

***ELX Authorized Trader – Application and Agreement***

(To be completed by each Authorized Trader for each User ID)

**Relationship to Participant (check one):**

Employee       Authorized Agent

1. Name of Applicant \_\_\_\_\_

2. Name of Participant \_\_\_\_\_

3. Name of Clearing Privilege Holder \_\_\_\_\_

3. Date of Birth \_\_\_\_\_

4. Home Address \_\_\_\_\_

5. Office Address \_\_\_\_\_

6. Home Telephone Number \_\_\_\_\_

7. Office Telephone Number \_\_\_\_\_

8. Fax Number \_\_\_\_\_

9. E-mail Address \_\_\_\_\_

10. Any Other Name(s) Applicant has Used, Been Known by, or Done Business As \_\_\_\_\_

11. Requested User ID<sup>1</sup>: \_\_\_\_\_

12. No redistribution of Market Data

Applicant may access and utilize the ELX System and the Market Data solely internally for the purposes of placement and execution of Orders on the ELX System in accordance with this Agreement and the Rules. (For the avoidance of doubt, Applicant has a proprietary interest in the information contained in such Orders and resulting executions.) Notwithstanding the foregoing and in addition thereto, except as expressly permitted in this Agreement, Applicant will not: (i) access, use (or provide to any third party access to or the ability to use) the ELX System, the Market Data, any content or data that may be accessible using the ELX System or any part of the

<sup>1</sup> User ID is limited to 8 characters. ELX reserves the right to reject the request in the event that the User ID is already in use.

foregoing; (ii) store, copy, modify, reverse engineer, reverse assemble or reverse compile the ELX System, the Market Data, any content or data that may be accessible using the ELX System or any part of the foregoing; (iii) distribute, rent, sell, retransmit, redistribute, release or license to any third party the ELX System, the Market Data, any content or data that may be accessible using the ELX System or any part of the foregoing; and (iv) use the ELX System, the Market Data, any content or data that may be accessible using the ELX System or any part of the foregoing in constructing or calculating the value of any index or indexed products.

The Exchange and its authorized representatives shall have the right from time to time, upon reasonable advance notice and during Applicant's normal business hours, to access the Applicant's premises, systems, applications, records and other information as may be reasonably necessary for the purposes of auditing the records and practices of the Applicant related to the Applicant's access to and use of the ELX System, the Market Data and any content or data that may be accessible using the ELX System. In the event that, as a result of any such audit, the Exchange determines that the ELX System, the Market Data, any content or data that may be accessible using the ELX System or any part of the foregoing was accessed or used in violation of this Agreement, then (without limiting any remedy that the Exchange may have at law or in equity) the Applicant shall be liable for and shall pay to the Exchange promptly on demand any and all costs of such audit and the Exchange fees applicable to such access and use.

### 13. Jurisdictional Consent

- a) I hereby consent and agree to be bound by the Rules and pledge to comply with and abide by the same and all subsequent amendments thereto. I also consent to the jurisdiction of the Exchange for all matters relating thereto, including but not limited to investigations and disciplinary proceedings.
- b) I agree when the Exchange approves this Application, that all trading through the Exchange will be subject to the Rules and that I will act responsibly in transacting business on the Exchange.
- c) I acknowledge that I have read, understand and agree to the terms of this Application. I understand that if these responses are proven untrue, I may be liable to revocation of trading authorization and expulsion.
- d) I hereby certify that (i) I am not subject to any of the Grounds for Disqualification, and (ii) I will inform the Exchange upon notice that I am subject to the Grounds for Disqualification. ***If Applicant is subject to any ground for disqualification, a statement must be attached giving complete details as to the circumstances giving rise to the answer, including, as applicable, dates, parties, circumstances and disposition. Please include copies of decisions or final notices pertaining to the information provided in the statement.***
- e) I authorize the Exchange and its agents to make available on request, or to any Federal or State agency, any information it may have concerning me. I hereby release the Exchange and its agents from any and all liability of whatsoever nature by reason of furnishing such information.

f) I agree that if any information provided in this Application is no longer accurate, or any other information becomes available, such that I no longer qualify for the privileges sought by this Application, I will immediately, but no later than three business days, notify the Exchange.

All capitalized terms used in this Application and not defined in the Rules shall have the meanings ascribed to them herein.

By signing below, I certify that I have read and understand the forgoing statements and that each of my responses thereto is true and complete and that all of the information represented in this Application is complete, correct and is provided by me to the Exchange, for the purpose of trading on the Exchange. If proven to be untrue, I understand that I may have my Trading Privileges revoked.

\_\_\_\_\_  
Name of Participant

\_\_\_\_\_  
Print Name of Applicant

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name Participant Designated Contact

\_\_\_\_\_  
Signature of Participant Designated Contact

\_\_\_\_\_  
Date

This Application and Agreement should be submitted to ELX:

**ELX Futures, L.P.**  
**110 East 59th Street**  
**New York, NY 10022**  
**Attention: Barbara Nunez**  
**Email: [registration@elxfutures.com](mailto:registration@elxfutures.com)**  
**Fax: 212-294-8060**

## GROUNDS FOR DISQUALIFICATION

In connection with any Application and Agreement submitted by any Applicant to the Exchange, the Applicant shall provide a statement (including copies of decisions or final notices pertaining to the information provided in the statement) giving complete details as to the circumstances giving rise to the denial, withdrawal, revocation or cancellation, as applicable, if any of the following is true with respect to the Applicant:

- such Person has been found by the CFTC or by any court of competent jurisdiction to have violated, or has consented to findings of a violation of, any provision of the CEA, or any rule, regulation, or order thereunder, or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other Person of any such provision;
- such Person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other Person;
- such Person failed reasonably to supervise another Person, who is subject to such Person's supervision, with a view to preventing violations of the CEA, or of any of the statutes set forth in the preceding , or of any of the rules, regulations, or orders thereunder, and the Person subject to supervision committed such a violation: Provided, that no Person shall be deemed to have failed reasonably to supervise another Person if (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other Person and (ii) such Person has reasonably discharged the duties and obligations incumbent upon that Person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;
- such Person pleaded guilty to or was convicted of, within the 10 years preceding the date of the Application and Agreement, a felony that (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to CFTC regulation, or concerning a security, (ii) arises out of the conduct of the business of an FCM, IB, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated Person of any registrant under the CEA, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated Person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (iv) involves the violation of section 152, 1001, 1341, 1342, 1343, 1503, 1623,

1961, 1962, 1963, or 2314, or chapter 25, 47, 95, or 96 of title 18, United States Code, or section 7201 or 7206 of the Internal Revenue Code of 1986;

- such Person pleaded guilty to or was convicted of, within the 10 years preceding the date of the Application and Agreement, any misdemeanor which (i) involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to CFTC regulation or concerning a security, (ii) arises out of the conduct of the business of an FCM, IB, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated Person of any registrant under the CEA, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated Person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code, or section 7203, 7204, 7205, or 7207 of the Internal Revenue Code of 1986;
- such Person was debarred by any agency of the United States from contracting with the United States;
- such Person willfully made any materially false or misleading statement or willfully omitted to state any material fact in such Person's Application or any update thereto, in any report required to be filed with the CFTC by the CEA or the regulations thereunder, in any proceeding before the CFTC or in any registration disqualification proceeding;
- such Person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court, in a United States military court, or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;
- such Person is subject to an outstanding order denying, suspending, or expelling such Person from membership in a registered entity, a registered futures association, any other self-regulatory organization, or any foreign regulatory body that the CFTC recognizes as having a comparable regulatory program or barring or suspending such Person from being associated with any member or members of such registered entity, association, self-regulatory organization, or foreign regulatory body;