



**Individual/Joint Account Application Packet**  
March 2014

# Individual, Joint or Sole Proprietorship Account Application

Individual     Joint Tenant (Rights of Survivorship)     Joint (Tenants in Common)     Sole Proprietorship     IRA

Name \_\_\_\_\_

Sole Proprietorship Name \_\_\_\_\_

Have you ever been known by another name? (if yes, please provide name)  Yes  No    Name \_\_\_\_\_

Type of Account     Speculative     Hedge (if Hedge, please complete Hedge Account Agreement)

Joint Account Holder Name \_\_\_\_\_

Has the joint account holder ever been known by another name? (if yes, please provide name)  Yes  No    Name \_\_\_\_\_

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Social Security Number \_\_\_\_\_    Date of Birth \_\_\_\_\_

Are you a US citizen?  Yes  No    Non-US Citizen ID# and Type \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_    Zip \_\_\_\_\_

Country \_\_\_\_\_

Home Telephone \_\_\_\_\_    Cell Phone \_\_\_\_\_

E-Mail \_\_\_\_\_

Marital Status     Single     Married    Number of Dependents \_\_\_\_\_

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Employment Status     Employed     Self-Employed     Retired     Unemployed

Title \_\_\_\_\_

Employer \_\_\_\_\_

Nature of Business \_\_\_\_\_

Work Address \_\_\_\_\_

Work Phone \_\_\_\_\_

If Retired or Unemployed, please indicate source of trading funds \_\_\_\_\_

Annual Income

- under \$25,000
- \$25,000-\$50,000
- \$50,000-\$100,000
- \$100,000-\$300,000
- \$300,000-\$500,000
- over \$500,000

Liquid Assets (excluding home equity)

- \$5,000-\$25,000
- \$25,000-\$50,000
- \$50,000-\$100,000
- \$100,000-\$500,000
- \$500,000-\$1,000,000
- over \$1,000,000

Net Worth

- \$5,000-\$25,000
- \$25,000-\$50,000
- \$50,000-\$100,000
- \$100,000-\$500,000
- \$500,000-\$1,000,000
- over \$1,000,000

Current Banking Information

Bank Name \_\_\_\_\_

City/Country \_\_\_\_\_

Currency \_\_\_\_\_

Name on Bank Account \_\_\_\_\_

ABA/Routing Number/Swift Code/BIC \_\_\_\_\_

Bank Account Number \_\_\_\_\_

***If the bank account is a joint account, a Risk Disclosure for Joint Bank Accounts form will be required.***

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Trading Experience

Futures and Options  Yes  No If yes, years traded and firm \_\_\_\_\_

Foreign Exchange or OTC Products  Yes  No If yes, years traded and firm \_\_\_\_\_

Securities, Stock Options or Fixed Income Securities  Yes  No If yes, years traded and firm \_\_\_\_\_

Please review and answer the following. (if you answer yes to any question, please provide details)

Other than a joint account holder listed on the account, are there other individuals or entities that have a financial interest in this account?  Yes  No

Detail \_\_\_\_\_

Other than a joint account holder listed on the account, are there other individuals or entities that control the trading in this account?  Yes  No

Detail and complete additional paperwork for Third-Party Power of Attorney \_\_\_\_\_

Do you have/have you ever had any unsatisfied debit balances with a futures or securities clearing firm or been involved in a legal dispute or arbitration proceeding arising from a futures or securities dispute?  Yes  No

Detail \_\_\_\_\_

Have you ever been subject to bankruptcy proceedings, receivership or similar actions?  Yes  No

Detail \_\_\_\_\_

Have you ever been involved in any litigation or arbitration with a Broker-Dealer, FCM or Introducing Broker?  Yes  No

Detail \_\_\_\_\_

Does the account owner control or have a financial interest in another account at Gain Capital Group, LLC?  Yes  No

Detail (include account number) \_\_\_\_\_

Are you registered with the CFTC or SEC?  Yes  No

Detail \_\_\_\_\_

Are you an employee or member of any futures or securities exchange, the NFA or NASD? (if yes, please complete Member Information Sheet)

Yes  No

Detail \_\_\_\_\_  
\_\_\_\_\_

Are you, or anyone related to you, employed at Gain Capital Group, LLC or your Introducing Broker?

Yes  No

Detail (include employee name) \_\_\_\_\_

**Acknowledgement**

**Customer represents that the foregoing information (including, as applicable, any attachments) is true and correct, and that Customer will notify Gain Capital Group, LLC ("Company") of any material changes in writing. The Company reserves the right, but has no duty, to verify the accuracy of information provided and to contact such bankers, brokers, and others as it deems necessary. Customer expressly consents to such verification.**

Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Joint Account Holder Personal Information (if not a Joint Account, please disregard)**

Social Security Number \_\_\_\_\_ Date of Birth \_\_\_\_\_

Are you a US citizen?  Yes  No Non-US Citizen ID# and Type \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Country \_\_\_\_\_

Home Telephone \_\_\_\_\_ Cell Phone \_\_\_\_\_

E-Mail \_\_\_\_\_

Marital Status  Single  Married Number of Dependents \_\_\_\_\_

Employment Status  Employed  Self-Employed  Retired  Unemployed

Title \_\_\_\_\_

Employer \_\_\_\_\_

Nature of Business \_\_\_\_\_

Work Address \_\_\_\_\_  
\_\_\_\_\_

Work Phone \_\_\_\_\_

If Retired or Unemployed, please indicate source of trading funds \_\_\_\_\_

Annual Income

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- \$100,000-\$500,000
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Currency \_\_\_\_\_

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ABA/Routing Number/Swift Code/BIC \_\_\_\_\_

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Detail \_\_\_\_\_

Have you ever been subject to bankruptcy proceedings, receivership or similar actions?  Yes  No

Detail \_\_\_\_\_

Have you ever been involved in any litigation or arbitration with a Broker-Dealer, FCM or Introducing Broker?  Yes  No

Detail \_\_\_\_\_

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Detail (include account number) \_\_\_\_\_

Are you registered with the CFTC or SEC?  Yes  No

Detail \_\_\_\_\_

Are you an employee or member of any futures or securities exchange, the NFA or NASD? (if yes, please complete Member Information Sheet)  Yes  No

Detail \_\_\_\_\_

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Detail (include employee name) \_\_\_\_\_

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Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**REQUEST FOR TAXPAYER IDENTIFICATION NUMBER / CERTIFICATE OF FOREIGN STATUS**

Under penalties of perjury, I certify that:

Enter Taxpayer Identification Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

1. The number shown on this form is my correct taxpayer identification number (or, if marked "applied for"), I am waiting for a number to be issued to me), and (2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

**OR**

2. I am not a U.S. Citizen or U.S. Resident and I have not been, and do not plan to be, in the U.S. for more than 183 days during any calendar year and am not engaged, and do not plan to be engaged during the year, in a U.S. Trade or business that has effectively connected gains from Broker transactions or my country has a tax treaty with the U.S. that exempts transactions from U.S. taxes.

\_\_\_\_\_ **(Initial please)**

Signature \_\_\_\_\_

Date \_\_\_\_\_

## **RISK DISCLOSURE STATEMENT FOR FUTURES & OPTIONS**

*This brief statement does not disclose all of the risks and other significant aspects of trading in futures and options. In light of the risks, you should undertake such transactions only if you understand the nature of the contracts (and contractual relationships) into which you are entering and the extent of your exposure to risk. Trading in futures and options is not suitable for many members of the public. You should carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.*

### **Futures**

#### **1. EFFECT OF 'LEVERAGE' OR 'GEARING'**

Transactions in futures carry a high degree of risk. The amount of initial margin is small relative to the value of the futures contract so that transactions are leveraged or geared. A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit; this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with the firm to maintain your position. If the market moves against your position or margin levels are increased, you may be called upon to pay substantial additional funds on short notice to maintain your position. If you fail to comply with a request for additional funds within the time prescribed, your position may be liquidated at a loss and you will be liable for any resulting deficit.

#### **2. RISK-REDUCING ORDER OR STRATEGIES**

The placing of certain orders (e.g. stop-loss orders, where permitted under local law, or stop-limit orders) which are intended to limit losses to certain amounts may not be effective because market conditions may make it impossible to execute such orders. Strategies using combinations of positions, such as spread and straddle positions may be as risky as taking simple long or short positions.

### **Options**

#### **3. VARIABLE DEGREE OF RISK**

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (Le. put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.

The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on Futures above). If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

Selling (writing or granting) an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on Futures above). If the position is covered by the seller holding a corresponding position in the underlying interest or a future or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.



## **Additional risks common to futures and options**

### **4. TERMS AND CONDITIONS OF CONTRACTS**

You should ask the firm with which you deal about the terms and conditions of the specific futures or options which you are trading and associated obligations (e.g. the circumstances under which you may become obligated to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

### **5. SUSPENSION OR RESTRICTION OF TRADING AND PRICING RELATIONSHIPS**

Market conditions (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g. the suspension of trading in any contract or contract month because of price limits or circuit breakers) may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase the risk of loss.

Further, normal pricing relationships between the underlying interest and the future, and the underlying interest and the option may not exist. This can occur when, for example, the futures contract underlying the option is subject to price limits while the option is not. The absence of an underlying reference price may make it difficult to judge fair value.

### **6. DEPOSITED CASH AND PROPERTY**

You should familiarize yourself with the protections accorded money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation of local rules. In some jurisdictions, property which had been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall. Customer funds are not protected by insurance in the event of the bankruptcy or insolvency of the FCM, or if customer funds are misappropriated. Customer funds are not protected by SIPC, even if the FCM is a Broker Dealer registered with the SEC. Customer funds are not insured by a Derivatives Clearing Organization (DCO) in the event of the bankruptcy or insolvency of the FCM holding the customer funds. Each customer's funds are not held in an individual segregated account by an FCM, but rather are commingled in one or more accounts. FCMs may invest funds deposited by customers in investments listed in CFTC Regulation 1.25. Funds deposited by customers may be deposited with affiliated entities of the FCM, including affiliated banks and brokers.

### **7. COMMISSION AND OTHER CHARGES**

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

### **8. TRANSACTIONS IN OTHER JURISDICTIONS**

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory authorities or markets in their jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

### **9. CURRENCY RISKS**

The profit or loss in transactions in foreign currency-denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency.

