

## Agreement between CCRL and RP

### Agreement between CDSL Commodity Repository Limited and a Repository Participant

This Agreement made and entered into at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between **CDSL COMMODITY REPOSITORY LIMITED**, a company incorporated under the Companies Act, 2013, having its registered office at Unit No. A-2501, A-Wing, Marathon Futurex, 25th Floor, Mafatlal Mill Compounds, N M Joshi Marg, Lower Parel (East), Mumbai - 400013, hereinafter called "**CCRL**" of the One Part; AND

\_\_\_\_\_ (description of the legal entity) having his / its office / registered office at \_\_\_\_\_

\_\_\_\_\_ hereinafter called "**the Repository Participant**" of the Other Part.

WHEREAS the Repository Participant had furnished to CCRL an application dated \_\_\_\_\_ for grant of certificate of registration as a Repository Participant in CCRL.

AND WHEREAS the Repository Participant has obtained a registration certificate from CCRL under the Warehousing (Development and Regulation) Act, 2007.

AND WHEREAS CCRL has agreed to admit the Repository Participant to CCRL as a Repository Participant, on the terms and conditions recorded herein below.

**NOW THEREFORE** in consideration of CCRL having agreed to admit the Repository Participant as a Repository Participant in CCRL, the parties hereto do hereby agree and covenant with each other as follows:

## 1. General Clauses

- 1.1. Words and expressions used but not defined in this Agreement but defined under the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Warehousing (Development and Regulation) Act, 2007, the Guidelines issued by WDRA or the Bye Laws of CCRL, as amended from time to time, shall have the meaning assigned to them under the aforesaid Acts, Regulations, Guidelines or Bye Laws as the case may be.
- 1.2. Unless otherwise warranted by the context or meaning thereof, the words or expressions "User/Depositor", "Clearing Corporation", "Depositor", "Repository Participant", used herein shall mean a User/Depositor, Clearing Corporation, Depositor, Repository Participant respectively in relation to CCRL and the terms "Act", "Regulations", "Guidelines", "Bye Laws" and "Business Rules" shall mean "The Warehousing (Development and Regulation) Act, 2007", "The Guidelines issued by WDRA", the Bye Laws of CCRL and the Business Rules issued by CCRL respectively.
- 1.3. The Repository Participant shall be bound by the Warehousing (Development and Regulation) Act, 2007, Guidelines issued by WDRA and agree to abide by the Bye Laws and Business Rules issued and amended from time to time by CCRL in the same manner and to the same extent as if the same were set out herein and formed part of this Agreement.
- 1.4. The Repository Participant shall continue to be bound by the Bye Laws and Business Rules, even after ceasing to be a Repository Participant in so far as may be necessary for completion of or compliance with his/its obligations in respect of all matters, entries or transactions which the Repository Participant may have carried out, executed, entered into, undertaken or may have been required to do, before ceasing to be a Repository Participant and which may have remained outstanding, incomplete or pending at the time of his/its ceasing to be a Repository Participant.
- 1.5. The obligations on the part of the Repository Participant herein contained are a reiteration of and/or are in addition to the obligations contained in the Bye Laws and the Business Rules, and the omission of one or more of such obligations from this Agreement shall not in any manner be construed as a waiver of such obligations as are not herein contained.

## 2. Fees, charges and deposits

- 2.1. The Repository Participant shall, apart from such fees, charges and deposits as may be payable to CCRL, pay to CCRL such fees, charges and deposits as specified from time to time in its Business Rules. In the event of the Repository Participant failing to make payment of the fees, charges or deposits, as the case may be, by the respective due dates specified by CCRL in its Business Rules, then, in addition to any other rights or remedies that may be available to CCRL against the Repository Participant, the Repository Participant shall be liable to pay interest to CCRL on such delayed payment or part thereof on the quantum of such delayed payment at the rate as may be prescribed by CCRL from time to time. Such fees, charges and deposits shall be subject to any change or revision from time to time by CCRL provided however that CCRL shall, before effecting any increase in the fees, charges or deposits payable by the Repository Participant as aforesaid, give the Repository Participant at least one month's notice in that behalf.

### **3. Unique Identification Number**

- 3.1. CCRL shall allocate a unique identification number to the Repository Participant (Repository Participant ID).

### **4. Hardware and Software to be installed by the Repository Participant**

- 4.1. The Repository Participant shall install at his/its premises allocated for CCRL related activities such computers, printers, communication equipment and uninterruptible power supply units, systems software and any other equipment, hardware and software as may be specified by CCRL/WDRA from time to time.
- 4.2. It is further agreed that unless supplied directly by CCRL or its agents, all computers, communication equipment, printers, uninterruptible power supply units and all other hardware and software procured by the Repository Participant shall be of the specified configuration and shall be sourced only from CCRL empanelled brands or any other brand which has been approved by CCRL in writing prior to such procurement.
- 4.3. The above hardware and software set-up shall be utilized by the Repository Participant exclusively for CCRL specific application module and even if there be any spare processing or data storage capacity, the same shall not be used for any other application including the Repository Participant's back-office systems or operations.
- 4.4. The above hardware shall not be connected by the Repository Participant to its inter-office WAN (Wide Area Network) without the prior written permission of CCRL. CCRL reserves the right to deny such permission if, in its opinion, granting such permission involves violation of conditions relating to the operations of CCRL's own WAN as stipulated by Department of Telecommunications or if in permitting the same, CCRL apprehends any risk to the integrity of its WAN or for any other reason as may be deemed fit by CCRL.
- 4.5. The Repository Participant shall, from time to time, at his/its own cost, carry out such addition, modification, upgradation or replacement of the said hardware and /or software as may be specified by CCRL.

### **5. Connectivity and Systems**

- 5.1. The Repository Participant and CCRL shall establish and maintain a continuous electronic means of communication with each other.
- 5.2. CCRL shall provide necessary Business Rules from time to time to the Repository Participant, as may be necessary for effective and prompt conduct of the business relating to commodity repository operations.
- 5.3. The Repository Participant shall, in respect of his/its operations as a Repository Participant in CCRL, procure and maintain at its own cost such systems, procedures, means of communication, infrastructure, hardware, software, security devices and back-up facilities as CCRL may specify and shall upgrade or replace the same from time to time as may be specified by CCRL.
- 5.4. The Repository Participant shall comply with all systems and procedures recommended by CCRL and shall allow access to his/its systems to one or more teams of professionals with expertise or specialized skill in auditing the performance of computerized systems (called "Systems Audit Teams") designated by CCRL for periodic assessment of compliance with systems and procedures.

## **6. Effective date of commencement of activity**

- 6.1. The effective date of commencement of activity by the Repository Participant as a Repository Participant shall be the last of the following dates namely:
  - 6.1.1. the date of execution of this Agreement;
  - 6.1.2. the date of grant of Certificate of Registration to the Repository Participant by CCRL;
- 6.2. Neither anything contained herein nor anything done by either party hereto in pursuance of this Agreement shall be deemed or construed to constitute any promise or assurance by CCRL that the Repository Participant is entitled to grant of a Certificate of Registration as a Repository Participant by CCRL shall not be liable or responsible in any manner for any costs, charges, expenses, losses or damages incurred or suffered by the Repository Participant in respect of anything done in pursuance of this Agreement in the event of WDRA rejecting the Repository Participant's application for grant of registration as a Repository Participant or cancelling the same at any time after the grant thereof.

## **7. Information to be furnished by the Repository Participant to CCRL**

- 7.1. The Repository Participant shall submit Audited Financial Statement (AFS) and Net worth Certificate to CCRL within such period as prescribed in CCRL Bye Laws and/ or Business Rules
  - 7.1.1.1 In the event of the networth of the Repository Participant falling below the networth last specified in the certificate issued under this clause, the Repository Participant shall forthwith intimate CCRL of the same and shall, if so required by CCRL furnish to CCRL a fresh networth certificate computed as aforesaid and duly certified by a Statutory Auditors. CCRL may thereupon take such action as it may deem fit and necessary under the Act, Regulations, Guidelines issued by WDRA, Bye Laws, Business Rules or this Agreement]
  - 7.1.2. Where the Repository Participant is a member of any recognised commodity exchange and/or any clearing corporation or is a Repository Participant in any other commodity repository and commits any breach or violation of or defaults in compliance with the bye laws of such commodity exchange, clearing corporation or other commodity repository as the case may be or of any rules or regulations made by the Central or State Government or by WDRA in that behalf or his/its operations, activities or membership is/are suspended or terminated by such commodity exchange, clearing corporation or other commodity repository as the case may be, the nature of the default and the reason for such default, suspension or termination to be communicated forthwith upon such occurrence;
  - 7.1.3. The number of complaints received from Users/Depositors during the month, complaints redressed during the month, complaints remaining unredressed, the nature and status thereof and the steps taken by the Repository Participant for redressal thereof, to be communicated before the 10th day of every succeeding month;
  - 7.1.4. The Repository Participant shall notify CCRL at the earliest of any change in respect of any of the particulars with regard to any of the matters contained in the application form submitted to CCRL.
  - 7.1.5. The Repository Participant shall provide such information relating to Users/Depositors and their accounts with the Repository Participant as may be required by CCRL from time to time.

## 8. Obligations of the Repository Participant

- 8.1. The Repository Participant shall, before entering into any agreement with or opening any account of any User/Depositor during the subsistence of such agreement:
  - 8.1.1. make all such inquiries as may be expedient and exercise due care and caution in ascertaining the bonafides and track record of the intending User/Depositor inter alia, by carrying out appropriate due diligence;
  - 8.1.2. scrutinize the authenticity of all documents produced by the Users/Depositors for opening the account or for deposit of commodities;
  - 8.1.4. Where the account is opened by a non-individual entity account holders named therein desires to authorize one or more of them to issue instructions to the Repository Participant from time to time, the Repository Participant shall ensure that due authorization is obtained by the holders.
  - 8.1.5. The Repository Participant shall not effect any debit or credit to the account of a User/Depositor unless:
    - 8.1.5.1. the Repository Participant has received appropriate prior written instructions from the concerned User/Depositor or CCRL in that behalf and
    - 8.1.5.2. an adequate audit trail of the same is duly maintained.
  - 8.1.6. Separate accounts shall be opened and maintained by the Repository Participant in the name of each User/Depositor and the commodities of each User/Depositor shall be kept segregated and shall not be mixed up with the commodities of other Users/Depositors or with the Repository Participant's own commodities.
  - 8.1.7. The Repository Participant shall preserve for a minimum period of five years or such period as may be mentioned in CCRL Bye\_Laws and/or Business Rules, all original documents such as account opening forms, agreements/ Rights & Obligations document with Users/Depositors and instructions received from Users/Depositors, as also copies of deposit form, withdrawal form, pledge form, pledge closure form, confiscation form, freeze form, unfreeze form, eAuction form, transfer request form and any other form / document as may be mentioned by CCRL in its Bye-Laws and Business Rules.
  - 8.1.8. The Repository Participant's responsibility and liability for payment to CCRL of all fees, charges, dues and penalties in respect of all transactions and entries effected or carried out by or through the Repository Participant shall be unconditional and such amounts shall be payable by the Repository Participant to CCRL irrespective of whether the Repository Participant has received payment of or recovered any amount from the concerned User/Depositor or not, such recovery from the User/Depositor being the sole responsibility of the Repository Participant.
  - 8.1.9. The Repository Participant shall, as far as possible, carry out instructions received from any User/Depositor on the same day on which the instructions are received and failing that, shall carry out the instructions before the close of working hours of the immediately succeeding working day.
  - 8.1.10. The Repository Participant shall exercise lien on commodities held in any account only by following instructions laid out in CCRL Bye-Laws and Business Rules, on any commodities belonging to the Users/Depositors held in any account with the Repository Participant, as security for recovery of dues owed by User/Depositor to the Repository Participant in his capacity as such

including any compensation for any loss caused to the Repository Participant and/or CCRL by reason of fraud, negligence or mistake on the part of the User/Depositor. The Repository Participant shall, upon receipt of such approval from CCRL, give notice in writing to the concerned User/Depositor of the exercise of such lien by the Repository Participant in respect of such of the securities held in the User/Depositor's account as CCRL may specify.

- 8.1.11. The Repository Participant shall, forthwith upon discovering any loss, destruction or theft of any commodity, instruments or documents belonging or owed to any User/Depositor that may have been entrusted to or may otherwise have come into the hands of the Repository Participant in the course of his/its business, notify CCRL, the concerned User/Depositor in that behalf.
- 8.1.12. The Repository Participant alone shall be responsible to ensure that all duties, taxes or levies, if any, of whatsoever nature that may be payable under any Central or State enactment in respect of entries, transactions or transfers effected by or through the Repository Participant are duly paid as required in law.
- 8.1.13. The Repository Participant shall process requests received from Users/Depositors for deposit or withdrawal within such time and in such manner as may be specified in the Bye Laws and Business Rules and shall be required to keep records of the same as laid down by the Regulations and by CCRL.
- 8.1.14. Notwithstanding anything to the contrary contained herein or in the Bye Laws, the Repository Participant shall not be bound to give effect to any entries or transactions and CCRL shall not be bound to permit any entries or transactions to be effected, which would violate any law or any decree or order of any court or tribunal or any order or direction of the Central or State Government or WDRA or that of any other statutory or revenue authority that may have been served upon or intimated to the Repository Participant or CCRL or which to their knowledge, would constitute a breach of any covenant or undertaking given to any court, tribunal or statutory or revenue authority or which CCRL otherwise deems not to be in its interest or that of its Repository Participant or Users/Depositors.
- 8.1.14A Any order of a Court, Tribunal, Government or other competent authority relating to freezing of a User/Depositor account or taking any action in relation to a User/Depositor account which is within the purview of obligations cast on a commodity repository under the Act and/or Regulations, shall be effected by CCRL or Repository Participant only on receipt from such authority the User/Depositor Identification Number or Permanent Account Number (PAN) coupled with specific directions if the same are not set out in such order with sufficient accuracy.
- 8.1.15. The Repository Participant alone shall be responsible for taking necessary action on the instructions and/or mandate given by the User/Depositor and the Repository Participant alone shall be liable to the User/Depositor for default or failure in carrying out the instructions and/or mandate of the User/Depositor.
- 8.1.16. The Repository Participant shall strictly comply with the time schedule specified from time to time by CCRL for data entry and transfer.
- 8.1.17. The Repository Participant shall furnish to the User/Depositor a statement in such form as may be specified of his/its account at the end of every month if there has been even a single entry or transaction during that month, and in any event once at the end of each financial year. The Repository Participant shall furnish such statements at such shorter periods as may be required by the

User/Depositor on payment of such charges by the User/Depositor as may be specified by the Repository Participant.

8.1.18. The Repository Participant assumes full responsibility for verifying the authenticity of instructions issued by or on behalf of Users/Depositors including signature/s of the User/Depositor/s on the instruction slips and undertake to process the instructions after satisfying itself about the accuracy and genuineness of the signatures on the instructions slips. The Repository Participant shall ensure that it has in place appropriate systems and/or processes as CCRL and/or WDRA may specify from time to time in this regard.

8.1.19. It shall be the duty of the Repository Participant to ensure that no account of any User/Depositor is opened unless it complies with the provisions of the Act, Regulations, and guidelines, notification, circular or any communication by whatever name called issued by WDRA, Department of Company Affairs, Registrar of Companies, and the provisions of these Bye Laws and Business Rules, Communiqués, letters or communication in any form issued by CCRL and circulars issued by WDRA and RBI from time to time as may be applicable.

## **9. Obligations relating to Repository Participant's own account**

9.1. The Repository Participant shall not commingle the commodities held by it in his/its own right in CCRL with those held by it as the Repository Participant on behalf of Users/Depositors.

9.2. The Repository Participant shall comply with such procedures for deposit and withdrawal of commodities to and from any of his/its own accounts (as distinguished from the accounts of Users/Depositors with it) as may be laid down under the Bye Laws and Business Rules.

## **10. Maintenance of records**

10.1. The Repository Participant shall maintain all documents and records in respect of his/its CCRL related operations in such manner as may be specified in the Regulations, Bye Laws and Business Rules.

## **11. Reconciliation and Rectification of Errors**

11.1. The Repository Participant shall reconcile its records with CCRL on a daily basis. The Repository Participant shall, as a continuous process and on an on-going basis, check and reconcile with his/its own records and those of his/its Users/Depositors, all records, balances, advices, statements and reports received by the Repository Participant from CCRL and promptly notify CCRL of any error or omission in such records, balances, advices, statements and reports.

11.2. Any advice, statement or report provided by CCRL shall in the absence of manifest error or fraud, be conclusive as to its subject matter. Unless otherwise agreed to by CCRL, the failure of the Repository Participant to inform CCRL of any error or omission in any advice, statement or report within the time frame stipulated by CCRL shall constitute a waiver in favour of CCRL by the Repository Participant of any right to require rectification.

11.3. CCRL may, if it is satisfied that it is in the interest of any User/Depositor/s, entertain a late request by the Repository Participant to rectify an error or omission as aforesaid. If CCRL entertains a late request by the Repository Participant, the Repository Participant shall be liable for any loss caused to

CCRL or to any other Repository Participant or User/Depositor due to such late request.

- 11.4. CCRL reserves the right to rectify any erroneous entry or transaction made to the account of any User/Depositor. In the event of CCRL carrying out any such rectification, CCRL shall inform the Repository Participant and the concerned User/Depositor of such rectification.
- 11.5. Without prejudice to any other rights or remedies that CCRL may have, in the event of any erroneous entry or transaction having been effected on account of any error, mistake or negligence on the part of the Repository Participant resulting in wrongful reduction in or a negative balance of commodities in the account of any User/Depositor, CCRL may, in its absolute discretion, do one or more of the following:
  - 11.5.1. require the Repository Participant to replenish the deficient commodities at the Repository Participant's own cost and expense;
  - 11.5.2. itself purchase such deficient commodities as replenishment at the prevailing market price. The cost and expenses incurred by CCRL in connection with purchase of such commodities shall be borne by the Repository Participant. The Repository Participant shall reimburse CCRL for all costs, fees, charges, expenses, liabilities, losses and damages incurred by CCRL in connection with the purchase or replenishment of such deficient commodities by CCRL as aforesaid;
  - 11.5.3. if the deficient commodities cannot for any reason whatsoever be replenished within the time specified by CCRL, CCRL may require the Repository Participant to forthwith reimburse the concerned User/Depositor by payment in cash of an amount equivalent to the market value of the deficient commodities as on the date of such erroneous entry or transaction or as on the date of such reimbursement, whichever is higher and call upon the Repository Participant to make good such amount within such period as CCRL may deem fit;
  - 11.5.4. call upon the Repository Participant to forthwith pay to CCRL such amount as CCRL considers appropriate by way of security or additional security pending replenishment of the deficient commodities or reimbursement in lieu thereof.

## **12. Ceiling on Holdings**

- 12.1. If the Repository Participant is a Stock Broker or Commodity Broker, the Repository Participant shall ensure that the aggregate market value of the commodities of all Users/Depositors in their accounts with the Repository Participant does not exceed the limits as specified by CCRL/WDRA from time to time on any given day and if it so exceeds the said limits on any given day, the Repository Participant shall forthwith inform CCRL about it and CCRL shall be entitled to issue such Business Rules as it may deem fit in order to rectify the position in that behalf.

## **13. Form of Agreement to be binding**

- 13.1. Notwithstanding anything contained herein the Repository Participant shall strictly adhere to CCRL Bye Laws in respect of every agreement that may be entered into by the Repository Participant with every User/Depositor and clearing member respectively and no variation, modification, addition, alteration or deletion thereto shall be effected except with prior written consent of CCRL in that behalf. The Repository Participant shall be solely responsible for any statement or representation made or any obligation or liability undertaken by him/it in so far as the same is contrary to or inconsistent with or is in excess of the said draft agreement and/or the Bye Laws and Business Rules or which is otherwise not authorized by CCRL.



## **14. Internal controls and Audit**

- 14.1. The Repository Participant shall install and maintain suitable systems, audit and control measures including setting up of separate internal controls and an audit department inter alia for regularly reviewing his/its internal operations ensuring due compliance and maintaining the integrity and confidentiality of data transmitted to CCRL as may be laid down under the Bye Laws and Business Rules.
- 14.2. The Repository Participant shall from time to time submit such operational, financial, technical or other data, information, reports and returns, in relation to his/its activities and operations as a Repository Participant, duly audited and certified by a Chartered Accountant, a Company Secretary in practice or by a Systems Auditor, as the case may be, in such form and manner and within such period, as may be specified in the Bye Laws and Business Rules.

## **15. Inspection by CCRL**

- 15.1. CCRL shall be entitled to carry out inspection of the facilities, systems, records and books of the Repository Participant relating to all dealings of the Repository Participant with it through such persons as may be authorized in that behalf by CCRL and the Repository Participant shall permit the persons so authorized entry into his/its premises during regular business hours on any working day and shall allow access to his/its facilities, systems, records and books and permit copies thereof to be made.

## **16. Events requiring immediate intimation by the Repository Participant to CCRL**

- 16.1. The Repository Participant shall notify CCRL forthwith:
- 16.1.1. in case the Repository Participant is a partnership firm, in the event of dissolution of the firm or a notice being served under section 43 of the Indian Partnership Act, 1932 or a suit being filed under section 44 of that Act;
- 16.1.2. in case the Repository Participant is a company or a body corporate, upon a petition for winding up being presented in any court or a resolution being passed for winding up of the Repository Participant;
- 16.1.3. any scheme being framed for merger, amalgamation or reconstruction of the Repository Participant;
- 16.1.4. on its becoming aware of the presentation of any application or petition for its bankruptcy, insolvency, liquidation or attachment of its property;
- 16.1.5. upon its becoming aware of any distress, execution, attachment or other process being threatened or levied by any statutory or revenue authority against the Repository Participant or its property for recovery of any taxes, duties, levies, penalties, cesses or dues;
- 16.1.6. upon any application being presented to any court for attachment of the assets or properties of the Repository Participant;
- 16.1.7. in the case of any change in his/its financial conditions which may lead to his/its insolvency or dissolution or winding-up or if it suffers a composition with his/its creditors ;
- 16.1.8. upon convening of any meeting to consider a resolution for the appointment of a liquidator or receiver or administrator in respect of any of its properties or any

other change in circumstances which could materially affect its capacity to act as a Repository Participant;

- 16.1.9. in case the Repository Participant is also a clearing member, upon his/its being declared a defaulter or being suspended or his/its membership being terminated by the concerned stock exchange or clearing corporation or by WDRA.
- 16.1.10. in the event of the Repository Participant being an Warehouse service provider (WSP) and / or a Warehouse (WH) as contemplated by the Warehousing (Development and Regulation) Act, 2007, upon suspension or termination or de-registration of the Repository Participant as such intermediary by WDRA or any other regulatory body or authority empowered to do so.
- 16.1.11. in the event of the Repository Participant ceasing to meet any of the eligibility and/or admission criteria laid down by WDRA and/or CCRL.
- 16.1.12. upon the Repository Participant becoming aware of any event or occurrence which is reasonably likely to materially affect his/its commercial viability or existence or his/its ability to perform his/its obligations under this Agreement or which constitutes a material adverse change in the eligibility criteria laid down by CCRL or by WDRA or any other regulatory authority under any law in force for the time being.

## **17. Insurance cover**

- 17.1. The Repository Participant shall maintain such insurance coverage as CCRL may specify from time to time.

## **18. Contribution to Funds**

- 18.1. The Repository Participant shall contribute to one or more trusts or funds established by or at the instance of CCRL for protection of the interests of Users/Depositors and/or Repository Participants in the manner laid down under the Bye Laws, Business Rules or in any separate deed, document, instrument or writing made or executed in that behalf.

## **19. Security to be furnished by the Repository Participant**

- 19.1. CCRL may, at any time, require the Repository Participant to provide, on demand, such security or additional or collateral security in such form, to such extent and in such manner as may be determined by CCRL. For determining the amount of security or additional or collateral security, CCRL shall take into account inter alia, the level of unreconciled balances and excess or deficit balance of commodities in the accounts of Users/Depositors due to any fraud, negligence, error or omission on the part of the Repository Participant, his/its employees or agents. Such security shall be in addition to and independent of any security earlier furnished by the Repository Participant to CCRL.
- 19.2. The Repository Participant shall not sell, transfer or otherwise alienate or create or permit the creation of any mortgage, charge or other encumbrance or permit or suffer to be attached or otherwise jeopardise the title to any of the assets provided as security or additional or collateral security to CCRL.
- 19.3. CCRL may apply all or any of the security deposit/s or other security (including additional or collateral security) furnished by the Repository Participant to CCRL at any time without prior notice to the Repository Participant in or towards satisfaction of any of the obligations and/or liabilities of the

Repository Participant to CCRL or to any User/Depositor/s, other Repository Participants, Depositors, RTAs or clearing corporations as the case may be.

## **20. Authorised Representative**

- 20.1. The Repository Participant shall, simultaneously with the execution of this Agreement furnish to CCRL, a list of officials authorised by it, who shall represent and interact on his/its behalf with CCRL. Any change in such list including additions, deletions or alterations thereto shall be forthwith communicated to CCRL.

## **21. Confidentiality**

- 21.1. The parties hereto shall keep strictly confidential all technical and business information including but not limited to that which may be disclosed or confided to it by the other in the course of the performance of the obligations under this Agreement or under the Bye Laws and neither party hereto shall disclose the same to any third party without prior approval of the other party hereto.
- 21.2. Either party hereto shall be at liberty to provide or disclose such details, particulars, data or information relating to any User/Depositor and/or his account as may be required or directed in writing by any court, tribunal, Central or State Government, WDRA or any other regulatory or revenue authority empowered by law in that behalf or to the concerned Depositor and/or Clearing House / Clearing Corporation or as may be required for compliance with any obligations in law or for enforcement of any of its rights or for protection of its interest without reference or recourse to the other or to the concerned User/Depositor provided however that save and except as aforesaid, neither party shall divulge or permit or suffer to be disclosed any such details, particulars, data or information to any party or person and shall hold such details, particulars, data and information in strict confidence.

## **22. Change in address**

- 22.1. The Repository Participant shall inform CCRL of any proposed change in address of his/its office/ registered office as also of any change in location of the premises where the equipment for maintenance of computerised records, back-up facilities and communication with CCRL are situated, at least thirty days before the date of such change.

## **23. Back-up facilities**

- 23.1. The Repository Participant shall strictly follow the back-up procedure recommended by CCRL. A copy of the latest back-up of the database shall at all times be maintained at a remote site. CCRL shall not be liable to the Repository Participant for any loss or damage arising out of failure on the part of the Repository Participant to maintain up to date back-up of the computer programme and the relevant data.
- 23.2. The Repository Participant shall permit access to any person/s designated by CCRL to inspect his/its back-up and shall make available such extracts or reports of the records maintained at the said back-up facilities as may be required by CCRL.

## **24. Disaster Recovery Plan**

- 24.1. The Repository Participant shall forthwith inform CCRL of any loss or failure of connectivity between the Repository Participant and CCRL.
- 24.2. The Repository Participant shall strictly adhere to such plan, scheme or procedure (to be known as "Disaster Recovery Plan") as CCRL may specify in that behalf for meeting any situation or eventuality resulting in loss of connectivity or failure of communication, loss or corruption of data or damage to equipment, hardware or software whether by reason of any technical failure, unauthorized access, calamity, accident, sabotage or disaster or otherwise.

## **25. Redressal of grievances / complaints of Users/Depositors**

- 25.1. The Repository Participant shall resolve grievances/complaints of Users/Depositors and submit a report on the grievances so resolved to CCRL within 30 days from the date of receipt of such complaint / grievance by the Repository Participant in such manner as may be specified in the Bye Laws and Business Rules.

## **26. Prohibition against Assignment etc.**

- 26.1. The functions, rights or obligations under this Agreement shall not be assigned or delegated to any party or person by the Repository Participant without the express prior written consent of CCRL. Any purported assignment or delegation in contravention of the terms of this Agreement shall be null and void. For the purpose of this clause, any substantial change in the share holding pattern or the constitution of the Board of Directors or in the composition of the partnership shall constitute an assignment of the business and/or functions.

## **27. Suspension and Termination**

- 27.1. CCRL may, if it is satisfied that it is necessary so to do, at any time and on such conditions as it thinks fit, terminate this Agreement with the Repository Participant by communication in writing under the following circumstances:
  - 27.1.1. the Repository Participant no longer meets the eligibility and/or admission criteria to be a Repository Participant as laid down by WDRA and/or by CCRL;
  - 27.1.2. if the Repository Participant is an individual or a sole proprietor, in the event of the death or physical or mental incapacity of the Repository Participant;
  - 27.1.3. if the Repository Participant is a partnership firm, in the event of dissolution of the firm or a notice being served under section 43 of the Indian Partnership Act, 1932 or a suit being filed under section 44 of that Act.
  - 27.1.4. in the event of the Repository Participant being a company or body corporate, upon a petition for winding up being presented in any court or a resolution being passed for winding up of the Repository Participant.
  - 27.1.5. in the event of the Repository Participant ceasing to carry on business as a Repository Participant with CCRL;
  - 27.1.6. in case CCRL has reasonable grounds to believe that the Repository Participant is approaching financial difficulty or will be unable to meet his/its obligations in relation to CCRL or his/its Users/Depositors;

- 27.1.7. in the event of any distress, execution or other process being levied or enforced or served upon or against any property of the Repository Participant;
- 27.1.8. in the event of bankruptcy, insolvency, liquidation or winding up of the Repository Participant or the initiation of any proceedings in relation thereto or if CCRL considers in its absolute discretion that the occurrence of such events are imminent or likely;
- 27.1.9. in the event of the appointment of a receiver or administrator of the assets of the Repository Participant or in the event of the Repository Participant suffering a composition with his/its creditors or in the event of a scheme of arrangement being approved by a court (other than for the purposes of reconstruction or amalgamation) or in the event of CCRL considering in its absolute discretion that the occurrence of such events are imminent or likely;
- 27.1.10. in the event of the Repository Participant's failure to pay security deposits, fees or any other charges as required under the Bye Laws or this Agreement (including any revised or increased fees, charges or deposits) or furnish additional or collateral commodities within such time as may be required by CCRL;
- 27.1.11. in the event of failure of the Repository Participant to fulfill the obligations arising out of the indemnification of CCRL by the Repository Participant;
- 27.1.12. in case CCRL has reasonable grounds to believe that the Repository Participant has been responsible for negligence or fraudulent or dishonest conduct or has made a material misstatement or omitted to state a material fact in any statement to CCRL;
- 27.1.13. in case the Repository Participant has violated or committed any breach or default in the observance or performance of any provisions of the Act, Regulations, Bye Laws or this Agreement or has failed to comply with any Business Rules;
- 27.1.14. in case the Repository Participant's registration granted by WDRA and / or CCRL has been suspended or cancelled;
- 27.1.15. in case the Repository Participant is a member of a stock exchange or commodity exchange, if the Repository Participant has been expelled or his/its trading privileges have been suspended by the Stock Exchange / Commodity Exchange;
- 27.1.16. in case the Repository Participant is registered as WSP and / or WH with WDRA under provisions of Warehousing (Development and Regulation) Act, 2007, in the event of suspension, termination or de-registration of the Repository Participant as such intermediary by WDRA or by any other regulatory body or authority empowered by law in that behalf;
- 27.1.17. in the event of the Repository Participant failing to redress grievances of Users/Depositors to the satisfaction of CCRL;
- 27.1.18. in case CCRL has reasonable grounds to believe that the Repository Participant has been carrying on his/its activities in a manner which is detrimental to the interest of CCRL and/or Users/Depositors or that the termination of the relationship with the Repository Participant is necessary for the protection of Users/Depositors or other Repository Participants or to facilitate the orderly performance of services rendered by CCRL;
- 27.1.19. in case the Repository Participant has or is likely to expose itself to risk which, in the opinion of CCRL, is not commensurate with the Repository Participant's networth;

27.1.20. in case the quality of the services rendered by the Repository Participant is not satisfactory in the opinion of CCRL as evidenced by the complaints of the Users/Depositors and/or other Repository Participants, Depositors, RTAs and clearing corporations;

Provided however that CCRL shall not take any action as aforesaid unless and until CCRL shall have issued a show-cause notice to the Repository Participant setting out the grounds on which this Agreement is sought to be terminated and the Repository Participant shall have been given a reasonable opportunity of being heard by any officer authorised by CCRL in that behalf and CCRL being satisfied on the strength of the report of such officer that it is necessary to terminate this Agreement with the Repository Participant;

Provided however that CCRL may, if it considers it fit and proper in the facts and circumstances of any case, before issuing the show-cause notice as aforesaid, issue notice calling upon the Repository Participant to rectify or remedy the breach or default within such period and on such terms and conditions as CCRL may deem fit.

Provided however that no amount is due, owing or payable by the Repository Participant to WDRA or to CCRL inter alia by way of fees, charges, penalties or interest.

27.2. Without prejudice to any other rights CCRL may have, in the event of occurrence of any of the events listed hereinabove, CCRL may suspend with immediate effect, the business or activities of the Repository Participant in CCRL, before issuance of any notice or pending the notice period and/or inquiry under the Bye Laws.

## **28. Withdrawal by the Repository Participant**

28.1. The Repository Participant shall be entitled to withdraw as a Repository Participant from CCRL by issuing to CCRL a communication in writing giving notice of not less than thirty days of his/its intention to terminate this Agreement with CCRL with effect from the expiry of the said period of thirty days or such further period as may be specified in the notice. CCRL may, however, require the Repository Participant to continue his/its business as a Repository Participant in CCRL for such further period not exceeding three months from the receipt of such notice if CCRL shall deem it necessary to do so in the interest of the Users/Depositors or in the orderly functioning of CCRL. CCRL shall notify the Users/Depositors of the Repository Participant, other Repository Participants, clearing house / clearing corporations and WDRA within seven days of the Repository Participant ceasing to act as such.

