

Clearing Agreement C

Clearing Client Agreement

Commodity Derivatives

Member: [insert name of Clearing Client]

CLEARING CLIENT AGREEMENT

Notice

Please ensure that this document when executed does not contain any square brackets, footnotes, explanatory notes etc except those which are intended to remain in the document (if any). Please initial each page in the bottom right hand corner, and ensure that signatures are by duly authorised persons, accompanied by evidence of authorisation and personal identification etc as further instructed by the Clearinghouse.

This agreement is made on the date stated on the last page of this document between

[insert company name of Member], with reg. no. [insert registration number] in the [insert jurisdiction and name of company register] (the "**Member**");

[insert company name of Client Representative], with reg. no: [insert registration number] in the [insert jurisdiction and name of company register] (the "**Client Representative**")

and

Nasdaq Clearing AB, with reg. no 556383-9058 in the Swedish company register (the "**Clearinghouse**");

collectively referred to as the "**Parties**" and individually as a "**Party**".

1 GENERAL

- 1.1 The Clearinghouse offers Clearing services as set out in the clearing rules issued by the Clearinghouse in respect of commodity derivatives and certain other products and instruments (the "**Clearing Rules**").
- 1.2 The Member has regular business involving Trading in Listed Products and Non-listed Products (as defined in the Clearing Rules).
- 1.3 The Client Representative is a Clearing Member hereby approved by the Clearinghouse to act as a Client Representative. The Member hereby nominates the Client Representative as its Client Representative and the Client Representative hereby accepts the Member as its Clearing Client.
- 1.4 Upon entering into this agreement, the Member obtains the right to submit Transactions in Listed Products and Non-Listed Products for Clearing as a Clearing Client through the Client Representative in accordance with this agreement and the Clearing Rules (as applicable at the time of each relevant Transaction).
- 1.5 The Clearinghouse will establish Clearing Accounts for the Member as further specified by the Member, subject to and in accordance with the Clearing Rules.
- 1.6 Capitalised terms shall have the meaning ascribed to them in the Definitions of the Clearing Rules. In the event of conflict between the Clearing Rules and this agreement, the Clearing Rules shall prevail.

2 REPRESENTATIONS AND WARRANTIES

- 2.1 The Member hereby represents and warrants that:
 - a. it has all requisite power and authority and legal right to enter into this agreement under its articles of association, by law or any other document and to perform its obligations as a Clearing Client;
 - b. it has taken all necessary actions to authorise the signing of this agreement;

- c. the signing of this agreement and the compliance with the Clearing Rules does not violate any applicable law or agreement, document or instrument binding on or applicable to the Member; and
- d. it holds any Required Authorisations needed to conduct its affairs as a Clearing Client, and there are no further licences or filings with, or other acts by or in respect of, any Regulatory Body or any other governmental authority or court that are required to be obtained, made or done by the Member in connection with its role as a Clearing Client, nor is it necessary in order to ensure the validity or enforceability that the Clearing Rules or any agreement or Clearing Transaction are filed, registered or recorded in any public office by the Member.

2.2 The Client Representative hereby represents and warrants that:

- a. it has all requisite power and authority and legal right to enter into this agreement under its articles of association, by law or any other document and to perform its obligations as a Client Representative;
- b. it has taken all necessary actions to authorise the signing of this agreement;
- c. the signing of this agreement and the compliance with the Clearing Rules does not violate any applicable law or agreement, document or instrument binding on or applicable to the Client Representative; and
- d. it holds any Required Authorisations needed to conduct its affairs as a Client Representative, and there are no further licences or filings with, or other acts by or in respect of, any Regulatory Body or any other governmental authority or court that are required to be obtained, made or done by the Client Representative in connection with its role as a Client Representative, nor is it necessary in order to ensure the validity or enforceability that the Clearing Rules or any agreement or Clearing Transaction are filed, registered or recorded in any public office by the Client Representative.

2.3 In addition to clauses 2.1 and 2.2 both the Member and the Client Representative is deemed to accept and repeat the representations and warranties in the Clearing Rules. The Member and the Client Representative acknowledges that they are under a duty to notify the Clearinghouse immediately in case either of them becomes aware of any breach of a representation or warranty.

3 CONFIDENTIALITY

3.1 The Clearinghouse shall ensure that no unauthorised party gains access to or knowledge of any matters relating to the business of the Member which it becomes aware of through Clearing, and the Clearinghouse shall not make use of such information for any other purposes than those related to Clearing and related activities of the Clearinghouse.

3.2 The Member undertakes to not disclose to any person any confidential information concerning the business, customers, clients or suppliers of the Clearinghouse which it becomes aware of through its membership without prior written consent of the Clearinghouse.

3.3 Notwithstanding the other provisions of this clause 3 or the Clearing Rules:

- a. the Clearinghouse may provide information related to the Clearing Accounts and Clearing Transactions of the Member to the Client Representative;
- b. the Clearinghouse may provide information to any regulated market in relation to market surveillance of the applicable Listed Products or Non-listed Products or as otherwise allowed or mandated under applicable law;
- c. the Clearinghouse may provide information to any other person or entity advising or assisting the Clearinghouse in its operations, provided these persons and entities are subject to a corresponding duty of confidentiality and shall only use the information for such purposes;
- d. the duty of confidentiality shall not extend to information which is or becomes public through no breach of a Party's confidentiality obligations hereunder;

- e. either Party shall be allowed to disclose any information as may be required by applicable law; and
 - f. neither Party is required to keep confidential the fact that it has entered into this agreement or any suspension or termination of this agreement.
- 3.4 This clause 3 shall not limit either Party's confidentiality or disclosure obligations as established by applicable law. Unless otherwise agreed this clause 3 shall survive the termination of this agreement by ten (10) years.

4 TERMINATION

- 4.1 Each Party may terminate this agreement with three (3) months written notice to the other Parties.
- 4.2 The Clearinghouse's right to suspend and/or terminate this agreement in the case of a Default Event, and the effects of any termination of this agreement, is set out in the General Terms of the Clearing Rules.
- 4.3 In the event that the Client Representative's rights as an Account Holder is terminated or suspended for any reason, or the Clearing Representative is no longer eligible or accepted as Client Representative, the provisions of clause 8.4.3 of the General Terms to the Clearing Rules will apply, and this agreement shall terminate automatically if the Member enters into a Clearing Client Agreement with a new Client Representative.

5 CHOICE OF LAW AND DISPUTE RESOLUTION

- 5.1 This agreement shall be governed by, construed and take effect in accordance with Norwegian law.
- 5.2 Any dispute between the Parties concerning the understanding of this agreement or the Clearing Rules or any dispute arising from any acts or omissions governed by them shall be decided by arbitration in Oslo pursuant to the Norwegian Arbitration Act.
- 5.3 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in accordance with clause 5.2 and any claim that any such proceedings have been brought in an inconvenient forum, and further irrevocably agrees that a judgement in any proceedings brought in accordance with clause 5.2 shall be conclusive and binding upon such Party and may be enforced in any jurisdiction in accordance with the enforcement law of the applicable jurisdiction.

6 AMENDMENTS

- 6.1 Changes to this agreement require the written consent of both Parties.
- 6.2 Notwithstanding clause 6.1, any annexes or additional arrangements to this agreement may be changed to the extent allowed by each such document, and the Clearinghouse may make additions and/or amendments to the Clearing Rules with 14 days written or electronic notice to the Member. Changes may be implemented with shorter notice if required by law or by Regulatory Bodies.
- 6.3 Changes and/or amendments which affect economic rights in Open Positions vested before the change require the consent of all Account Holders with such Open Positions, unless the changes or amendments are required by law, regulations, Regulatory Bodies or a court of law or (in the view of the Clearinghouse) are strictly necessary for the continued Clearing operations.

7 MISCELLANEOUS

- 7.1 **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 the Parties (including the Clearing Rules). Nothing in this clause shall limit or exclude any liability for fraud.

7.2 **Rights of Third Parties.** No person or entity who is not a Party to this agreement shall confer any benefit on, or give any right to enforce any provisions of the agreement or the Clearing Rules, except as otherwise expressly provided.

7.3 **No Waiver.** No failure or delay by a Party to exercise any right or remedy provided under this agreement, the Clearing Rules or applicable law shall constitute a waiver of that or any other right or remedy.

7.4 **Counterparts.** This agreement may be executed in any number of counterparts, each of which when executed shall constitute an original of this agreement, but all the counterparts shall together constitute the same agreement.

* * *

IN WITNESS OF THEIR AGREEMENT each Party has caused its authorised representative to execute this agreement effective as of the date of signature by all Parties.

This agreement has been made in three (3) originals, and each Party keeps one (1).

For and on behalf of [insert name of Member]

Signature

Name and title (printed letters)

Date:

For and on behalf of [insert name of Client Representative]

Signature

Name and title (printed letters)

Date:

For and on behalf of Nasdaq Clearing AB

Signature

Name and title (printed letters)

Date:

Please attach when returning to the Clearinghouse (check off):

- Documentation evidencing the due authorisation of the signing person(s).
- Certified copy of list of signatories (with signature samples) and/or official ID of signing person(s) (passport, national ID etc).