### **10. TRADING FACILITIES**

Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to

temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary; you should ask the firm with which you deal for details in this respect.

#### 11. ELECTRONIC TRADING

Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risk associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

#### 12. OFF-EXCHANGE TRANSACTIONS

In some jurisdictions, and only then in restricted circumstances, firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterparty to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize yourself with applicable rules and attendant risks.

Customer acknowledges that he or she has received, read and fully understands the Risk Disclosure Statement for Futures and Options (CFTC Rule 1.55).

*(All Account Holders must sign)*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# COMMODITY CUSTOMER AGREEMENT

## **THIS AGREEMENT IS A LEGAL CONTRACT. PLEASE READ CAREFULLY.**

This commodity customer agreement ("Agreement") is entered into between Gain Capital Group, LLC ("GAIN") and the undersigned customer ("Customer"). In consideration of GAIN agreeing to carry one or more accounts of Customer and providing services to Customer in connection with the purchase of, sale of, or execution of transactions in futures contracts, options on futures contracts, forward or leverage contracts, physical commodities, securities, options on securities, foreign futures contracts, options on foreign futures contracts, exchange of futures for physicals, foreign exchange contracts, options on foreign exchange contracts, domestic and foreign currencies and any similar instruments (collectively referred to as "Commodity Interests") which may be purchased or sold by or through GAIN for Customer's account(s) ("Account(s)"), Customer agrees as follows:

### **1. CUSTOMER REPRESENTATIONS AND WARRANTIES.**

If Customer is a corporation, limited liability company, partnership, trust or other than a natural person, Customer represents and warrants that:

- (a) Customer is the sole owner of Customer's Account(s) and is suitable to trade Commodity Interests; and,
- (b) no person or entity, except as disclosed in writing to GAIN, has an interest in Customer's Account(s); and,
- (c) all information provided to GAIN is true, correct and complete as of the date of this Agreement; and,
- (d) Customer will notify GAIN promptly in writing of any changes in such information; and,
- (e) Customer agrees to notify GAIN of the identity of any other person or entity who owns or controls the trading of Customer's Account(s), has a financial interest in Customer's Account(s) or the identity of any other Account(s) carried by GAIN which the Customer controls or in which the Customer owns any interest; and,
- (f) all checks or wire transfers received by GAIN from Customer's bank account(s) shall be deemed to have been sent with the requisite authority by Customer; and,
- (g) Customer has all requisite authority pursuant to applicable federal and state law and regulation to enter into this agreement and trade Commodity Interests for Customer's Account(s).

If Customer is a natural person, Customer represents and warrants that:

- (a) Customer is the sole owner of Customer's Account(s) and is of sound mind, legal age and legal competence and suitable to trade Commodity Interests; and,
- (b) no person or entity, except as disclosed in writing to GAIN, has an interest in Customer's Account(s); and,
- (c) all information provided to GAIN is true, correct and complete as of the date of this Agreement; and,
- (d) Customer will notify GAIN promptly in writing of any changes in such information; and,
- (e) Customer agrees to notify GAIN of the identity of any other person or entity who owns or controls the trading of Customer's Account(s), has a financial interest in Customer's Account(s) or the identity of any other account(s) carried by GAIN which the Customer controls or in which the Customer owns any interest; and,
- (f) all checks or wire transfers received by GAIN from Customer's bank account(s) shall be deemed to have been sent with the requisite authority by Customer; and,
- (g) Customer is not an employee of any securities or futures exchange, any corporation in which any securities or futures exchange owns a majority of the capital stock, any member of any securities or futures exchange or

any firm registered on any securities or futures exchange and if Customer becomes so employed Customer will promptly notify GAIN in writing of such employment; and,

(h) Customer is not an employee of any bank, trust or insurance company and if Customer becomes so employed Customer will promptly notify GAIN in writing of such employment.

## **2. AUTHORIZATION TO TRADE.**

Customer agrees that GAIN is authorized to purchase, sell and otherwise execute transactions in Commodity Interests for Customer's Account(s) in accordance with Customer's oral, telephonic, electronic, facsimile or written instructions. Unless instructed by Customer to the contrary in writing, GAIN is authorized to purchase, sell or otherwise execute transactions in Commodity Interests for Customer's Account(s) on such securities or futures exchanges or over-the-counter markets as GAIN deems appropriate. If Customer places orders in Commodity Interests orally, telephonically or electronically, Customer hereby waives any defense that such order was not in writing if, or as, required by any statute. GAIN will attempt to execute all orders in Commodity Interests which GAIN may, in GAIN's sole discretion, choose to accept for the purchase, sale or execution of transactions in Commodity Interests for Customer's Account(s) in accordance with the oral, telephonic, electronic, facsimile or written instructions of Customer.

## **3. CUSTOMER'S FINANCIAL ABILITY.**

Customer agrees that Customer's representations of Customer's financial ability to withstand losses and to meet margin requirements with regard to Customer's Account(s) is a major consideration for GAIN's acceptance of such Account(s). Customer agrees to immediately notify GAIN if Customer is unable to sustain a loss or is unable or unwilling to meet any actual or reasonably anticipated margin requirement with regard to Customer's Account(s).

Customer authorizes GAIN or GAIN's agents to investigate Customer's credit standing and to contact such banks, financial institutions and credit agencies as GAIN shall deem appropriate to verify credit information with regard to Customer. Customer further authorizes GAIN to investigate Customer's current and past investment activity and to contact such futures commission merchants, securities and futures exchanges, broker-dealers and compliance data centers as GAIN shall deem appropriate to verify investment information. Customer hereby directs all such sources to cooperate with GAIN with regard to such investigations which shall be done at GAIN's expense. GAIN shall not be held liable by reason of accepting Customer's representations or silence or by failing to investigate Customer's financial standing, credit standing or investment activity whether in the past, present or future. Customer agrees to immediately notify GAIN of any material change in Customer's financial standing or credit standing or of any dissolution, liquidation, bankruptcy or any similar act relating to or affecting Customer. Customer agrees that if such an event occurs, GAIN is authorized to liquidate any Commodity Interests in Customer's Account(s) in accordance with Section 11 below without prior notice or demand to Customer.

Customer agrees that if Customer is a member of any exchange and GAIN acts as Customer's primary clearing member, Customer shall maintain all of Customer's Account(s) exclusively with GAIN. GAIN may waive GAIN's right to be such Customer's sole brokerage firm if such Customer satisfies GAIN that the maintenance of any other account(s) will not adversely affect such Customer's financial ability. GAIN's waiver must be in writing and signed by a GAIN officer to be effective.

## **4. RECORDINGS.**

Customer agrees that GAIN is authorized, but not required, at any time to record by tape, wire or other method, with or without a periodic tone signal, all telephonic or other oral communications between Customer and GAIN.

Customer agrees to the use of such recordings and transcripts of the same, if any, as evidence by GAIN in connection with any dispute or proceeding that may arise involving Customer or GAIN. Customer understands that GAIN destroys such recordings, if any, at regular intervals in accordance with GAIN's established business procedures. Customer agrees to such destruction.

## **5. GAIN'S RESPONSIBILITIES.**

Customer agrees that GAIN shall not be responsible or liable for any losses, damages, costs or expenses (including, without limitation, loss of profits, loss of use, direct, indirect or consequential damages) caused directly or indirectly by any events, actions or omissions beyond the control of GAIN. Customer agrees that such events, actions or omissions include, without limitation, delays or inaccuracies in the transmission of orders or other instructions with regard to Customer's Account(s) due to a breakdown or failure of any communication, transmission or execution facility. Customer understands that securities or futures exchanges on which Commodity Interest trading occurs may impose daily trading limits with regard to the trading of certain Commodity Interests and may, from time to time, change such trading limits. Customer understands trading limits may cause trading in a certain Commodity Interest to cease, thereby preventing the liquidation of an adverse Commodity Interest position to Customer's financial detriment.

## **6. ELECTRONIC TRADING.**

Customer agrees that if Customer trades Commodity Interests electronically (including, without limitation, via the internet, electronic mail, electronic bulletin board, facsimile or other similar means ("Electronic Medium")) GAIN shall not be held responsible or liable for any losses, damages, costs or expenses (including, without limitation, loss of profits, loss of use, direct, indirect or consequential damages) arising from:

- (a) any failure or malfunction of any of GAIN's electronic order entry system(s) including, without limitation, Customer's ability or inability to enter, change or cancel an electronic order(s) for Customer's Account(s); or,
- (b) any fault or error with regard to the delivery, price report, fill report, delay, omission, suspension, execution or termination of an electronic order(s) for Customer's Account(s); or,
- (c) any fault or error with regard to the maintenance of any or all of GAIN's electronic order entry system(s) or any of GAIN's or any securities or futures exchange's facilities used to support any such electronic order entry system(s).

Customer agrees that Customer is solely responsible for maintaining sufficient margin, which shall be no less than that required by the applicable securities or futures exchange on which such Commodity Interest is traded (but may be greater as determined in GAIN's sole and absolute discretion), with regard to Commodity Interests traded electronically by Customer for Customer's Account(s). Customer agrees that GAIN is not responsible or liable to Customer for accepting or refusing to accept any electronic order(s) for Customer's Account(s) for which Customer has not deposited and maintained sufficient margin.

## **7. GOVERNMENTAL, NATIONAL FUTURES ASSOCIATION, AND EXCHANGE RULES.**

Customer agrees that this Agreement and all purchases, sales and transactions with regard to Commodity Interests for Customer's Account(s) shall be subject to the constitution, by-laws, rules, regulations, customs, usage, rulings and interpretations of the securities or futures exchange or other applicable market (and its clearing organization, if any) where executed and to all applicable federal and state laws and regulations and those of any other regulatory body. If any statute, rule or regulation is enacted or adopted subsequent to the execution of this Agreement by any governmental authority, the Commodity Futures Trading Commission ("CFTC"), the National Futures Association ("NFA"), any other duly registered futures association, a securities or futures exchange or clearing organization which shall be binding upon GAIN and shall affect in any manner or be inconsistent with any provisions of this Agreement, the affected provisions of this Agreement shall be deemed modified or superseded, as the case may be, by the applicable provisions of such statute, rule or regulation and all other provisions of this Agreement shall continue in full force and effect. Customer agrees that Customer shall not acquire any independent legal or contractual rights with regard to any such statute, rule or regulation.

## **8. MARGINS AND DEPOSIT REQUIREMENTS.**

Customer agrees to maintain in Customer's Account at all times collateral or margin as required in GAIN's sole and absolute discretion. Customer agrees that in no case shall such collateral or margin be less than that required by the securities or futures exchange on which the Commodity Interest traded by Customer for Customer's Account(s) is traded, however such collateral or margin required may exceed that established by such securities or futures exchange in GAIN's sole and absolute discretion. Customer agrees that margin requirements are subject to change without notice and will be enforced retroactively and prospectively.

Customer agrees that if at any time Customer fails to maintain sufficient collateral or margin in Customer's Account(s), Customer shall pay immediately upon demand by GAIN all margin owing with regard to Customer's Account(s). Customer agrees to meet all demands by GAIN for margin within a reasonable time after such demand and in such manner as requested by GAIN, which may include wire transfer of immediately available funds. Customer agrees to provide GAIN with the names of bank officers and information necessary for immediate verification of such wire transfers.

Customer agrees that one hour may be deemed a reasonable time to meet a margin demand. However, Customer agrees that GAIN, in GAIN's sole and absolute discretion, may request that margin be met in a lesser period of time. Customer agrees that GAIN's failure to require satisfaction of a margin demand within one hour or lesser period of time on any occasion shall not be deemed a waiver of GAIN's right to require such satisfaction on any subsequent occasion.

Customer agrees that Customer's failure to receive a margin demand does not relieve Customer of the obligation to maintain margin in Customer's Account(s) as required by GAIN or any securities or futures exchange. GAIN's obligation, if any, to demand margin prior to liquidation of Customer's Account(s) shall be satisfied by one attempt to establish contact with Customer by telephone, facsimile or other Electronic Medium as determined in GAIN's sole and absolute discretion.

Notwithstanding any provision contained in this Section, GAIN may at any time proceed to liquidate Customer's Account(s) in accordance with the provisions of Section 11 below.

## **9. OPTIONS TRADING.**

Customer understands that futures exchanges and their clearinghouses have established certain cut-off times for the tender of instructions to exercise, or prevent the exercise of, options on commodity futures and other Commodity Interests (each an "Option" and collectively "Options") which are purchased or sold by Customer for Customer's Account(s). Customer understands that GAIN may establish cut-off times for the tender of instructions to exercise, or prevent the exercise of, Options which are lesser than those established by the futures exchange on which such Option is traded. Customer agrees to accept full responsibility for knowing such cut-off times and tendering such instructions to exercise, or prevent the exercise of, Options which are purchased or sold by Customer for Customer's Account(s). Customer agrees that GAIN has no responsibility whatsoever to exercise, or prevent the exercise of, Options in Customer's Account(s) (including, without limitation, Options that may be "in the money").

Customer understands that certain futures exchanges and their clearinghouses automatically exercise Options which are "in the money" unless instructed otherwise. Customer understands that short Options are subject to assignment at any time, including the day on which short Options may be established, and that such assignments are allocated only. Customer understands that any such assignment will result in a corresponding futures or cash position in Customer's Account(s) which may subject Customer to additional margin requirements. Customer agrees that Customer's Account(s) shall be charged separate commissions at such rates which are in effect from time to time upon the exercise or offset of Options in Customer's Account(s).

## **10. COLLATERAL AND LENDING AGREEMENT.**

Customer agrees that all monies, funds, reserves, deposits, securities, negotiable instruments, Commodity Interests, cash, cash equivalents and property (collectively "Property") belonging to Customer or in which Customer has an interest which are held by GAIN, either individually or jointly with others or as guarantor of the account(s) of any other person, shall be subject to a general lien and security interest for the discharge of Customer's obligations to GAIN, wherever or however arising and without regard to whether GAIN has made any advances with regard to such Property. Customer agrees that GAIN is authorized to sell or purchase any and all such Property without notice to Customer to satisfy such general lien or security interest.

Customer irrevocably appoints GAIN as Customer's attorney-in-fact with power of substitution to execute any documents for the perfection or registration of such general lien or security interest with regard to Customer's Property. Customer agrees that GAIN may, in GAIN's sole and absolute discretion, without notice to Customer apply and/or transfer any or all of Customer's Property between Customer's Account(s). Customer grants GAIN the right to pledge, re-pledge, hypothecate, invest with or loan to GAIN as broker or to others any of Customer's Property held by GAIN, separately or together with any Property of other customers, as margin or collateral for Customer's Account(s) (including, without limitation, GAIN's right to engage in securities repurchase and reverse repurchase agreements with others). Customer agrees that GAIN shall not be required to deliver the identical Property delivered or purchased by

GAIN for any of Customer's Account(s).

Customer agrees that if Customer takes delivery of a Commodity Interest, GAIN may utilize such Commodity Interest (or any other property, warehouse receipts or evidence of ownership of such Commodity Interest) as collateral for a bank loan. Customer agrees that the proceeds from such bank loan may be used by GAIN to pay for the Commodity Interest (or evidence of ownership of such Commodity Interest) until re-delivery of the Commodity Interest and/or payment by Customer in full, including interest, for the same. The rights granted to GAIN pursuant to this Section are subject to the applicable requirements with regard to the segregation of customer funds and property under the Commodity Exchange Act, as amended.

#### **11. LIQUIDATION OF ACCOUNTS AND PAYMENT OF DEFICIT BALANCES.**

Customer agrees that if Customer fails to deposit and maintain sufficient Property in Customer's Account(s) to satisfy any margin requirement (whether original or variation), or whenever GAIN in GAIN's sole and absolute discretion deems it necessary for GAIN's protection, GAIN may, without prior demand or notice, liquidate the Commodity Interest positions in Customer's Account(s) (including, without limitation, by exchange of futures for physical transaction(s)), hedge and/or offset such Commodity Interest positions in the cash market or otherwise or sell or otherwise liquidate any Property belonging to Customer or in which Customer has an interest. Customer agrees that GAIN may cancel any of Customer's open orders for the purchase or sale of any Commodity Interest or buy or borrow any property required to make delivery against any such sales, including a short sale, all solely for Customer's Account(s) and risk. Customer agrees that any such sale or purchase may be public or private and may be made without advertising or notice to Customer and in such manner as GAIN may, in GAIN's sole and absolute discretion, determine. Customer agrees that no demands, tenders or notices which GAIN makes or gives to Customer shall invalidate Customer's aforesaid waiver of the same. Customer agrees that at any such sale GAIN may purchase the property free from any right of redemption and Customer shall not make any claim against GAIN concerning the manner or timing of the sale.

Customer agrees that the proceeds of any transaction(s) effected under the provisions of this Section shall be applied toward any indebtedness owed by Customer to GAIN. Customer agrees to accept full responsibility for any remaining deficit balances in Customer's Account(s). Customer agrees that if the proceeds of any transaction(s) effected under this Section are insufficient for the payment of all Customer's liabilities due to GAIN, Customer shall promptly on demand pay the deficit and all unpaid liabilities and charges in accordance with the provisions of this Agreement, together with interest thereon equal to three percentage points above the then prevailing prime rate at GAIN's principal bank or twelve (12) percent per annum, whichever is higher. Customer agrees that Customer is responsible for all costs of collection of such deficit balances including, without limitation, all expenses, attorneys' fees, pre-judgment interest, witness fees and travel expenses.

Customer authorizes Gain to transfer funds, securities, or other property to, between, or among any of Customer's segregated or secured futures Account(s), sequestered account(s) and any other accounts held by us, when in our sole judgment a transfer of any excess funds in such account(s) may be necessary to satisfy margin calls, or to satisfy or reduce any debit balances or deficit in any such account or is otherwise advisable. We agree to confirm any such transfer to you in writing, and such confirmation shall be deemed reasonable notice. All such transfers shall be made in compliance with the CEA and the applicable regulations promulgated thereunder.

#### **12. DELIVERY MONTH LIQUIDATION INSTRUCTIONS.**

Customer agrees that liquidation instructions with regard to open Commodity Interest positions maturing in such Commodity Interest's expiration month must be given to GAIN at least five (5) business days prior to the first notice day with regard to long Commodity Interest positions, and, in the case of short Commodity Interest positions, at least seven (7) business days prior to the last trading day. Alternatively, Customer agrees to deposit with and provide to GAIN sufficient monies or funds to take delivery of the Commodity Interest along with the necessary delivery documents within these same time periods. Customer agrees that if neither instructions or sufficient monies or funds and delivery documents are received from Customer, GAIN may, but is not required to, without notice, either liquidate Customer's Commodity Interest positions or make or receive delivery on behalf of Customer. Customer agrees that GAIN may, but is not required to, liquidate such Customer's Commodity Interest positions or make or receive such delivery on such terms and by such methods as determined in GAIN's sole and absolute discretion, including, without limitation, in accordance with Sections 10 and 11.

### **13. CHARGES.**

Customer agrees to pay such fees, brokerage, commissions, service charges, transaction fees and all other reasonable and customary fees (including, without limitation, storage, delivery, document retrieval, give-up, give-in, wire transfer and execution fees) as GAIN may impose or which may be imposed by any securities or futures exchange or regulatory organization. Customer agrees that securities or futures exchange, clearing, brokerage and NFA fees may be charged as separate items for each transaction in Customer's Account(s). Customer agrees that all fees are subject to change without notice. Customer agrees that Commodity Interest transactions effected in the Chicago Board of Trade mini-sized contracts may include a "changer fee" and the amount of such fee, if any, included in a transaction price will be provided upon request. Customer agrees that if Customer's Account(s) is transferred to or from another futures commission merchant a reasonable transfer charge may be imposed and charged to Customer's Account(s).

### **14. CONFIRMATION AND NOTICES.**

Customer agrees that reports of the confirmation of Commodity Interest trades and statements of Customer's Account(s) (collectively "Reports") shall be deemed to have been received by Customer when transmitted by GAIN orally or by Electronic Medium or by U.S. mail three (3) days after mailing of the same, whichever is earlier. Customer agrees that such Reports shall be conclusive and binding on Customer if not orally objected to by Customer immediately upon receipt and such objection is also received by GAIN in writing within five (5) days thereafter. Customer agrees that oral and written notification of objections to such Reports shall be directed to GAIN's compliance department at the address appearing on the Reports. Customer agrees that any such objections shall only be deemed to have been received by GAIN if delivered by registered mail return receipt requested.

Customer agrees that Customer's failure to object in accordance with this Section shall be deemed ratification of all actions or inactions taken by GAIN prior to Customer's receipt of such Reports. Customer agrees that Customer's failure to receive a Report shall not relieve Customer of the obligation to timely object to any transactions with regard to Customer's Account(s). Customer agrees that if Customer fails to receive Reports for Customer's Account(s) within seven (7) days from the date of a transaction in Customer's Account(s) such transaction shall be conclusive and deemed ratified by Customer.

### **15. COMMUNICATIONS.**

Customer agrees that Reports, statements, notices and any other communications may be transmitted to Customer at the address given in Customer's Account documentation or to such other address as Customer may from time to time designate in writing to GAIN. Customer agrees to waive all claims arising from Customer's failure to receive such Reports, statements, notices and other communications if Customer fails to notify GAIN's compliance department in writing of a change of address, facsimile number and/or electronic mail address, as the case may be. Customer agrees that all Reports, statements, notices and other communications shall be deemed received by Customer when transmitted by GAIN orally or by Electronic Medium or by U.S. mail three (3) days after mailing of the same, whichever is earlier.

### **16. GAIN'S OBLIGATIONS.**

Customer agrees that GAIN is not responsible for any losses resulting directly or indirectly from any government restriction, exchange ruling, suspension of trading, actions of independent floor brokers, persons beyond GAIN's control, war, strike, natural disaster, or wire malfunction, delay in mails or any other delay in or inaccuracy in the transmission of orders or information due to a failure or breakdown of communication facilities. Customer agrees that all Commodity Interest information, including, without limitation, price quotations and trade price reports, are subject to change, error and delay in reporting and Customer agrees that reliance on such information is at Customer's sole risk. Customer agrees that Customer is bound to the actual execution price of Commodity Interest transactions on the securities or futures exchange, over-the-counter market, cash market or otherwise on which a Commodity Interest is executed and that GAIN is not bound by erroneous transaction price reports communicated to Customer. Customer agrees that GAIN shall only be liable for its actions or inactions which amount to fraud or gross negligence.



## **17. CURRENCY FLUCTUATION RISK.**

Customer agrees that if Customer effects any Commodity Interest transaction in a foreign currency that:

- (a) any profit or loss arising as a result of a fluctuation in the exchange rate affecting such currency will be solely for Customer's Account(s) and risk; and,
- (b) all initial and subsequent deposits of margin in Customer's Account(s) shall be made in U.S. dollars (which may be waived in GAIN's sole and absolute discretion) in such amounts as GAIN may in GAIN's sole and absolute discretion require; and,
- (c) GAIN is authorized to convert monies and funds in Customer's Account(s) into or from such foreign currency at a rate of exchange determined by GAIN in GAIN's sole and absolute discretion on the basis of then prevailing money market rates.

## **18. TRADING RECOMMENDATIONS.**

Customer agrees that:

- (a) any market information and recommendation communicated by GAIN to Customer does not constitute an offer to sell or the solicitation of an offer to buy any Commodity Interest; and,
- (b) such information and recommendation, although based upon information obtained from sources believed by GAIN to be reliable, may be based solely on a broker's opinion and such information may be incomplete and unverified; and,
- (c) GAIN makes no representation, warranty, covenant or guarantee as to and shall not be responsible for the accuracy or completeness of any such information or trading recommendation furnished to Customer.

Customer agrees that GAIN and/or GAIN's officers, directors, affiliates, associates, stockholders or representatives may have a position in or may intend to buy or sell Commodity Interests which are the subject of market information and recommendations furnished to the Customer and that the market position of GAIN or any such officer, director, affiliate, associate, stockholder or representative may not be consistent with the information and recommendations furnished by GAIN to Customer. Customer agrees that GAIN makes no representations concerning the tax implications or treatment of Commodity Interests recommended by GAIN to Customer.

Customer agrees that if Customer grants trading authority or control over Customer's Account(s) to a third party ("Trading Agent"), whether on a discretionary or non-discretionary basis, GAIN shall not be responsible for reviewing Customer's choice of such Trading Agent or making any recommendations with regard to such Trading Agent. Customer agrees that GAIN makes no representations or warranties with regard to the Trading Agent and that GAIN shall not be responsible for any loss to Customer resulting from the actions or inactions of the Trading Agent. Customer agrees that GAIN does not, by implication or otherwise, endorse or approve the operating methods of any Trading Agent. Customer agrees that if Customer gives Trading Agent authority to exercise any of Customer's rights over Customer's Account(s) Customer does so at Customer's own risk. Customer agrees that the provisions set forth in this Section apply whether or not any Trading Agent was recommended by GAIN to Customer or chosen of Customer's own volition.

## **19. FOREIGN BROKER OR FOREIGN TRADER NOTICE.**

Customer agrees that if Customer is a foreign trader (i.e. a non-U.S. resident who owns or controls a Commodity Interest Account(s)) or a foreign broker (i.e. a non-U.S. resident who carries a Commodity Interest Account(s) for any other person) Customer agrees that CFTC Regulation 15.05 designates GAIN as Customer's agent (and in the case of a foreign broker the agent of such foreign broker's customers) for purposes of accepting delivery and service of communications issued by the CFTC with regard to any futures or options on futures contracts which are or have been maintained in accounts carried by GAIN. Customer agrees that service or delivery of any such communication to GAIN shall constitute valid and effective service or delivery on Customer (and in the case of a foreign broker the customers of such foreign broker). Customer agrees that CFTC Regulation 21.03 requires Customer to provide to the CFTC upon special call market information with regard to Customer's futures and options on futures trading. Customer agrees that if Customer fails to respond to the special call the CFTC may direct the appropriate contract market and all brokers to prohibit further trades for or on Customer's behalf (and in the case of a foreign broker for or on the behalf of the customers of such foreign broker) in the contract specified in the call unless such trades offset existing open Commodity

Interest positions. Customer understands that pursuant to CFTC regulation 21.03(g) if Customer believes that the action taken by the CFTC is detrimental Customer shall have the opportunity for a prompt hearing after the CFTC acts.

## **20. NO WAIVER OR AMENDMENT, ADDENDUMS TO AGREEMENT.**

Customer agrees that no provision of this Agreement may be waived or amended except in writing signed by a principal of GAIN. Customer agrees that no oral agreements or instructions contrary to any provision of this Agreement will be recognized or enforceable. Customer agrees to be bound to any amendments to this Agreement unless Customer objects in writing within three (3) business days after delivery of the notice of such amendments. Such notice shall be deemed to have been delivered when transmitted by GAIN by Electronic Mail or by U.S. mail three (3) days after mailing of the same, whichever is earlier. Customer agrees that the failure of GAIN to enforce any provision of this Agreement at any time shall not be construed to be a waiver of such provision and shall not in any way affect the validity of this Agreement or GAIN's right to thereafter enforce each and every provision of this Agreement. Customer agrees that no waiver or amendment shall be implied from GAIN's conduct, action or inaction.

Customer agrees that any and all addendums to this Agreement shall have the same force and effect as the provisions of this Agreement and are expressly incorporated herein by reference. Terms in any and all addendums shall have the same meanings as defined in this Agreement unless otherwise defined. Customer agrees that if any provision of any addendum conflicts with any provision of this Agreement, this Agreement shall control.

## **21. BINDING EFFECT.**

Customer agrees that this Agreement shall be continuous and shall cover, individually and collectively, all of Customer's Account(s) at any time with GAIN and shall be binding on Customer and/or Customer's estate, executor, trustees, administrators, legal representatives, successors and assigns. Customer agrees that by executing this Agreement Customer ratifies all transactions with GAIN effected prior to the date of this Agreement and agrees that the rights and obligations of Customer shall be governed by the provisions of this Agreement. This Agreement shall inure to the benefit of GAIN's present organization and any successor organization irrespective of any changes at any time of personnel for any cause whatsoever. Customer agrees that GAIN may, subject to the applicable rules and regulations of the CFTC, NFA and securities or futures exchanges, assign this Agreement and transfer Customer's Account(s) to another futures commission merchant or introducing broker.

## **22. TERMINATION.**

This Agreement shall continue in effect until termination and may be terminated by Customer only when Customer has no open Commodity Interest positions in Customer's Account(s), no liabilities held by or owed to GAIN and on the actual receipt by GAIN at its principal office of written notice of termination by Customer. Customer agrees that GAIN may terminate this Agreement at any time whatsoever when notice of such termination is transmitted by GAIN orally or by Electronic Medium or by U.S. mail three (3) days after mailing of the same, whichever is earlier. However, such termination by GAIN shall not affect any transactions previously entered into and shall not relieve either GAIN or Customer of any obligations set out in this Agreement, including, without limitation, Customer's obligation to satisfy any deficit balances in Customer's Account(s).

## **23. LIMITATION OF LIABILITY.**

Customer shall have no claim against Gain for any loss, damage, liability, cost, charge, expense, penalty, fine, or tax caused directly or indirectly by: (a) any order transmitted by fax, email, instant messaging, or other medium for execution which is accepted on a "not held" basis, that is you agree that we shall not be held liable for any failure regarding proper execution unless it is due to our gross negligence or willful misconduct ; (b) any applicable law, or any order of any court, governmental agency, or other regulatory body; (c) suspension or termination of trading; (d) restrictions, exchange or market halts or rulings, acts of terrorism, riot, sovereign conduct or other acts of state, war or civil or labor disturbance; (e) any delays or inaccuracies in the transmission or reporting of orders or other information due to a breakdown or failure of any transaction facility or any other transmission or communication facilities for any reason; (f) failure or delay for any reason of any broker, bank, depository, transaction facility, or custodian to fulfill its obligations or to pay in full any amounts owed to us or to you; (g) failure or delay by any entity which, consistent with applicable law, is holding customer segregated Collateral, to pay or deliver same to us; or (h) any other causes beyond our control.

In executing transactions on a transaction facility, Gain may use floor brokers (who may or may not be our employees or other agents of ours), but Gain will not be responsible to Customer for negligence or misconduct of an independent floor broker if, at the time the floor broker was selected, the floor broker was authorized to act as such under the rules of the relevant transaction facility and the appropriate regulatory agency. Customer also agrees that Gain shall not be liable to Customer for any losses, costs, expenses, or other damages sustained by Customer in the event of any failure or delay by any transaction facility, bank or other depository institution where any of Customer's Collateral is maintained, or a failure or delay by any member, bank, or agent of any of the foregoing to enforce its rules, to fulfill its obligations or to make any payment, for any reason whatsoever. Customer waives any claim, cause of action, or right as against Gain, Gain's directors, officers, employees, or agents that may arise or occur as a result thereof. In no event will we be liable to Customer for any consequential, incidental, or special damages under or relating to this Agreement. Gain will not be responsible to Customer in the event of error, failure, negligence, or misconduct on the part of any intermediary, trading advisor, or other person acting on Customer's behalf and, without limitation, Gain have no obligation to investigate the facts surrounding any transaction in Customer's account which is introduced by such intermediary, trading advisor, or other person. In addition to any other agreement to indemnify Gain or any other party set forth in this Agreement or in any other agreement, Customer agrees to indemnify gain and hold Gain harmless from and against any and all liabilities, penalties, losses, and expenses, including legal expenses and attorneys' fees, incurred by Gain as a result of any error, failure, negligence or misconduct on the part of any such intermediary, trading advisor, or other person acting on Customer's behalf. Gain shall only be liable for actions or inactions by gain which amount to gross negligence or willful misconduct.

#### **24. INDEMNIFICATION, PAYMENT OF COSTS.**

Customer agrees to indemnify and hold GAIN, GAIN's officers, directors, employees, affiliates, agents, successors and assigns harmless from and against any and all liabilities, losses, damages, costs and expenses, including attorneys' fees, interest and pre-judgment interest incurred by GAIN arising out of Customer's failure to fully and timely perform Customer's agreements herein or in the event that any of Customer's representations and warranties fail to be true and correct. Customer agrees to pay promptly to GAIN all damages, costs and expenses, including attorneys' fees, interest and pre-judgment interest incurred by GAIN in the enforcement of any of the provisions of this Agreement and any other agreements between GAIN and Customer. Customer agrees that if Customer should commence any action against GAIN in any judicial, arbitration or administrative forum (including, without limitation, CFTC reparations proceedings and NFA arbitrations), whether in law or equity, arising out of or relating to this Agreement and Customer fails to prevail in such action, GAIN shall be entitled to, and Customer shall be liable to GAIN for, GAIN's costs of defending the same, including, without limitation, attorneys' fees incurred in defense of such action.

#### **25. PERMISSION TO TAKE THE OTHER SIDE OF A TRADE.**

Customer agrees that a situation may arise whereby GAIN, a GAIN officer, director, affiliate, associate, employee, floor broker or floor trader may be the opposing broker for a Commodity Interest trade entered for the Customer's Account(s). Customer consents to any such transaction, subject to the limitations and conditions, if any, contained in the rules or regulations of the CFTC, NFA or any securities or futures exchange.

#### **26. CLEARANCE ACCOUNTS; GIVE UPS**

If Customer's Account has been introduced to Gain by an introducing broker ("IB"), then that IB is acting as Customer's agent and that IB is not an agent of or affiliated with Gain unless such agency or affiliation is specifically disclosed to Customer. Customer agrees that such IB and its employees are third-party beneficiaries of this Agreement. Unless Gain receives from Customer's prior written notice to the contrary, Gain may accept from such IB, without any inquiry or investigation: (a) orders for the purchase or sale of Contracts, on margin or otherwise; and (b) any other instructions concerning Customer's Account or the Collateral therein. Customer understands and agrees that by agreement with such IB Gain may pay a substantial portion of the brokerage commissions charged to Customer's Account to such IB in consideration of introducing and servicing Customer's Account. Customer further understands and agrees that Gain's role is strictly limited to execution, clearing and bookkeeping for transactions made pursuant to instructions from Customer or such IB, and Gain generally will not inquire into the circumstances surrounding any transaction for Customer's Account. Gain is not responsible for any acts or omissions of any non-guaranteed IB, including, but not limited to, sales practices, trading practices, or recommendations and Customer agrees to look solely to Customer's IB for redress of any loss or damage arising out of circumstances other than Gain's own gross negligence or willful misconduct in the execution, clearance, or bookkeeping of transactions for Customer's Account.

Absent a separate written agreement with Customer with respect to give-ups, Gain, in our discretion, may, but shall not be obligated to, accept from other brokers Contracts executed by such brokers for Customer and to be given up to Gain for clearance or carrying in an Account.

## **27. CFTC REGULATIONS**

Customer acknowledges that Customer is aware that CFTC Regulation 1.35(a-2)(2) requires Customer to create, retain, and produce upon the request of the CFTC, the United States Department of Justice, and the applicable Transaction Facility, documentation of cash transactions underlying EFP, EFS, EFR, or EFO transactions and, if Customer effect any such exchange of futures, Customer will comply with Regulation 1.35 (a-2)(2). If Customer is a non-United States person, Customer acknowledges that: (a) CFTC Regulation 15.05 designates Gain as the agent of foreign brokers, customers of foreign brokers, and foreign traders for certain purposes and Customer agrees to such designation; and (b) CFTC Regulation 21.03 authorizes the CFTC to request, when unusual market circumstances exist, certain Account information from Gain as well as foreign brokers and traders, and Gain agrees to provide such information upon such request.

## **28. AUTHORITY.**

Customer represents and warrants that Customer has the requisite authority to engage in the transactions contemplated pursuant to this Agreement and that by entering into this Agreement and trading Commodity Interests, Customer and Customer's principals, if any, will not be violating any statute, contract, prohibition or the rules and regulations of any authority by which Customer is bound. Customer agrees that, having authorized the opening of Customer's Account(s), Customer will undertake to affirmatively supervise Customer's agents and employees to determine that they are not acting in excess of their authority with regard to deposits, withdrawals, trading activity or in any other manner. Customer also represents and warrants that Customer has, and agrees that Customer will, fully and timely advise all persons and entities which have, may have or will have an interest in Customer, Customer's income, Customer's assets and Customer's activities of this Agreement and the Commodity Interest transactions in Customer's Account(s).

## **29. TERMS AND HEADINGS.**

As used in this Agreement the term "GAIN" shall be deemed to include Gain Capital Group, LLC, GAIN's parent, subsidiaries, affiliates, successors and assigns. As used in this Agreement the term "Customer" shall mean the party (or parties) executing this Agreement and those with an interest in the assets of Customer's Account(s). The paragraph headings in this Agreement are inserted for convenience or reference only and are not deemed to limit the applicability or affect the meaning of any of the provisions of this Agreement.

## **30. ACCEPTANCE.**

This Agreement shall not be deemed to be accepted by GAIN or become a binding contract between Customer and GAIN until approved at GAIN's principal office.

## **31. CONSTRUCTION.**

Customer agrees that Customer has been advised to and had the opportunity to seek independent attorneys, accountants or other advisers with regard to this Agreement and the provisions set forth herein. Customer and GAIN agree that this Agreement shall not be construed against any party for having drafted it.

## **32. GOVERNING LAW, VENUE, CONSENT TO JURISDICTION, SEVERABILITY.**

This Agreement has been made and delivered at Chicago, Illinois. Its validity, construction and enforcement shall be governed by the laws of the state of Illinois without reference to choice or conflicts of law principles. This Agreement constitutes the entire understanding between GAIN and Customer with regard to the subject matter set forth herein. Whenever possible each portion of this Agreement shall be interpreted in such a manner to be valid and effective under applicable law. However, if any provision of this Agreement shall be invalid under or prohibited by such applicable law, such provision shall be ineffective only to the extent of such invalidity or prohibition without affecting the validity of the remainder of such provision or the remaining provisions of this Agreement. **CUSTOMER AGREES NOT TO**

**COMMENCE ANY LEGAL OR ADMINISTRATIVE ACTION AGAINST GAIN UNTIL ANY DEFICIT BALANCE IN CUSTOMER'S ACCOUNT(S) IS SATISFIED.**

***CONSENT TO JURISDICTION***

ALL ACTIONS, DISPUTES, CLAIMS OR PROCEEDINGS, INCLUDING, WITHOUT LIMITATION, ANY ARBITRATION PROCEEDING (INCLUDING NFA ARBITRATIONS AND CFTC REPARATIONS CLAIMS) ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, OR RELATED TO OR FROM THIS AGREEMENT, ANY OTHER AGREEMENT BETWEEN THE CUSTOMER AND GAIN, OR ANY ORDERS PLACED OR TRANSACTIONS EFFECTED FOR THE CUSTOMER'S ACCOUNT(S), WHETHER OR NOT INITIATED BY GAIN, SHALL BE ADJUDICATED ONLY IN COURTS OR OTHER DISPUTE RESOLUTION FORUMS LOCATED IN THE CITY OF CHICAGO, STATE OF ILLINOIS. CUSTOMER SPECIFICALLY CONSENTS AND SUBMITS TO JURISDICTION OF ANY STATE OR FEDERAL COURT OR ARBITRATION OR REPARATION TRIBUNAL LOCATED WITHIN THE CITY OF CHICAGO, STATE OF ILLINOIS. CUSTOMER WAIVES ANY CLAIM CUSTOMER MAY HAVE THAT: (A) CUSTOMER IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT OR ARBITRATION OR REPARATION TRIBUNAL LOCATED WITHIN THE CITY OF CHICAGO, STATE OF ILLINOIS, (B) CUSTOMER IS IMMUNE FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGEMENT, ATTACHMENT IN AID OF EXECUTION, EXECUTION OR OTHERWISE) WITH REGARD TO CUSTOMER OR CUSTOMER'S PROPERTY, (C) ANY SUCH SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, (D) THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER, OR (E) THIS CONSENT OR THIS AGREEMENT BETWEEN CUSTOMER AND GAIN MAY NOT BE ENFORCED IN OR BY SUCH COURT OR TRIBUNAL.

