



MEMBERSHIP AGREEMENT

PLEASE CAREFULLY READ AND MAKE SURE YOU UNDERSTAND THIS ENTIRE MEMBERSHIP AGREEMENT, INCLUDING ALL DOCUMENTS INCORPORATED BY REFERENCE, BEFORE CLICKING "I ACCEPT" TO INDICATE YOUR AGREEMENT TO BE BOUND BY THIS MEMBERSHIP AGREEMENT. CLICKING THE "I ACCEPT" BUTTON IS THE LEGAL EQUIVALENT OF YOU MANUALLY SIGNING THIS MEMBERSHIP AGREEMENT.

INTRODUCTION

Welcome to North American Derivatives Exchange, Inc. ("Nadex"), the first fully electronic, retail-focused financial trading platform in the United States. Before You can become a Member and trade on Nadex, You must read and accept this Membership Agreement, including all documents incorporated by reference.

DEFINITIONS

Access Materials: The unique Username and Password chosen by You to enable You to access Your Nadex Account.

Account: This term refers to the relationship between You and Nadex established to provide You with access to trade on Nadex as well as to deposit funds and engage in other financial transactions associated with said relationship. The Account is in the name of the approved Member, whether it be a natural person or entity.

Affiliates: This includes all of Nadex's Officers, Directors, Agents, Subsidiaries, Joint Ventures and Employees.

Nadex: A centralized market place, designated as a contract market and derivatives clearing organization by the U.S. Commodity Futures Trading Commission ("CFTC"), where Nadex Members can trade certain derivative instruments with each other.

Nadex, Inc.: A Delaware corporation with its principal place of business in Chicago, Illinois.

Nadex System: This is the entire Nadex System which gives authorized Members access to the Nadex electronic trading system for trading certain derivative instruments under the terms and conditions stated in this Membership Agreement and in the Nadex Rules. This term includes the Nadex website and any services offered by Nadex, Inc. and its third party service providers.

Member: An individual or entity which has been approved as a Trading Member by Nadex to trade on Nadex and is bound by this Membership Agreement and subsequent amendments hereto.

Membership Agreement: This document and the following documents incorporated herein by reference: Nadex Rules, Nadex Privacy Policy, Nadex Risk Disclosure Statement, Nadex Terms of Use, and any amendments to these documents. For Members who are entities, the Membership Agreement also incorporates the applicable certification or authorization forms that authorizes certain persons to trade on the entity's behalf.

Membership Application: The on-line or paper form by which an applicant provides his/her/its personal information, including, but not limited to, social security number/ national identification number, name, address, date of birth, principal occupation, U.S. bank account information (if applicant is an entity), email address, and any subsequent updates or changes to said personal information. The Membership Application also includes all of the terms and conditions incorporated into this Membership Agreement.

You, Your: These terms refer to the individual or entity who is the Member or applicant for membership on Nadex. For entities applying for membership, each authorized representative trading on behalf of said entity is also incorporated into the definition of these terms.

Other capitalized terms are defined in the text below.

In consideration of Nadex, Inc. providing a market to enable You to trade for Your own Account, You hereby agree as follows:

MEMBER ACKNOWLEDGEMENTS AND AUTHORIZATIONS

(a) You authorize Nadex to take whatever actions are necessary to execute, clear, and settle orders entered into the Nadex System for Your Account. You authorize Nadex to rely upon any instruction received through use of Your Access Materials without further inquiry, and Nadex shall not be liable to You even if such orders were not authorized by You. You accept full responsibility for monitoring Your Account to ensure that trades have been executed correctly and to ensure that no unauthorized trading is occurring in Your Account. Nadex is not responsible for any Member errors or negligent use of the Nadex System and will not cover losses relating to such improper or negligent use. You may not give control over Your account to any other person or entity and You may not control the account of any other Member. You shall maintain the confidentiality of Your Access Materials and prevent the unauthorized use of Your Access Materials at all times. If You become aware of any deliberate or inadvertent disclosure, loss, theft or unauthorized use of Your Access Materials, You must notify Nadex immediately and request a new password. You may not access or attempt to access the Nadex System using the Access Materials of any other Member, or permit any other person or entity to access or attempt to access the Nadex System using Your Access Materials. Any and all materials that Nadex provides to You in connection with the Nadex System are the property of Nadex and are intended for Your sole and individual use.

