discrimination and irrespective of their residency.

- 5.6 However, the Clearing Participant acknowledges that regulatory issues, tax regimes, or applicable local or European law and other issues beyond the control of EuroCCP may affect the contractual and factual treatment that the Clearing Participant receives.

6 Accounts

- 6.1 EuroCCP will establish and maintain one or more Accounts for the Clearing Participant in accordance with the Clearing Rules. The Clearing Participant will establish and maintain one or more Collateral Accounts in accordance with the Clearing Rules.
- 6.2 EuroCCP requires the Clearing Participant to hold accounts with one or more CSDs specified by EuroCCP in accordance with the Clearing Rules or to use the services of a settlement agent which holds accounts with one or more CSDs specified by EuroCCP in accordance with the Clearing Rules.

7 Fees

- 7.1 In consideration of the provision by EuroCCP of the Clearing Services, as described in the Clearing Rules, the Clearing Participant will pay EuroCCP the Fees in accordance with the Clearing Rules.
- 7.2 EuroCCP may index or adjust the Fees from time to time. EuroCCP shall give the Clearing Participant at least thirty (30) Clearing Days prior notice of each such change to the Fees in accordance with the Clearing Rules.

8 Waiver

The waiver by a Party of a breach or default of any of the provisions of this Agreement by another Party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of a Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by another Party.

9 Notices

- 9.1 EuroCCP undertakes to notify the Clearing Participant in writing in the event of a transfer of the Clearing Fund to a special purpose legal entity by EuroCCP in accordance with article 8.10 of the Clearing Rule Book.
- 9.2 The notifications to be given by EuroCCP to the Clearing Participant pursuant to clause 9.10.2 above shall be sent by EuroCCP no later than five (5) Clearing Days prior to the date of any assignment, transfer or disposal of the Clearing Fund by EuroCCP.

10 Language

All communications between the Parties shall be in English.

11 Confidentiality

- 11.1 Each of the Parties will hold any and all non-public information relating to the other Party confidential.
- 11.2 Not regarded as confidential information is information that (a) is in the public domain or (b) is lawfully in one of the Party's possession and was made available to that Party by a third party
- 11.3 Each of the Parties may disclose confidential information relating to the other Party if they are required to do so by any applicable law or regulations of a stock exchange or regulatory authority or by order or ruling of a court or administrative body of the competent jurisdiction.

- 11.4 The Clearing Participant is allowed to inform its Trading Participants and the relevant securities dealer associations on proposed amendments to the Clearing Rules provided by EuroCCP to the Clearing Participant.

12 Promotion

- 12.1 EuroCCP shall publish on its website the names of the Clearing Participants to which EuroCCP provides its Clearing Services.

13 Termination

- 13.1 The Clearing Participant may terminate this Agreement at any time by giving EuroCCP written notice of at least ten (10) Clearing Days. In addition, and without prejudice, to the foregoing sentence, the Clearing Participant shall have the right to terminate this Agreement in accordance with article 3.6.3 of the Clearing Rules.
- 13.2 EuroCCP may terminate this Agreement at any time by giving the Clearing Participant written notice of at least six (6) months.
- 13.3 Upon the occurrence of a Breach and after EuroCCP has sent a Notice of Default to the Clearing Participant, EuroCCP may terminate or suspend this Agreement, immediately after which EuroCCP will not register any new Trades of the Clearing Participant. EuroCCP will immediately notify the relevant Exchange(s) of such termination or suspension, and as soon as possible after such notification the relevant Exchange(s) will not Post any new Trades on behalf of the Clearing Participant.
- 13.4 In the event of the termination of this Agreement the Clearing Participant shall ensure to the extent within its control that all its Open Positions have been settled before the end of the notice period.
- 13.5 Termination of this Agreement does not relieve the Clearing Participant from any of its obligations arising from Trades entered into prior to the end of the notice period and renders all amounts due by the Clearing Participant under this Agreement immediately payable. Within five (5) Clearing Days of the end of the notice period EuroCCP will release the Collateral to the Clearing Participant, after having deducted all amounts under or pursuant to this Clearing Participant Agreement that are in the reasonable opinion of EuroCCP required to cover its remaining obligations, for the avoidance of doubt including Fees, whether contingent or not.
- 13.6 Any termination of this Agreement will be co-ordinated with the termination of any agreement providing technical access to EuroCCP.

14 Amendments

EuroCCP can make any amendments to the terms of this Agreement that are necessary to conform this Agreement to any change in laws, regulations in any relevant jurisdiction or the Clearing Rules, as soon as any such change takes effect. EuroCCP shall notify any such amendments to the Clearing Participant in writing.

15 Governing law

This Agreement shall in all respects be governed and construed exclusively in accordance with the laws of the Netherlands. The Parties submit to the exclusive jurisdiction of the courts competent in Amsterdam in relation to all matters pertaining to or arising out of this Agreement.

16 No Assignment

The Clearing Participant can not assign, pledge, charge or transfer any rights under this Agreement in whole or in part, save after prior written approval of EuroCCP.

17 Invalidity and Severability

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

18 Addresses for services of notices and other communications

Unless otherwise notified in writing, the Parties will be permanently resident at the addresses set out below:

- the Clearing Participant, at its registered office or branch and with further contact details as specified in the application for admission; and
- EuroCCP, at its head office, Strawinskylaan 1847, 1077 XX Amsterdam, the Netherlands:

Facsimile Number: [***]
Email Address: [***]
Telephone number: [***]
Contact Name: [***]

IN WITNESS whereof this Agreement has been duly executed on the date first above written.

European Central Counterparty N.V.

SIGNED by:
Capacity:
on:

[Clearing Participant]

SIGNED by:
Capacity:
on: