

COMMERCIAL AGREEMENT

NO:

Date:

Cleared Version



This Commercial Agreement (the “**Agreement**”) is made by and between **Selling Party** and **Buying Party** indicated in Annex 1 to the Agreement (“**Annex 1**”). Selling Party and Buying Party may be collectively referred to as “**Parties**” or individually as “**Party**”.

WHEREAS, Each Party is a member of SteelHedge™, a peer-to-peer price risk management platform that facilitated entering into this Agreement and whose current licensing terms are incorporated into it by reference (“**SteelHedge**”);

WHEREAS, Selling Party is willing to ensure that its average sales price for a certain quantity (“**Quantity**”) of certain goods in a certain month (“**Settlement Month**”) will not fall below a certain price level (“**Price Floor**”), and Buying Party is willing to ensure that its average purchase price for the same Quantity of certain goods in the same Settlement Month will not rise above a certain price level (“**Price Cap**”), with such Quantity, Settlement Month, Price Floor and Price Cap indicated in Annex 1;

WHEREAS, Each Party has considered that a certain Price Index, or a combination of Price Indexes reported by independent price reporting agencies (“**Market Price**”) is sufficiently correlated with the prices of sold or purchased goods to reduce (hedge against) market risk, with such Price Indexes and Market Price at the inception of this Agreement (“**Inception Market Price**”) indicated in Annex 1;

WHEREAS, Each Party acknowledges and agrees that any usage of Price Indexes reported by a selected price reporting agency (“**Data Provider**”) is subject to its standard terms and conditions (“**Data Usage Terms**”), with such Data Provider and Data Usage Terms indicated in Annex 1 and incorporated into this Agreement by reference;

WHEREAS Each Party holds an account with Clearing Member Bank indicated in Annex 1;

WHEREAS Each Party is willing to use Price Floor, Price Cap and Market Prices in all calculations under this Agreement.

NOW THEREFORE, Parties agree as follows:

1. Rights and Obligations

- 1.1. If, at the completion of Settlement Month, the average Market Price over Settlement Month rises above Price Cap, Selling Party shall owe and pay to Buying Party an amount in cash calculated as their difference multiplied by Quantity (“**Settlement Amount**”).
- 1.2. If, at the completion of Settlement Month, the average Market Price over Settlement Month falls below Price Floor, Buying Party shall owe and pay to Selling Party Settlement Amount calculated as their difference multiplied by Quantity.
- 1.3. If, at the completion of Settlement Month, the average Market Price over Settlement Month remains within the pricing corridor formed by Price Cap and Price Floor, including the instance of zero pricing corridor formed by the same Price Cap and Price Floor, no Party shall owe and pay any amount to the other Party.
- 1.4. The average Market Price over Settlement Month shall be calculated by adding all Market Prices officially released by Data Provider during Settlement Month and dividing their sum by the number of such Market Prices. If Market Prices are reported as a price range, each Market Price shall be calculated by adding the higher value to the lower value and dividing their sum by two.

2. Submission for clearing

- 2.1. Each Party has agreed to submit this Agreement for clearing by Clearing House indicated in Annex 1.
- 2.2. To be accepted for clearing, the Agreement must be affirmed by Clearing House and Clearing Member Bank. The relationship of each Party with Clearing Member Bank is governed by a separate bilateral agreement that incorporates payment obligations under this Agreement by reference. Parties hereby instruct SteelHedge and Clearing Member Bank to submit the terms of this Agreement to Clearing House on their behalf.
- 2.3. If this Agreement is not accepted for clearing, it shall be terminated, and Parties shall be released from any further obligations hereunder.

3. Payments and Settlement

- 3.1. Once accepted for clearing, this Agreement shall be novated (replaced) with two contracts on the same economic terms between each Party and Clearing House, which shall be governed by the latter's clearing terms and conditions ("**Clearing Rules**"). In case of any discrepancies between this Agreement and Clearing Rules, the latter shall prevail.
- 3.2. Each Party agrees to make payments under this Agreement according to Clearing Rules. All amounts shall be calculated by Clearing House based on Market Prices supplied by Data Provider through SteelHedge or Clearing Member Bank under respective licensing agreements. All payments shall be made through Clearing Member Bank.
- 3.3. Each Party shall pay to Clearing House an initial security deposit ("**Initial Margin**") indicated in Annex 1, which shall be held by Clearing House in trust until the completion of Settlement Month and settlement per Clause 3.7.
- 3.4. Each time Market Price rises above Price Cap by a variation indicated in Annex 1 ("**Market Price Variation**"), Selling Party shall pay to Clearing House an (additional) security deposit ("**Variation Margin**") calculated as Market Price Variation multiplied by Quantity.
- 3.5. Each time Market Price falls below Price Floor by Market Price Variation, Buying Party shall pay to Clearing House Variation Margin calculated as Market Price Variation multiplied by Quantity.
- 3.6. Clearing House shall hold Variation Margins in trust until the completion of Settlement Month and the calculation of Settlement Amount. The owing Party shall pay each Variation Margin after a corresponding request has been made by Clearing House through Clearing Member Bank.
- 3.7. At the completion of Settlement Month, Clearing House shall (a) calculate and pay to the owed Party Settlement Amount, if any, and (b) refund to each Party all security deposits that remain in trust after such payment. If the sum of security deposits paid by the owing Party is inferior to Settlement Amount, the owing Party shall immediately pay the resulting shortfall to Clearing House.
- 3.8. Each Party is solely responsible for Clearing Fees indicated in Annex 1 and taxes that may be payable in its country in relation to this Agreement.
- 3.9. If Data Provider discontinues reporting Market Prices before the completion of Settlement Month for any reason, Parties shall select another Price Index, or a combination of Price Indexes, reported by Data Provider or another price reporting agency in the SteelHedge network and

offering the highest linear correlation with the discontinued Market Prices, and inform Clearing House through Clearing Member Bank accordingly. If Parties fail to do so within ten (10) days after such discontinuation, or Clearing House does not affirm such modified terms, Settlement Month shall be changed to the last full month when Market Prices have been reported by Data Provider.

4. Events and Consequences of Default

- 4.1. Any Party failing to pay on time Initial or Variation Margin due to Clearing House shall be considered in technical default, which shall be notified to the owing Party through Clearing Member Bank. Following such notice, the owing Party shall pay the required amount within three (3) days thereof.
- 4.2. A failure to cure the technical default by any Party shall constitute a material breach of this Agreement (“**Default**”) and cause the defaulting Party to irrevocably forfeit its rights per Clauses 1.1. and 1.2. The defaulting Party shall be further bound by post-default provisions of Clearing Rules.

5. Governing Law and Dispute Resolution

- 5.1. This Agreement is governed by English law.
- 5.2. If any dispute arises under this Agreement, Parties shall first attempt to settle it by negotiation or mediation, which shall start within ten (10) days of one Party issuing such request to the other Party. If the dispute is not settled within the following twenty (20) days or another deadline agreed by Parties in writing, the dispute shall be referred to arbitration.
- 5.3. Unless agreed otherwise, any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of London Court of International Arbitration (LCIA), which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one (1) if the related claim amount is below two hundred fifty thousand (250'000) US Dollars or its equivalent, in all other cases the number of arbitrators shall be three (3). The seat of arbitration shall be in London, UK. The language of the arbitral proceedings shall be English. The prevailing Party shall be entitled to its fees and expenses of counsel and all costs associated with the arbitration, including the fees and costs incurred in the recognition and enforcement of any award.

6. General Conditions

- 6.1. This Agreement and its Annexes constitute the entire agreement between Parties. Any modifications to this Agreement must be mutually agreed to in writing. The headings of this Agreement are used for its formatting and do not define, limit or construe obligations of Parties.
- 6.2. Validity of this Agreement starts from the date of its signing by both Parties and lasts till a complete fulfillment of their mutual obligations, unless the Agreement is novated or terminated as provided above.
- 6.3. Failure by either Party to require performance or to claim a breach of this Agreement shall not be construed as a waiver of any subsequent breach, nor affect the binding nature of this Agreement, nor prejudice either Party with regards to any subsequent action.



- 6.4. If any provision of this Agreement is determined to be invalid or unenforceable, such provision shall not affect the validity or enforceability of the remainder of the provision or of any other provision of this Agreement, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of Parties set forth herein.
- 6.5. Neither Party may assign the whole or any part of its rights and obligations under this Agreement to a third party without the prior consent of the other Party.
- 6.6. All notices and requests under this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to Party to be notified, (b) when sent by confirmed email or facsimile during normal business hours of the recipient, and if not so confirmed, then on its next business day, or (c) when delivered by registered letter or recognized courier service, with written confirmation of receipt.

IN WITNESS WHEREOF, Parties have executed this Agreement by their authorized officers on the date indicated above.

Annex 1

Selling Party: _____

Buying Party: _____

Data Provider: _____

Data Usage Terms: _____

Commercial terms:

Quantity: _____

Settlement Month: _____

Price Indexes: _____

Inception Market Price: _____

Price Cap: _____

Price Floor: _____

Payments and settlement:

Clearing House: _____

Clearing Member Bank (CMB): _____

Initial Margin: _____

Market Price Variation: _____

Selling Party IBAN with CMB: _____

Buying Party IBAN with CMB: _____

Clearing Fees: _____