

(On Rs. 300 Stamp Paper or as applicable in the State in which the document is executed)

### **Point to Point Leased Line - Undertaking**

This Undertaking cum Indemnity is made on this \_\_\_\_\_ day of \_\_\_\_\_ 2009\_\_\_ by \_\_\_\_\_, admitted as a Member with Indian Commodity Exchange Limited (ICEX) and having his address/its registered office at \_\_\_\_\_ (hereinafter referred to as "Exchange Member" which expression shall unless repugnant to the context or meaning thereof include his/its heirs, successors, assigns and legal representatives) to and in favor of Indian Commodity Exchange Ltd, company incorporated under the Companies Act, 1956 with its registered office at 14H, 14<sup>th</sup> Floor, Hansalaya, 15, Barakhamba Road, New Delhi 110001. India (hereinafter referred to as "ICEX" which expression shall unless repugnant to the context or meaning thereof include its successors or assigns).

#### **WHEREAS**

1. ICEX has introduced a trading system, for the purpose of providing a screen based trading facility for the whole territory of India, known as Online Automated Trading System (hereinafter referred as 'ICEX System').
2. ICEX through its ICEX System has established trading facilities in the whole territory of India by setting up a central computer at Mumbai connected to the Trading Members work stations through appropriate communication network using Point-to-Point leased line to be provided by Bharti/Tata/MTNL/ Department of Telecommunications (DOT), BSNL, or any such similar service provider (hereinafter referred to as "service providers") and VSATs.
3. ICEX has applied to DOT for license for the installation and operation of the said network, to be known as ICEXNET, subject to certain restrictions and conditions. prescribed or to be prescribed by the Department of Telecommunications (DOT).
4. The Exchange Member intends to be connected to the ICEXNET through Point-to-Point Leased Line and ICEX agrees to provide the said facility among other conditions, on the execution of this Undertaking.

NOW IN CONSIDERATION OF ICEX permitting me/us as a member to use the above mentioned ICEXNET, I/WE UNCONDITIONALLY AND IRREVOCABLY UNDERTAKE AND AGREE

- i. That ownership of the ICEXNET will remain with ICEX and will not be transferable to me / us in any manner.
- ii. That Closed User Group for the ICEXNET will consist of ICEX and its authorized members/users.
- iii. To procure 2 Mbps Point-to-Point Leased Line(s) in the name of ICEX on licence basis and make all the necessary payments to the ICEX/respective service provide and follow up from time to time with such service provider for installation, commissioning and shall submit all the original documents to ICEX immediately.
- iv. To take all the necessary measures to shift the Point-to-Point Leased Line at my/our own cost (including the cost of any extra equipment, if required) to the new location of ICEX as and when intimated and shall not hold ICEX responsible for any stoppage of trading through Point-to-Point Leased Line during the shifting period for any reason whatsoever.
- v. That I/We shall do all necessary follow-ups with the service providers in case of shifting of our operation to other locations and shall pay the necessary charges to the service providers for shifting of the Point-to-Point Leased Line.
- vi. To hire the Point-to-Point Leased Line circuit for a minimum period as may be prescribed by the service providers from time to time.
- vii. To use ICEXNET and all related or connected equipment only for the purposes prescribed or approved by ICEX.
- viii. To provide the necessary equipment for the purpose of being connected to the ICEXNET.
- ix. To procure and use only the equipment approved by the respective service providers/ICEX for the purpose of being connected to the ICEXNET.
- x. To follow up solely by myself/ourselves with the service providers' authorities for the restoration of the Point-to-Point Leased Line link, in case of any malfunctioning or failure of my/our Point-to-Point Leased Line.
- xi. To use ICEXNET subject to the condition that the license issued by the Director General, Department of Telecommunication may be amended or altered from time to time and is issued only for the specific approved systems / equipment / circuits / services and users and subject to the condition that the Director General, Department of Telecommunication, reserves the right to revoke the license suo moto at any time.

- xii. To use ICEXNET subject to the provisions of the Indian Telegraph Act, 1885, The Indian Telegraph Rules, The Indian Wireless Telegraphy Act 1933 and all other Rules and Regulations and relevant laws which shall be applicable and shall be complied with.
- xiii. To use all communications through ICEXNET for the exclusive in house communication of only approved users of the ICEXNET and in no way, at no place and at no time to connect to Public Telecommunications/Telex/Data/Telephone Network of Department of Telecommunication or any other service provider / VSNL or any network of any other party unless permitted to do so by ICEX upon permission to do so being granted to it by Department of Telecommunication.
- xiv. To use the services provided on ICEXNET for the bonafide use of authorized users only.
- xv. To ensure that the operation of the systems/Equipment installed by me/us does not cause any harm/loss to the Department of Telecommunication/Bharti/Tata/BSNL/MTNL or ICEX
- xvi. That in case of problems related to the connectivity with the trading system, I/We agree to diagnose with help of the service providers' officials and confirm to ICEX that the Point-to-Point Leased Line link is functioning normally. In case ICEX is not satisfied about the same, I/We also agree to send a representative to ICEX to demonstrate the same, if required.
- xvii. To ensure that no communication/message which is prejudicial to the interests of the nation or to the security of India is passed over, through or on the Point-to-Point Leased Line or any part of ICEXNET.
- xviii. Notwithstanding anything contained in the terms and conditions applicable for operation of ICEXNET, I/We agree not to carry such messages (e.g. Electronic Transfer of Funds), which are prohibited by law on any part of ICEXNET.
- xix. That ICEX does not give any commitments/guarantees towards Point-to-Point Leased Line link performance like response time, uptime etc.
- xx. Not to hold the service providers or ICEX responsible for any direct/indirect/consequential, harm/loss/damage of any kind to the user/users of ICEXNET on account of any interruption on the service providers/ICEX systems or network.
- xxi. To use ICEXNET subject to and in accordance with the Bye-laws, Rules, Regulations of ICEX and such other conditions as may be prescribed by the service providers or ICEX from time to time.
- xxii. To ensure that the Point-to-Point Leased Line and related equipment are installed and used only in the approved premises under my/our control only by persons authorized or approved by ICEX and to take all responsibility for

authorized or unauthorized use of the ICEXNET through the Point-to-Point Leased Line and related equipment.

- xxiii. To ensure that the data communication link between the Exchange's equipment and Member's Trader Workstation shall be used on Point-to-Point basis only. The Member shall further ensure that the above link will not be connected to any other telecommunication network and shall indemnify the Exchange against any loss or damage including liabilities arising out of failure to comply with the above.
- xxiv. That in case of ICEX running its live trading operations or conducting tests from its disaster backup site, I/We agree that I/We am/are not entitled to and shall not be provided with the connectivity to ICEX's trading facility through the Point-to-Point Leased Line.
- xxv. That I/We shall lay the cables and provide conduits for the cables at my/our own cost as per the specifications of ICEX or its representative.
- xxvi. That ICEX shall not be liable for any stoppage in my/our trading activities owing to objections from any regulatory authorities. ICEX shall also not be liable for any direct or indirect damages or losses suffered by me/us, for whatsoever reason including owing to system failure or loss of connectivity.
- xxvii. That I/We shall not alienate or part with any portion of the equipment /equipment of the ICEXNET or any equipment connected with the ICEXNET in any manner whatsoever including by way of Mortgage, Hypothecation, Pledge, Exchange, Gift, Lease, License, Agency etc.
- xxviii. I/we agree to provide the Telecom Engineering Centre (TEC) approved equipment and cables at my/our end for the leased connectivity between the trading system and my/our premises.
- xxix. I/We agree that the Point-to-Point Leased Line connectivity may be deactivated at any point of time on failure of compliance with the above conditions, till such time the necessary corrections are incorporated.
- xxx. I/We agree that the trading facility through the Point-to-Point Leased Line may be withdrawn by ICEX at any point of time at its own discretion without assigning any reason whatsoever.

I/We agree to follow up with the respective service providers from whom I/we have availed the services, for any refund and/or for transfer/shifting and surrender or any such requirements.

To indemnify and keep indemnified ICEX to the extent of the damage, loss, harm, costs or which shall be incurred by ICEX as a consequence of any.

- a. Contravention of any of the clauses mentioned above for which I/We am/are giving this undertaking to comply with or
- b. Contravention of any of the Bye-laws, Rules, Regulations framed by ICEX upon which ICEX may adopt any course of action which may be either

disciplinary or legal or impose any other penalty which ICEX may deem necessary, which shall include the right of ICEX to demand any amount of monetary compensation for any default on the part of Exchange Member/from the Exchange Member, and which amount in the case of a default in payment, may be adjusted by ICEX at his discretion against my/our security deposit with ICEX.

Signed and delivered by the within named Exchange Member

For \_\_\_\_\_

**WITNESSES**

Signature

(1) NAME  
ADDRESS:

Signature

(2) NAME :  
ADDRESS:

BEFORE ME