28.2. The Repository Participant shall not be permitted to withdraw as a Repository Participant from CCRL unless and until the Repository Participant shall have provided satisfactory evidence to CCRL of its having :

28.2.1. issued notice of his/its intended withdrawal to all Users/Depositors holding accounts with it;

28.2.2. transferred all accounts of the Users/Depositors to any other Repository Participant/s of the User/Depositor's choice in CCRL;

28.2.3. ensured that there are no pending instructions or unresolved grievances/complaints of Users/Depositors, CCRL, or clearing corporation;

28.2.4. complied with such other terms and conditions as CCRL may have specified in that behalf.

- 28.3. no amount due, owing or payable to WDRA or to CCRL inter alia by way of fees, charges, penalties or interest.

## **29. Consequences of Termination /Withdrawal**

- 29.1. On termination of this Agreement or on withdrawal by the Repository Participant, CCRL shall return to or make available for collection by the Repository Participant, all security deposits or other commodities that may have been furnished by the Repository Participant to CCRL by way of collateral or additional security on expiry of six months from the date of cancellation of the certificate of registration as a Repository Participant by the WDRA or after resolving pending investor grievances, if any, to the satisfaction of CCRL, whichever is later, provided however that CCRL shall have the right (without prejudice to any other right or remedy available to CCRL in law) to retain any security/ deposit or to adjust or set off amounts from such security deposit equivalent to the amount which is due or is likely to become due to CCRL, other Repository Participants or Users/Depositors in respect of transactions or entries effected by the Repository Participant during the currency of this Agreement.
- 29.2. Without prejudice to the above, CCRL shall be entitled to set off any earlier claims or rights of the Repository Participant against any amounts due to CCRL or any other persons entitled to any claim against the Repository Participant through CCRL, notwithstanding that such claim may have arisen after the date of termination of this Agreement.
- 29.3. CCRL shall, upon termination of this Agreement by CCRL or on receipt of communication in writing from the Repository Participant conveying his/its decision to withdraw from CCRL and/or to terminate this Agreement, notify all other Repository Participants and initiate suitable steps for the protection of the interests of Users/Depositors and other Repository Participants. CCRL shall notify other Repository Participants, clearing corporations, Depositor and WDRA within seven days of the termination of this Agreement.
- 29.4. The Repository Participant shall be required to meet all his/its outstanding obligations to CCRL, whether incurred while the Repository Participant was acting as such or incurred thereafter but arising out of any action, transaction or dealings by the Repository Participant during the currency of this Agreement.
- 29.5. On termination of this Agreement or on withdrawal by the Repository Participant from CCRL, every User/Depositor holding an account with the Repository Participant shall have the option to either get his commodities held with the Repository Participant transferred to another Repository Participant or get the same withdrawn. Notwithstanding anything stated above even after such termination or withdrawal, the Repository Participant shall continue to act as a Repository Participant for the limited purpose of either getting the commodities held with the Repository Participant transferred to another Repository Participant or get the commodities withdrawn.
- 29.6. Upon termination of this Agreement, CCRL shall give notice in writing to all Users/Depositors holding accounts with the Repository Participant calling upon the Users/Depositors to have their accounts transferred to any other Repository Participant within fifteen days from the receipt of such notice. In the event of there being any Users/Depositors who have failed to have their accounts transferred to any other Repository Participant as aforesaid, CCRL shall nominate one or more Repository Participants to whom such accounts shall stand transferred for the time being provided however that no debits in respect of the commodities in such transferred account shall be effected until

such time as the concerned User/Depositor shall have entered into an agreement with any other Repository Participant.

- 29.7. Notwithstanding termination of this Agreement by CCRL or withdrawal by the Repository Participant, the provisions of this Agreement and all mutual rights and obligations arising therefrom shall, except in so far as the same is contrary to or inconsistent with such termination or withdrawal, continue to be binding on the parties in respect of all acts, deeds, matters and things done and transactions effected during the period when this Agreement was effective.

### **30. Disciplinary Action**

- 30.1. The Repository Participant shall be subject to the disciplinary jurisdiction of the Disciplinary Action Committee as provided in the Bye Laws.

### **31. Indemnity**

- 31.1. The Repository Participant shall indemnify and keep indemnified and saved harmless CCRL, its officers, employees, servants and agents from and against all harm, loss, damage, injury, taxes, levies, penalties, cesses, duties, suits, action, litigation, arbitration, disciplinary action, prosecution or other proceedings (and all costs, charges and expenses relating thereto) suffered or incurred by CCRL, its officers, employees, servants or agents or any of them, whether directly or indirectly on account of or as a result of any act, deed, matter or thing made done committed or omitted or suffered or permitted or caused to be done by the Repository Participant, his/its officers, employees, servants or agents contrary to or inconsistent with the terms, conditions and covenants herein contained including any default or breach of any provision/ s of the Act, Regulations, Bye Laws, this Agreement and Business Rules or by reason of any mistake, error, misfeasance, willful misconduct, misrepresentation, fraud, forgery, theft, misappropriation or breach of trust by the Repository Participant, his/its officers, employees, servants or agents or on account of the Repository Participant failing to meet any of his/its obligations and/or liabilities to CCRL and/or to any of his/its Users/Depositors and/or to any other Repository Participants, Depositors, or clearing corporation or on account of any deficiency in services rendered by the Repository Participant. For the purposes of this clause, all acts of commission or omission, whether intentional or not, of his/its officers, employees, servants and agents, shall be deemed to be acts of commission or omission of the Repository Participant. Where any loss or damage is caused to any User/Depositor due to the negligence of the Repository Participant, CCRL shall, if it deems it necessary to do so, in the first instance make good the loss or damage incurred by such User/Depositor and CCRL shall be entitled to recover the same from the Repository Participant, inter alia, by adjustment of or appropriation from any security deposit held by CCRL.