(b) You agree that any amounts owed to You by Nadex will be deemed to have been paid when deposited by any form of electronic payment or wire transfer into the bank account on file with Your Account.

(c) You agree that all communications with Nadex, including keystrokes entered by You on the Nadex System and any telephone calls between You and Nadex may be recorded without further notice, and such recordings may be provided to regulatory authorities (in conformance with applicable laws and regulations) and used as evidence in the event of any dispute. Such recordings will be and remain the sole property of Nadex and will, in the absence of manifest error, be accepted by You as evidence of the communications so recorded. The period of retention of such recordings shall be at the sole discretion of Nadex, which will act in conformity with applicable laws and regulations.

(d) You acknowledge that any amounts owed to Nadex that remain unpaid in excess of 30 days may be submitted to a third party collection agency. Nadex reserves the right to pursue any and all allowable legal action, whether criminal or civil, against You to recover losses incurred as the result of fraud or misconduct, including attorneys fees and other legal expenses, and any other remedies permitted by law.

(e) You acknowledge and agree that Nadex does not and will not provide You with any legal, tax, estate planning or accounting advice or advice regarding the suitability, profitability or appropriateness for You of any investment, financial product, investment strategy or other matter. Specifically, You acknowledge and agree that Nadex has not undertaken and will not undertake an independent evaluation of whether derivatives trading or each transaction entered into by You is appropriate for You. You are solely responsible for all determinations in this regard.

(f) You acknowledge that any information provided by Nadex will not be used or considered by You as a recommendation, offer or a solicitation of an offer, to buy, sell or hold a particular investment or pursue any investment strategy.

(g) You acknowledge that Nadex neither assumes responsibility for nor guarantees the accuracy, completeness or usefulness of information, commentary, recommendations, advice, investment ideas or other materials that may be accessed by You through the Nadex System. This includes, but is not limited to, bulletin boards, website links, quotes, message boards, chat services or other online conference or telecast by third-party providers through the Nadex System. If You rely on such information, You do so solely at Your own risk.

(h) You acknowledge and agree that You will, following a request by Nadex, promptly provide to Nadex financial or other information as Nadex may reasonably request or as may be required for Nadex to respond to a request for information from the Commodity Futures Trading Commission ("CFTC") or



other regulatory or judicial bodies.

(i) You acknowledge and agree that all activity on the Nadex System and all services performed by Nadex, including but not limited to any clearing service, take place in the United States and are subject to the jurisdiction of the United States.

(j) Before clicking "I Accept", You will have read and understood all Nadex Rules.

(k) Before clicking "I Accept", You will have read and understood the website Terms of Use governing the use of the Nadex System.

(l) Before clicking I Accept, You will have read and understood Nadex's Privacy Policy. The Privacy Policy can be found [here](#). If You object to Your information being transferred or used in any of the ways stated in the Privacy Policy, please do not apply for membership on Nadex.

(m) Before clicking "I Accept", You will have read and understood Nadex's Risk Disclosure Statement. The Risk Disclosure Statement can be found [here](#).

(n) You acknowledge and agree that once you have completed the online Membership Application, click "I accept" to all of the documentation contained therein, you will have electronically signed the entire Membership Application and are legally bound by all of the terms and conditions contained therein.

FEES AND OTHER CHARGES

You agree to pay, and authorize Nadex to withdraw from Your Account:

(a) any fees or charges associated with any transactions executed on the Nadex System for Your Account at such rate as is posted on Nadex's website or as incorporated into the Nadex Rules at the time the transaction is executed; (b) any costs or expenses incurred by Nadex in connection with Your Account, including, but not limited to, any non-sufficient funds charges or charges imposed by Nadex's settlement bank; and (c) any other charges agreed upon between You and Nadex.