**BY SIGNING THIS CONTRACT CONTAINING THIS CONSENT TO JURISDICTION CUSTOMER ASSENTS TO THE JURISDICTION SET FORTH ABOVE AND ACKNOWLEDGES THAT THESE CLAUSES WERE FREELY AND KNOWINGLY NEGOTIATED BETWEEN GAIN AND CUSTOMER.**

**33. RISK ACKNOWLEDGMENT.**

CUSTOMER ACKNOWLEDGES THAT INVESTMENT IN COMMODITY INTEREST CONTRACTS IS SPECULATIVE, INVOLVES A HIGH DEGREE OF RISK AND IS APPROPRIATE ONLY FOR PERSONS WHO CAN ASSUME RISK OF LOSS IN EXCESS OF THEIR MARGIN DEPOSIT. CUSTOMER UNDERSTANDS THAT BECAUSE OF THE HIGH LEVERAGE INVOLVED IN COMMODITY INTEREST TRADING, PRICE CHANGES IN THE UNDERLYING COMMODITY MAY RESULT IN SIGNIFICANT LOSSES, LOSSES WHICH MAY SUBSTANTIALLY EXCEED CUSTOMER'S INVESTMENT AND MARGIN DEPOSIT. CUSTOMER WARRANTS THAT CUSTOMER IS WILLING AND ABLE, FINANCIALLY AND OTHERWISE, TO ASSUME THE RISK OF COMMODITY INTEREST TRADING, AND IN CONSIDERATION OF GAIN'S CARRYING CUSTOMER'S ACCOUNT(S) CUSTOMER AGREES NOT TO HOLD GAIN RESPONSIBLE FOR LOSSES INCURRED THROUGH FOLLOWING GAIN'S TRADING RECOMMENDATIONS OR SUGGESTIONS OR THOSE OF GAIN'S EMPLOYEES, AGENTS OR REPRESENTATIVES. CUSTOMER RECOGNIZES THAT GUARANTEES OF PROFIT OR FREEDOM FROM LOSS ARE IMPOSSIBLE IN COMMODITY INTEREST TRADING. CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS RECEIVED NO SUCH GUARANTEES FROM GAIN OR FROM ANY OF GAIN'S REPRESENTATIVES OR ANY INTRODUCING BROKER OR OTHER ENTITY WITH WHOM CUSTOMER IS CONDUCTING CUSTOMER'S ACCOUNT AND HAS NOT ENTERED INTO THIS AGREEMENT IN CONSIDERATION OF OR IN RELIANCE UPON ANY SUCH GUARANTEES OR SIMILAR REPRESENTATIONS.

***CUSTOMER AGREEMENT AND ACKNOWLEDGEMENT***

The undersigned acknowledges that he or she has received, read, fully understands and agrees to be bound by the Commodity Customer Agreement:

*(All Account Holders must sign)*

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Signature

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Date

---

Signature

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Date

## ARBITRATION AGREEMENT

Customer agrees to submit all disputes with GAIN to arbitration if such disputes arise out of or relate to Customer's Account(s) and/or the Commodity Customer Agreement.

At such time that either Customer or GAIN notifies the other of the intent to submit a dispute to arbitration (which, if at GAIN's election, GAIN may or may not elect to submit, in GAIN's sole and absolute discretion), Customer will have the opportunity to elect a qualified forum to conduct the arbitration proceeding. GAIN will provide Customer (within ten (10) days if arbitration is elected by Customer, or immediately if arbitration is elected by GAIN) with a list of organizations whose procedures are qualified to conduct arbitrations pursuant to Commodity Futures Trading Commission regulations, together with a copy of the rules of each forum listed. If Customer chooses to have a dispute heard by a qualified organization which provides for a mixed panel of arbitrators, GAIN will pay any incremental fees which may be assessed by the organization for providing a mixed panel of arbitrators, except that Customer may be required to pay such fees if the arbitrators in the proceeding decide that Customer acted in bad faith in initiating or conducting the proceeding.

No arbitration panel shall have the right to award punitive damages to either party. Judgment upon any award rendered by an arbitration panel shall be final, binding and enforceable and such judgment may be entered in any court of law within the state of Illinois or any other court of law having competent jurisdiction thereof. If Customer elects to submit a dispute to arbitration, Customer must do so within one (1) year from the date the cause of action giving rise to such dispute arose.

**THREE FORUMS EXIST FOR THE RESOLUTION OF COMMODITY DISPUTES: CIVIL COURT LITIGATION, REPARATIONS AT THE COMMODITY FUTURES TRADING COMMISSION ("CFTC") AND ARBITRATION CONDUCTED BY A SELF-REGULATORY OR OTHER PRIVATE ORGANIZATION.**

**THE CFTC RECOGNIZES THAT THE OPPORTUNITY TO SETTLE DISPUTES BY ARBITRATION MAY IN SOME CASES PROVIDE MANY BENEFITS TO CUSTOMERS, INCLUDING THE ABILITY TO OBTAIN AN EXPEDITIOUS AND FINAL RESOLUTION OF DISPUTES WITHOUT INCURRING SUBSTANTIAL COSTS. THE CFTC REQUIRES, HOWEVER, THAT EACH CUSTOMER INDIVIDUALLY EXAMINE THE RELATIVE MERITS OF ARBITRATION AND THAT YOUR CONSENT TO THIS ARBITRATION AGREEMENT BE VOLUNTARY.**

BY SIGNING THIS AGREEMENT, YOU: (1) MAY BE WAIVING YOUR RIGHT TO SUE IN A COURT OF LAW; AND (2) ARE AGREEING TO BE BOUND BY ARBITRATION OF ANY CLAIMS OR COUNTERCLAIMS WHICH YOU OR GAIN MAY SUBMIT TO ARBITRATION UNDER THIS AGREEMENT. YOU ARE NOT, HOWEVER, WAIVING YOUR RIGHT TO ELECT INSTEAD TO PETITION THE CFTC TO INSTITUTE REPARATIONS PROCEEDINGS UNDER SECTION 14 OF THE COMMODITY EXCHANGE ACT WITH RESPECT TO ANY DISPUTE WHICH MAY BE ARBITRATED PURSUANT TO THIS AGREEMENT. IN THE EVENT A DISPUTE ARISES, YOU WILL BE NOTIFIED IF GAIN INTENDS TO SUBMIT THE DISPUTE TO ARBITRATION.

**IF YOU BELIEVE A VIOLATION OF THE COMMODITY EXCHANGE ACT IS INVOLVED AND IF YOU PREFER TO REQUEST A SECTION 14 "REPARATIONS" PROCEEDING BEFORE THE CFTC, YOU HAVE 45 DAYS FROM THE DATE OF SUCH NOTICE IN WHICH TO MAKE THAT ELECTION.**

**YOU NEED NOT SIGN THIS AGREEMENT TO OPEN AN ACCOUNT WITH GAIN (SEE 17 CFR 180.1-180.5).**

The undersigned Customer agrees to submit to arbitration all disputes arising out of or relating to Customer's Account(s) with GAIN, including any claim against GAIN or any past or present director, officer, shareholder, affiliate, agent, alleged agent, employee or associated person of GAIN, or any other person for whose acts GAIN is alleged to be liable, and the undersigned Customer understands and hereby agrees with and assents to this arbitration agreement.

*(All Account Holders must sign)*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



# **ELECTRONIC TRADING AND ORDER ROUTING SYSTEMS DISCLOSURE STATEMENT\***

**(Prepared by subcommittee of the NFA)**

Electronic trading and order routing systems differ from traditional open outcry pit trading and manual order routing methods. Transactions using an electronic system are subject to the rules and regulations of the exchange(s) offering the system and/or listing the contract. Before you engage in transactions using an electronic system, you should carefully review the rules and regulations of the exchange(s) offering the system and/or listing contracts you intend to trade.

## **DIFFERENCES AMONG ELECTRONIC TRADING SYSTEMS**

Trading or routing orders through electronic systems varies widely among the different electronic systems. You should consult the rules and regulations of the exchange offering the electronic system and/or listing the contract traded or order routed to understand, among other things, in the case of trading systems, the system's order matching procedure, opening and closing procedures and prices, error trading policies, and trading limitations or requirements; and in the case of all systems, qualifications for access and grounds for termination and limitations on the types of orders that may be entered into the system. Each of these matters may present different risk factors with respect to trading on or using a particular system. Each system may also present risks related to system access, varying response times, and security. In the case of internet-based systems, there may be additional types of risks related to system access, varying response times and security, as well as risks related to service providers and the receipt and monitoring of electronic mail.

## **RISKS ASSOCIATED WITH SYSTEM FAILURE**

Trading through an electronic trading or order routing system exposes you to risks associated with system or component failure. In the event of system or component failure, it is possible that, for a certain time period, you may not be able to enter new orders, execute existing orders, or modify or cancel orders that were previously entered. System or component failure may also result in loss of orders or order priority.

## **SIMULTANEOUS OPEN OUTCRY PIT AND ELECTRONIC TRADING**

Some contracts offered on an electronic trading system may be traded electronically and through open outcry during the same trading hours. You should review the rules and regulations of the exchange offering the system and/or listing the contract to determine how orders that do not designate a particular process will be executed.

## **LIMITATION OF LIABILITY**

Exchanges offering an electronic trading or order routing system and/or listing the contract may have adopted rules to limit their liability, the liability of FCM's, and software and communication system vendors and the amount of damages you may collect for system failure and delays. These limitations of liability provisions vary among the exchanges. You should consult the rules and regulations of the relevant exchange(s) in order to understand these liability limitations.

\*Each exchange's relevant rules are available upon request from the industry professional with whom you have an account. Some exchange's relevant rules also are available on the exchange's internet home page.