- 31.2. CCRL shall indemnify and keep indemnified and saved harmless the Repository Participant from and against all harm, loss, damage or injury, and all taxes, cesses, duties, levies, penalties and all suits, action, litigation, prosecution, arbitration or any other proceedings (and all costs, charges and expenses relating thereto) suffered or incurred by the Repository Participant by reason of or on account of any act, deed, matter or thing made done executed or committed or omitted to be done by CCRL, its officers, employees or servants contrary to or inconsistent with the terms, conditions and covenants herein contained including any breach or default of any provisions of the Act, Regulations, Bye Laws or the Business Rules or by reason of any misrepresentation, fraud, forgery, theft, misappropriation or breach of trust by CCRL or its employees or by reason of CCRL failing to meet its obligations and/or liabilities to the Repository Participant or on account of any deficiency in the services rendered by CCRL.



## **32. Stamp duty**

- 32.1. Any stamp duty (including interest or penalty levied thereon) payable on this Agreement and/or any deed, document or writing executed in pursuance hereof between the parties hereto shall be borne and paid by the Repository Participant.

## **33. Force Majeure etc.**

- 33.1. Notwithstanding anything contained herein or in the Bye Laws, neither party hereto shall be liable to indemnify or compensate the other for any breach, non-performance or delay in performance of any obligations under this Agreement or for any harm, loss, damage or injury caused to the other due to causes reasonably beyond its control including but not limited to tide, storm, cyclone, flood, lightning, earthquake, fire, blast, explosion or any other act of God, war, rebellion, revolution, insurrection, embargo or sanction, blockade, riot, civil commotion, labour action or unrest including strike, lock-out or boycott, interruption or failure of any utility service, enemy action, criminal conspiracy, act of terrorism or vandalism, sabotage, ] unanticipated technological or natural interference or intrusion, loss or damage to satellites, loss of satellite linkage or any other data communications linkage, loss of connectivity or any other irresistible force or compulsion.

## **34. Service of Notice**

- 34.1 Any notice or communication required to be given under this agreement shall be in writing, and shall be legally effective only when it is delivered to the addressee at the last known address in the manner prescribed in the Business Rules.

## **35. Severability**

- 35.1. If any provision of this Agreement shall be held or adjudged by any competent court, tribunal or regulatory authority to be unlawful, void or unenforceable or if any such provision is rendered void or unenforceable by reason of any statutory amendment, notification or any judicial decision, such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement but shall not in any way effect the validity or enforcement of the rest of the provisions of this Agreement which shall continue to apply with full force and effect.

## **36. Amendments/Modifications at WDRA's instance to be binding**

- 36.1. The parties hereto shall be bound by any additions, alterations, modifications, amendments or deletions to this Agreement or to any provisions thereof as may be required or directed by WDRA and shall execute all such deeds, documents or writings as may be required for giving effect thereto.

## **37. No Waiver**

- 37.1. Neither party hereto shall be deemed to have waived, abandoned or relinquished any right, power, privilege or remedy available to it under this Agreement or in law except by a writing executed in that behalf and no failure or delay on the part of any of the parties hereto in the exercise of such right, power, privilege or remedy shall operate as a waiver thereof or as a waiver of any preceding or succeeding breach by the other party to this Agreement nor shall any single or any partial exercise of any right, power, privilege or remedy preclude any other or further exercise of such or any other right, power,

privilege or remedy available under this Agreement or otherwise available in law or in equity it being agreed that all such rights, powers, privileges and remedies are several and cumulative of each other.

### **38. Arbitration and Conciliation**

38.1. The parties hereto shall, in respect of all disputes and differences that may arise between them, abide by the provisions relating to arbitration and conciliation specified under the Bye Laws. The place of arbitration shall be Mumbai.

### **39. Governing Language**

39.1. All deeds, documents and writings that may be executed and all correspondence that may be exchanged between the parties hereto in relation to the subject matter of this Agreement shall be in English language, which shall be the governing language between the parties hereto.

### **40. Governing Law**

40.1. This Agreement shall be governed by and construed in accordance with the laws in force in India.

### **41. Jurisdiction**

41.1. The parties hereto agree to submit to the exclusive jurisdiction of the courts in Mumbai.

### **42. Headings**

42.1. The headings in this Agreement are for convenience and reference only and shall in no way affect the construction or interpretation of this Agreement.

### **43. Interpretation**

43.1. Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting the masculine gender shall include the feminine and vice versa and any reference to any statute, enactment or legislation or any provision thereof shall include any amendment thereto or any re-enactment thereof.

### **44. Execution of Agreement**

44.1. This Agreement is executed in duplicate and a copy each shall be retained by each of the parties hereto.

IN WITNESS WHEREOF the parties hereto have hereunto set and subscribed their respective hands and seals to this Agreement in duplicate on the day, month, year and place first hereinabove mentioned.

SIGNED AND DELIVERED )  
by the withinnamed )  
CDSL COMMODITY REPOSITORY LIMITED)  
by the hand of its authorised representative )  
Shri \_\_\_\_\_ )  
in the presence of \_\_\_\_\_ )

SIGNED AND DELIVERED )  
by the withinnamed the Repository Participant )  
\_\_\_\_\_)  
\_\_\_\_\_)  
by the hand of its authorised representative )  
Shri \_\_\_\_\_ )  
in the presence of \_\_\_\_\_ )