NADEX INVESTMENT OF MEMBER'S FUNDS

Except as prohibited by the regulations of the CFTC, all cash and other property in Your Account or otherwise held by Nadex on Your behalf may, from time to time, without notice to You, be co-mingled with the property of other Members or be invested by Nadex, separately or with any other property, consistent with Commission Regulation 1.25.

THE NADEX ELECTRONIC TRADING SYSTEM

(a) Nadex is making available to You access to the Nadex System for trading certain derivative instruments under the terms and conditions stated in this Membership Agreement and in the Nadex Rules.

(b) You understand that the Nadex System may be accessed only electronically.

(c) No Liability. You understand that while electronic access generally is dependable, technical problems or other conditions may delay or prevent You from accessing Your Account or entering or canceling an order on the Nadex System, or may delay or prevent an order transmitted to the Nadex System from being executed. NADEX, ITS AFFILIATES, AND ITS SOFTWARE, HARDWARE, AND SERVICE PROVIDERS SHALL NOT BE LIABLE TO YOU FOR, AND YOU AGREE NOT TO HOLD OR SEEK TO HOLD ANY OF THEM LIABLE FOR, ANY TECHNICAL PROBLEMS; NADEX SYSTEM FAILURES OR MALFUNCTIONS; NADEX SYSTEM ACCESS OR CAPACITY PROBLEMS; HIGH INTERNET TRAFFIC; INTERRUPTIONS DUE TO SCHEDULED OR UNSCHEDULED MAINTENANCE, UPGRADING OR REPAIRS; SECURITY BREACHES OR UNAUTHORIZED ACCESS BEYOND THE REASONABLE CONTROL OF NADEX; ANY FORCE MAJEURE EVENT; AND OTHER SIMILAR PROBLEMS AND DEFECTS. NOTHING IN THIS SECTION IS INTENDED TO LIMIT THE LIABILITY OF ANY PERSON AS MAY BE PROVIDED IN THE COMMODITY EXCHANGE ACT, THE REGULATIONS OF THE CFTC, OR ARISING FROM ACTS OF WILLFUL OR WANTON MISCONDUCT.

(d) Some of the information available on the Nadex System is produced by Nadex, and some is provided by various independent sources believed by Nadex to be reliable ("Information Providers"). You acknowledge that

the accuracy, completeness, timeliness, and correct sequencing of the information concerning Your trading and Account activity, the quotes, market and trading news, charts, trading analysis and strategies, and other information that may be provided from time to time, (collectively referred to as the "Information,") is the property of Nadex and/or the Information Providers or others and may be protected by copyright. You agree not to reproduce, retransmit, disseminate, sell or distribute the Information in any manner without the express written consent of Nadex and the relevant Information Provider(s) and not to use the Information for any unlawful purpose. Although Nadex believes the Information provided by the Information Providers through the Nadex System is complete and correct, the accuracy of the Information cannot be guaranteed and any reliance by You on such information is done solely at Your own risk.

(e) You shall be responsible for providing and maintaining the means by which You will access the Nadex System, which may include a personal computer, modem and telephone or other access line. You are responsible for all access and service fees necessary for You to connect to the Nadex System and You are responsible for all charges incurred by You in accessing the Nadex System.

ELECTRONIC COMMUNICATION WITH MEMBERS

Communications between You and Nadex via electronic mail ("email") shall be to the email address registered with Your Account. In addition, Nadex may communicate with You by posting information on the Nadex website. You consent to receive all communications from Nadex by email or through the Nadex website, including confirmations, amendments to this Membership Agreement, amendments to the Nadex Rules and policies, notices, and any correspondence relating to Your Nadex Account or membership and You agree to be bound by all communications contained therein.

You shall be deemed to have received any such communications sent to Your current email address and/or posted on the Nadex website under the "Nadex Notices" section of the website. It is your responsibility to check the "Nadex Notices" section of the website on a regular basis while maintaining a membership on Nadex. Confirmations of transactions sent to your email address shall be conclusive and final unless You notify Nadex of an error within five (5) days of Nadex sending the email confirmation.