## INTERNET ELECTRONIC TRADING

This undersigned Customer of GAIN, by signature set forth below, in consideration of GAIN providing to Customer internet electronic trading access for the purpose of entering orders for Commodity Interest transactions for Customer's Account(s), hereby acknowledges and agrees as follows:

1. Customer will receive a privileged and confidential user I.D. and password from GAIN. This user I.D. and password is unique to Customer's Account(s) with GAIN and will be used solely by Customer to enter orders for Customer's Account(s). Customer will not disclose, divulge or allow any other person to utilize Customer's user I.D. and password. Customer hereby agrees that all orders entered or instructions given to GAIN through the internet are Customer's sole responsibility and that Customer will save, defend, indemnify and hold harmless GAIN from and against any and all liability, costs or damages of any kind arising from any unauthorized use of Customer's user I.D. and password.
2. Orders entered by Customer will not be deemed received by GAIN until such time as Customer receives notification by confirmation either through working, rejected or filled order blotters from GAIN through the internet that Customer's order has been accepted or rejected for placement.
3. Customer will remain solely liable and responsible for any losses resulting in Customer's Account from orders entered through the Internet. GAIN's acceptance of a Customer order does not constitute an undertaking, agreement or promise of any kind by GAIN to review Customer's account to determine the sufficiency of margin in Customer's account. Customer will remain solely responsible for maintaining sufficient margin in Customer's Account at all times and Customer hereby waives any right to claim that any losses in Customer's Account could have been prevented by GAIN's refusal of any order entered by Customer.
4. Customer understands that entering orders through the Internet exposes Customer's orders to risks such as failure of hardware and software or other temporary disruptions. Customer understands that such failure may prevent Customer's orders from being executed according to Customer's instructions or may prevent Customer's orders from being executed in their entirety. Customer hereby assumes such risks and agrees to save, defend, indemnify and hold harmless GAIN from and against any and all liability, costs or damages of any kind arising from such failure.

Customer hereby agrees that this addendum in no way modifies the Commodity Customer Agreement executed by Customer, and specifically incorporates the same by reference herein, including, without limitation, the provisions of Section 6 of the Commodity Customer Agreement.

(All Account Holders must sign)

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Signature

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Date

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Signature

---

Date

## ELECTRONIC DELIVERY OF STATEMENTS

In an advisory issued June 10, 1997, (the "Advisory") the Commodity Futures Trading Commission ("CFTC") provided that futures commission merchants such as GAIN may deliver customer confirmations, purchase-and-sale and monthly statements (collectively "Customer Statements") solely by Electronic Medium without also delivering corresponding mailed copies of such Customer Statements. To take advantage of the Advisory, GAIN must obtain appropriate consent from GAIN's Customers.

Accordingly, pursuant to the guidelines set forth in the Advisory, GAIN hereby advises you as follows:

1. GAIN will deliver Customer's Customer Statements by electronic mail;
2. This consent will be effective upon receipt by GAIN and remain so until further receipt by GAIN of written notice from Customer of revocation of this consent;
3. Customer will receive Customer Statements solely by electronic mail, that is, Customer will not receive duplicate Customer Statements by mail;

Customer hereby agrees that this addendum in no way modifies the Commodity Customer Agreement executed by Customer, and specifically incorporates the same by reference herein, including, without limitation, the provisions of Section 14 of the Commodity Customer Agreement which require Customer to review and object both orally and in writing to any discrepancies in Customer Statements, and Section 15 of the Commodity Customer Agreement which require Customer to notify GAIN's compliance department in writing of a change of address or electronic mail address.

If the above terms are acceptable and Customer consents to receiving Customer Statements solely by electronic mail, please sign below where indicated.

All daily and monthly Customer Statements should be sent to the following Email Address \_\_\_\_\_.

*(All Account Holders must sign)*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# NON-CASH MARGIN DISCLOSURES STATEMENT

**THIS STATEMENT IS FURNISHED TO YOU BECAUSE RULE 190.10(C) OF THE COMMODITY FUTURES TRADING COMMISSION REQUIRES IT FOR REASONS OF FAIR NOTICE UNRELATED TO THIS COMPANY'S CURRENT FINANCIAL CONDITION.**

**1. YOU SHOULD KNOW THAT IN THE UNLIKELY EVENT OF THIS COMPANY'S BANKRUPTCY, PROPERTY, INCLUDING PROPERTIES SPECIFICALLY TRACEABLE TO YOU, WILL BE RETURNED, TRANSFERRED OR DISTRIBUTED TO YOU, OR ON YOUR BEHALF, ONLY TO THE EXTENT OF YOUR PRO RATA SHARE OF ALL PROPERTY AVAILABLE FOR DISTRIBUTION TO CUSTOMERS.**

**2. NOTICE CONCERNING THE TERMS FOR THE RETURN OF SPECIFICALLY IDENTIFIABLE PROPERTY WILL BE BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION.**

**3. THE COMMISSION'S REGULATIONS CONCERNING BANKRUPTCIES OF COMMODITY BROKERS CAN BE FOUND AT 17 CODE OF FEDERAL REGULATIONS PART 190.**

### Non-Cash Margin Disclosure Acknowledgment

The undersigned acknowledges that he or she has received, read, fully understands and agrees with the above Non-Cash Margin Disclosure Statement prior to opening an account with Gain Capital Group, LLC.

*(All Account Holders must sign)*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# SUBORDINATION AGREEMENT

Funds of Customers trading on United States contract markets may be held in accounts denominated in a foreign currency with depositories located outside the United States or its territories if the Customer is domiciled in a foreign country or if the funds are held in connection with contracts priced and settled in a foreign currency. Such accounts are subject to the risk that events could occur which would hinder or prevent the availability of these funds for distribution to customers. Such accounts also may be subject to foreign currency exchange rate risks.

By signing this acknowledgment, the Customer authorizes the deposit of funds into such foreign depositories. For customers domiciled in the United States, this authorization permits the holding of funds in regulated accounts offshore only if such funds are used to margin, guarantee, or secure positions in such contracts or accrue as a result of such positions.

In order to avoid the possible dilution of other customer funds, a customer who has funds held outside the United States must further agree that its claims based on such funds will be subordinated as described below in the unlikely event **both** of the following conditions are met: (1) the Customer's futures commission merchant is placed in receivership or bankruptcy, **and** (2) there are insufficient funds available for distribution denominated in the foreign currency as to which the customer has a claim to satisfy all claims against those funds.

By signing this acknowledgment, the Customer agrees that if both of the conditions listed above occur, the Customer's claim against the futures commission merchant's assets attributable to funds held overseas in a particular foreign currency may be satisfied out of segregated customer funds held in accounts denominated in dollars or other foreign currencies only after each customer whose funds are held in dollars or in such other currencies receives its pro-rata portion of such funds. It is further agreed that in no event may a customer whose funds are held overseas receive more than its pro-rata share of the aggregate pool consisting of funds held in dollars, funds held in the particular foreign currency, and non-segregated assets of the futures commission merchant.

The undersigned acknowledges that he or she has received, read, fully understands and agrees with the above Subordination Agreement prior to opening an account with Gain Capital Group, LLC.

*(All Account Holders must sign)*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## HEDGE ACCOUNT REPRESENTATION AND CUSTOMER INSTRUCTIONS

Customer hereby represents that all transactions for this account and all positions taken into this account will represent bona fide hedging transaction and positions as described in Section 4(a) of the Commodity Exchange Act, as amended, and regulation 1.3(z) promulgated thereunder. Customer agrees that all transactions and positions executed or carried in Customer's Account(s) will be consistent with these provisions as presently construed or as amended from time to time.

It is agreed that positions carried in Customer's Account(s) will be strictly for hedge purposes, and not for speculation, and that a separate account must be used to accommodate non-hedge trades, and further agrees and that GAIN will rely on the representation that all trades made in this account are bona fide hedges and that GAIN shall have no obligation to inquire into or verify the nature of such trades or incur any liability if, in fact, they may not be such.

This notification is a continuing one and shall remain in force until canceled in writing by the undersigned.

List Contracts to be hedged:


Commodity Futures Trading Commission Regulation 190.06 (d) requires that a commodity broker must provide an opportunity for each customer to specify when undertaking its first hedging contract whether, in the event of the commodity broker's bankruptcy, such customer prefers that open commodity contracts held in a hedging account be liquidated by the trustee. Accordingly, please indicate below your preference for open contracts in your account if such an event were to occur.

I prefer that, in the event of bankruptcy, the trustee (check one):

liquidate open commodity contracts in this hedge account without seeking any instructions from the customer.

not liquidate open commodity contracts in this hedge account without seeking any instructions from the customer.

***(All Account Holders must sign)***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## ANNUAL PRIVACY NOTICE

The Commodity Futures Trading Commission (“CFTC”) recently adopted a rule that requires all Futures Commission Merchants (“FCMs”) to provide its existing consumers/customers with a privacy notice regarding the disclosure of non-public personal information. This notice is provided to you on behalf of Gain Capital Group, LLC (“Gain”).

In servicing your needs, we collect personal information about you to the extent necessary to enable us to perform those services. The following information may be collected:

- Information provided as a result of your completion of customer account agreements and other related documents and forms provided at the time or subsequent to the account review and approval process;
- Information available as a result of your transactions at Gain or with others;
- Information that Gain receives from outside entities, including consumer reporting agencies, relating to the application approval process; and
- Information that Gain may obtain as a result of your use of Gain’s website and other online services. Such information may be available by the utilization of a user ID and password assigned by Gain or from a Gain “cookie” or Gain service provider’s cookie.

### **Personal Information Limitations and Retention**

Personal information is retained and disclosed only as necessary to serve our customers. Such personal information about current and former customers is only used or disclosed to third parties in the following limited circumstances, and in accordance with applicable law:

- As required to process or service your account or transactions (wire transfers, withdrawals, etc.);
- As permitted by law to our service providers, including those that perform marketing services on our behalf. Gain will monitor these providers and make reasonable efforts to ensure the privacy and security of your information;
- As required by regulators, tax authorities and examiners, law enforcement personnel and/or in response to a subpoena or legal process whereby Gain believes that such disclosure is required;
- As may be appropriate to protect against fraud or illegal activity, for the safety of customers, employees, or property, or is otherwise permitted by law; and
- As you may disclose or specifically direct the firm to disclose on your behalf, personal information to a third party.

### **Protecting the Confidentiality and Security of your Personal Information**

Gain protects the confidentiality and security of your personal information by implementing and maintaining appropriate security safeguards. Examples of our safeguards include:

- Restricting access to your personal information to those employees who need to know such information in order to provide products or services to you; and
- Maintaining physical, electronic, and procedural safeguards to protect your personal information.

**Accuracy**

Gain strives to keep your personal information as accurate, complete and up-to-date as necessary. Please contact Gain immediately if you identify any inaccuracy in your personal information so your records may be updated.