In order to maintain membership on the Nadex System, You are required to maintain an active email account and You may not share said email account with anyone. (For clarification, You must be the only person able to access the email address given to Nadex.) You agree to protect the password and user identification of such email account in order to protect the confidentiality of any correspondence between You and Nadex.

You must inform Nadex of any changes to Your email address within 24 hours of said change.

ELECTRONIC SIGNATURES

Your intentional action in electronically signing this Membership Application is valid evidence of your consent to be legally bound by this Membership Application or governing your relationship with Nadex, Inc. The use of an electronic version of the Membership Application fully satisfies any requirement that such Membership Application be provided to You in writing. You acknowledge that You may access and retain a record of the documents that You electronically sign through the Nadex System. You are solely responsible for reviewing and understanding all of the terms and conditions contained in the Membership Application. You accept as reasonable and proper notice, for the purpose of any and all laws, rules and regulations, notice by electronic means, including, the posting of modifications to this Agreement on the Nadex website. You acknowledge and agree that Nadex may modify this Membership Application, in whole or in part, from time to time and You agree to consult the Nadex website from time to time for the most up-to-date Membership Agreement. The electronically stored copy of this Membership Application is considered to be the true, complete, valid and authentic and enforceable record of the Membership Application, admissible in judicial or administrative proceedings to the same extent as if the documents and records were originally generated and maintained in printed form. You agree not to contest the admissibility or enforceability of Nadex



electronically stored copy of the Membership Application in any proceeding arising out of the terms and conditions of the Membership Application.

SUBMISSION OF IDEAS

Nadex allows Members to submit ideas, concepts, designs or inventions for instruments or any other relevant topic (collectively "Ideas"). However, Members should not reveal to Nadex any Ideas for which a Member wants to receive any compensation or credit. By submitting Ideas to Nadex, You expressly agree to give up any and all rights You may have to such Ideas and You agree to transfer to Nadex all of Your rights pertaining to such Ideas. By submitting any Ideas to Nadex, You expressly authorize Nadex to use and benefit from the Ideas as Nadex may decide. Nadex will not provide You with any compensation or credit for any Ideas You submit. By submitting an Idea to Nadex, You give up all control You might otherwise have concerning such Ideas.

MEMBER REPRESENTATIONS

Member hereby represents and warrants as follows:

(a) If You are a natural person, You (i) reside in the United States or one of the acceptable regions identified on the Nadex website, (ii) maintain a bank account in your name that you will use to fund your Nadex account, and (iii) are at least the age of majority if you reside in the United States or its territories, or 21 if you reside in a region other than the United States;

(b) If You are anything other than a natural person (e.g., a corporation, partnership, sole proprietorship, or trust), You are duly organized in the United States, in good standing, maintain a United States bank account in the name of the entity applicant, and have the legal authority and are duly authorized and empowered to execute and deliver this Membership Agreement on behalf of such entity and to open accounts and effect transactions in commodities, futures, options, and swaps on the Nadex System on behalf of such entity;

(c) Placing orders on the Nadex System does not and will not violate any governing documents, applicable law, or any judgment, decree, order or agreement to which You or Your property is subject, and this Membership Agreement is binding on and enforceable against You in accordance with its terms;

(d) You and, if relevant, Your employees and agents will not trade or otherwise act on behalf of any other person or entity (whether or not a Member) in placing orders on the Nadex System, including by allowing any person not disclosed on the Membership Application to have an economic interest in the trades placed by the Member;

(e) You have determined that the trading of commodities, futures, options, and swaps is appropriate for You; and

(f) You shall promptly notify Nadex in writing if any of the representations in this Agreement materially change or cease to be true and correct.

NO WARRANTY

YOU UNDERSTAND THAT NADEX, ITS AFFILIATES, AND ITS SOFTWARE, HARDWARE, AND SERVICE PROVIDERS PROVIDE THE NADEX SYSTEM "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. NADEX, ITS AFFILIATES AND ITS SOFTWARE, HARDWARE AND SERVICE PROVIDERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

MANDATORY ARBITRATION

Any controversy or claim arising out of or in connection with this Membership Agreement or the performance or breach hereof, or relating to Your Account, including any claim against Nadex, a Nadex settlement bank, or any other Nadex Member, shall be settled by arbitration as set forth in the Nadex Rules.

TERMINATION

This Membership Agreement may be terminated by You or Nadex at any time by giving written notice to the other party. In the event of such termination, Nadex will immediately liquidate all outstanding positions in Your Account in such manner as Nadex sees fit and instruct Nadex's settlement bank to

remit the proceeds from such liquidation along with all other funds in Your Account to Your bank account identified in Your Nadex account by means of electronic payment or wire transfer. The termination of this Agreement will not prejudice any accrued rights or obligations relating to any transaction effected prior to termination, or any right or remedy available to Nadex. If, at the time of termination of this Membership Agreement, You owe any amount to Nadex, Nadex may retain or keep possession of the portion of any balances or instruments in Your Account in satisfaction of such amounts owed by You to Nadex or until You otherwise pay all amounts owing to Nadex. The obligations of confidentiality, the warranty exclusions, the limitations of liability, the assignment of Ideas provision, the mandatory arbitration provision, and choice of law provision stated in this Agreement will survive termination.

Nadex reserves the right to terminate Your Account or block access to Nadex for any reason allowable under applicable law.

CHOICE OF LAW

THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND ALL DISPUTES HEREUNDER SHALL BE GOVERNED BY, THE LAWS OF THE STATE OF ILLINOIS AS APPLIED TO CONTRACTS MADE AND TO BE PERFORMED IN ILLINOIS, WITHOUT APPLYING CONFLICT OF LAW RULES.

MISCELLANEOUS.

(a) **Order of Precedence.** In the event of any conflict among this Membership Agreement and any of the documents incorporated herein by reference, the following order of precedence will apply: Nadex Rules; entity certification or authorization that is supplemental to this Membership Agreement; this Membership Agreement itself (excluding documents incorporated herein by reference); Terms of Use; and the Privacy Policy.

(b) **Assignment.** Member may not assign (directly, by operation of law, or otherwise) this Membership Agreement or any of its rights or obligations under this Agreement. Subject to the foregoing, this Membership Agreement shall be binding upon and inure to the benefit of Nadex, its successors and assigns, You and Your legal representatives, executors, trustees, administrators, and (if an assignment cannot be prohibited) Your successors and assigns.

(c) **Severability.** If any part, term, or provision of this Membership Agreement is held by any body of competent jurisdiction to be illegal or in conflict with any laws or regulations, a modified provision shall be substituted which carries out as nearly as possible the original intent of the parties and the validity of the remaining portions or provisions shall not be affected or impaired.

(d) **Entire Agreement.** This Membership Agreement, including all documents incorporated herein by reference, is intended as the complete, final and exclusive statement of the terms of the agreement between the parties and supersedes all prior understandings, writings, proposals, representations or communications, oral or written, relating to the subject matter hereof. There are no terms, conditions or obligations other than those contained herein and those incorporated by reference. Notwithstanding the above, You acknowledge that from time to time, You may enter into certain additional agreements with, or receive certain disclosure documents from, Nadex, and such other agreements or documents shall be valid and binding upon You as a Member of Nadex.

(e) **Amendment.** This Membership Agreement may be amended unilaterally by Nadex upon written notice to You. You will be deemed to agree to each such amendment if You do not terminate this Membership Agreement prior to the effective date of the amendment.

(f) **Waiver.** Failure of either party to enforce compliance with any provision of this Membership Agreement shall not constitute a waiver of such provision unless accompanied by a clear written statement that such provision is waived. A waiver of any default hereunder or of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition, but shall apply



herein shall be cumulative, and the exercise of any right or remedy provided herein or at law or equity shall not preclude the exercise of additional rights and remedies provided by law or equity.

BY CLICKING "I ACCEPT" YOU HEREBY AGREE TO THE TERMS OF THIS MEMBERSHIP AGREEMENT AND EXPRESSLY ACKNOWLEDGE THAT YOU HAVE RECEIVED, READ AND UNDERSTOOD ALL DOCUMENTS INCORPORATED HEREIN BY REFERENCE.

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