**Notice**

Gain will provide annual notices to its individual consumers who are customers regarding its privacy policy, and if there is any change to the policy prior to the time that an annual notice would otherwise be provided, a revised privacy notice will be provided.



# CUSTOMER ACKNOWLEDGMENT AND WARRANTY

## NEW ACCOUNT AGREEMENTS

The undersigned hereby acknowledges receipt, through the Internet, facsimile or e-mail, of New Account Agreements (the "Agreements") for the establishment of a commodity trading account through Gain Capital Group, LLC ("Gain"). In connection therewith, the undersigned hereby warrants and represents that, except for completion and execution of the Agreements as contemplated and required by Gain, no changes, modifications, alterations or amendments (collectively, "changes") of any kind have been made to the Agreements by the undersigned, or, in the alternative, that certain changes have been inserted which the undersigned acknowledges, understands and agrees will remain completely ineffective unless accepted in writing by Gain. The undersigned further acknowledges, understands and agrees that unless the written acceptance of any changes by Gain is received by the undersigned, the Agreements shall be deemed to have been accepted by Gain and the undersigned in the form originally submitted by Gain, without any modification whatsoever. In such case, in the event it becomes necessary to refer to any provision of the Agreements for any reason, the undersigned hereby acknowledges, understands and agrees that any unapproved change shall be deemed to have been deleted in its entirety and the original language inserted in its place.

Further, please be advised that in an effort to help the government fight the funding of terrorism and money laundering activities, Federal law requires Gain to obtain, verify and record information that identifies each person who opens an account with Gain. Therefore, as part of the opening account procedure, Gain will ask you for certain information including, but not limited to, your name, address, date of birth and other information that will allow us to identify you. The firm may also request copies of government issued identification such as your driver's license, current passport or other identifying documents. The undersigned also acknowledges, understands and agrees that Gain may conduct whatever inquiries it deems necessary to obtain such verification of customer's identity prior to establishing an account for customer.

The undersigned further acknowledges, understands and agrees that Gain has accepted the Agreements in reliance, and conditioned, upon the undersigned's agreements and warranties contained herein.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name (Joint Account Holder)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature (Joint Account Holder)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## NFA RULE 2-30 ADDITIONAL RISK PROCEDURE

FOR ANY CUSTOMER WHO:

- a) Is retired and/or has less than one year of commodity trading experience; or
- b) Has an annual income of 25,000 or less; or
- c) Has a net worth of 25,000 or less; or
- d) Has less than one year of commodity trading experience.

YOU MUST GIVE THIS DOCUMENT TO THE CUSTOMER AND THE CUSTOMER MAY READ IT AND ACKNOWLEDGE IT BY SIGNING BELOW AND SUBMIT IT WITH THE ACCOUNT DOCUMENTATION.

- 1) You should be aware that the risk of loss in trading commodity futures or options contracts can be substantial. You may sustain a total loss of your initial margin funds and any additional funds that you deposit to establish or maintain a position. In addition, market conditions may be such that your account can incur a negative balance. In this event, you will be liable for any deficit in your account. You should also be aware that the exercise of a long option contract or the assignment of a short option contract will result in a futures position.
- 2) You should study future trading and consider all of your financial obligations in determining whether the trading of commodity futures or options is appropriate for you. Since the risk factor is high, only genuine "risk funds" should be used.

The undersigned customer acknowledges that he/she has received and understood the above additional risk disclosure.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

# DISCRETIONARY ACCOUNT AGREEMENT

## Futures and Options Trading Authorization

The undersigned hereby authorizes \_\_\_\_\_ (the "Trader") as his agent and attorney-in-fact to buy, sell (including short sales), transfer, spread or otherwise trade futures contracts and/or options on futures contracts (collectively "futures contracts") of every kind or nature, on margin or otherwise, all in his sole discretion for the undersigned's account and risk with Gain Capital Group, LLC ("Gain").

Gain is authorized to follow the instructions of Trader in every respect concerning the undersigned's account with Gain; and except as herein otherwise provided, the Trader is authorized to act with full power and authority for me and on my behalf in the same manner and with the same effect and force as I might or could do with respect to such transactions as well as with respect to all other things necessary or incidental to the furtherance or conduct of such transactions, except that Trader is not authorized to withdraw any money, securities, or other property either in the name of the undersigned or otherwise.

The Trader represents that he has all of the required government approvals, licenses, and permits, including but not limited to, if applicable, registration with the CFTC as a Commodity Trading Advisor.

The undersigned hereby ratifies and confirms any and all transactions with Gain heretofore and hereafter made by Trader on behalf of or for the account of the undersigned.

The undersigned hereby agrees to indemnify and hold Gain harmless for following the instructions of the Trader, and I further agree never to attempt to hold Gain liable for the Trader's actions, including but not limited to, all losses or lost profits sustained, costs and/or expenses, indebtedness and liabilities (including attorneys' fees) arising therefrom. I further agree that I have the necessary financial resources to enter into this Agreement, pay any deficit balance on my account and to promptly meet all margin requirements which may or may not be the result of the Trader's instructions. This authorization and indemnity is in addition to, and in no way limits or restricts, any rights which Gain may have under any other agreement(s) between Gain and the undersigned.

This authorization and indemnity is a continuing one and shall remain in full force and effect until revoked by the undersigned by a written notice addressed to Gain and delivered to Gain's office at 135 Route 202/206, Bedminster, NJ 07921, but such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation. This authorization and indemnity contained herein shall inure to Gain's benefit and that of Gain's successors and assigns.

*(If a joint account, all parties must sign.)*

\_\_\_\_\_  
Date

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Account Title

(If a joint account, all parties must sign. If a partnership, all general partners must sign. If a corporation, an authorized officer must sign. If a Limited Liability Company, all managing members must sign. If a trust, all trustees must sign.)

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**Special Notice to Customers**

We have received a document by which you have granted trading authority or control over your futures account carried by us to the Trader. We are required to bring the following information to your attention:

Since the risk factor is high in futures trading, only genuine "risk" funds should be used in such trading. A person who does not have extra capital he can afford to lose should not trade in the futures market. No "safe" trading system has ever been devised and no one can guarantee you profits or freedom from loss. In fact, no one can even guarantee to limit the extent of your loss.

Even though you have granted trading authority to another, this does not relieve you of the responsibility to know what is going on in your account. Gain will send you a confirmation of every trade made for your account, and a profit and loss statement showing the financial results of each transaction closed out for your account. In addition, you will also receive monthly statements indicating your ledger balance, current positions in your account, the net profit or loss in all contracts closed out since the date of your last monthly statement, and the net unrealized profit and loss for all open contracts in your account. You should carefully review these statements.

The account trading authorization executed by you shall remain in full force and effect until revoked in writing by you and received by Gain.

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**Acknowledgment**

I have carefully examined the provisions of the agreements by which I have given trading authority or control over my account to:

Name: \_\_\_\_\_

Social Security #: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

and fully understand the obligations which I have assumed by executing that Agreement.

I understand and acknowledge that Gain is in no way responsible for any loss to me as a result of the actions or inactions of the individual or organization name above and that Gain does not, by implication or otherwise, endorse the operating methods of such individual or organization. I further understand that the Chicago Board of Trade and the Chicago Mercantile Exchange have no jurisdiction over a nonmember who is not employed by one of their members and that if I give such an individual or organization authority to exercise any of my rights over my account, I do so at my own risk.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Customer Signature

Date: \_\_\_\_\_

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**Account Controller Statement**

National Futures Association (NFA) Rule 2-8 regarding discretionary accounts requires:

An acknowledgment from the customer that the customer has received a disclosure document from the account controller, or a written statement from the account controller explaining why the account controller is not required to provide a disclosure document to the customer.

**Please sign below acknowledging that you have received this statement.**

I am not required to provide a disclosure document to my customers because I am exempt from registration as a Commodity Trading Advisor (CTA) for the reason indicated below:

- \_\_\_\_\_ 1) I have provided advice to 15 or fewer persons during the past 12 months and do not hold myself out generally to the public as a CTA.
- \_\_\_\_\_ 2) I am a (i) dealer, processor, broker, or seller in cash market transactions or (ii) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of commodities, and any trading advice is solely incidental to the conduct of my business.
- \_\_\_\_\_ 3) I am registered as an Associated Person and my advice is issued solely in connection with my employment as an Associated Person.
- \_\_\_\_\_ 4) I am a relative of the account holder. My relationship to the customer is \_\_\_\_\_.
- \_\_\_\_\_ 5) I am a foreign entity; **or**
- \_\_\_\_\_ 6) I **am** registered as a Commodity Trading Advisor but am not required to provide a disclosure document because the customer has represented that he/she is a qualified eligible client as defined by CFTC Regulation 4.7. Further, I have filed notice of a claim for exemption with the Commission in accordance with CFTC Regulation 4.7.

**OR**

\_\_\_\_\_ I have received a copy of the Commodity Trading Advisor's Disclosure Document.

The name of the Commodity Trading Advisor is: \_\_\_\_\_

The Disclosure Document is dated: \_\_\_\_\_

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**Account Controller Signature**

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**Occupation**

I hereby acknowledge that the Account Controller is not required to provide me with a disclosure document for the reason stated above.

---

Customer Signature

---

Date

---

Customer Signature

---

Date

**GAIN CAPITAL GROUP, LLC  
ACCOUNT TRANSFER**

CURRENT BROKERAGE HOUSE: Account # \_\_\_\_\_

Account Name \_\_\_\_\_

(Please provide Name, Address, Transfer Personnel, Phone Number)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_

Gentlemen:

I have this day given Gain Capital Group, LLC ("Gain") this form and my permission for them to present it to you at their discretion. In accordance with the Commodity Exchange Act, I hereby demand that upon presentation to you by Gain, you do the following:

Immediately confirm my account balance, and any and all open futures and option positions; margins or securities to Gain and upon Gain's acceptance and further instructions, immediately transfer my account balance, and any and all open futures and option positions; margins or securities to:

Gain Capital Group, LLC  
Bedminster One  
135 US Highway 202/206  
Suite 11  
Bedminster, NJ 07921  
(908) 731-0700

Send me a confirmation of this transfer.

Very truly yours,

\_\_\_\_\_  
Signature of Customer

\_\_\_\_\_  
Joint Owner Signature, if any

\_\_\_\_\_  
Date