

**Please return to CDCC the Porting Instructions executed with the statement of risk account to [cdcc-ops@tmx.com](mailto:cdcc-ops@tmx.com)**

**[CLEARING MEMBER LETTERHEAD]**

[Date]

BY EMAIL ONLY

**Canadian Derivatives Clearing Corporation (“CDCC”)**

1800 - 1190 Avenue des Canadiens-de-Montréal

P.O. Box 37

Montréal, Quebec

H3B 0G7, Canada

[cdcc-ops@tmx.com](mailto:cdcc-ops@tmx.com)

**SUBJECT : INSTRUCTION TO THE CANADIAN DERIVATIVES CLEARING CORPORATION (“CDCC”) FROM THE RECEIVING CLEARING MEMBER & CLIENT RELATED TO PORTING (THE “PORTING INSTRUCTIONS”)**

This document sets forth instructions to be provided to CDCC in the event that a Client requests a transfer by way of Porting due to the suspension of a Non-Conforming Clearing Member, and further sets forth the terms and conditions between the Receiving Clearing Member, Client and CDCC.

Terms not defined herein shall have the same meaning as given in the CDCC Rules and Operations Manual (the “**CDCC Rules**”).

## **I. DEFINITION**

In this document, the following terms mean:

“**Client**”: a customer of a Clearing Member at CDCC

## **II. GENERAL PROVISIONS**

By signing and submitting the Porting Instructions to CDCC:

1. The Client acknowledges and agrees that:
  - a. The Receiving Clearing Member acts as principal at all times in relation to the Porting Instructions with CDCC;
  
2. The Receiving Clearing Member :
  - a. Acknowledges that:
    - i. Once the Porting Instructions and the statement of Risk Account are sent to CDCC, its acceptance of the Client and Risk Account is irrevocable;
    - ii. It is fully liable for authenticating the identity of the Client requesting a transfer by way of Porting (including the client legal authority);
    - iii. Once CDCC confirms proceeding with the transfer by way of Porting, it will be fully liable for all obligations related to the client ported Open Positions and Porting Base Initial Margin Risk Account during and after the Default Management Period;
    - iv. That any failure to accept a transfer by way of Porting of positions or meet any obligations associated with the ported Risk Account will be deemed a breach of obligations and such that the Receiving Clearing Member shall become liable for all fees, expenses and obligations incurred by the Corporation in connection with the Clearing Member’s failure to honor its obligations.
    - v. A failure to pay the costs and damages will automatically result in the determination by the Corporation of a Non-Conforming Member status
  
  - b. Confirms being in compliance with all applicable laws and having performed all appropriate verifications on the Client and its accounts that are held at the defaulting Clearing Member (which includes but is not limited to the Client’s due diligence, Know Your Client (“KYC”), Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and associated Regulations ;
  
  - c. Authorizes CDCC to manually proceed with completing the confirmation of the transfer in its system on behalf of the Clearing Member, if the Receiving Clearing Member fails to complete its acceptance in the CDCC system (the transfer of collateral at the Canadian Depository for Securities will be in an auto confirm status by the CDCC systems);

3. Each of the Client and the Receiving Clearing Member
  - a. Represents and warrants to CDCC that:
    - i. It has taken all the necessary steps to allow for the transfer by way of Porting;
    - ii. Its signatories are duly authorized to enter, deliver, or provide the instructions, confirmations, representations and warranties herein and to execute the Porting Instructions (or provide any other documentation);
    - iii. The information that it has indicated in the Porting Instructions is accurate and complete in all respects;
  - b. Acknowledges that:
    - i. It is not entitled to, and agrees that it will not, petition a court or take any action or commence any proceedings against CDCC, directly or indirectly and will if any such action is taken fully indemnify CDCC against any costs, losses or other consequences of Client or Receiving Clearing Member taking any such action;
    - ii. The aforementioned instructions are subject to the limitation of liability provisions set forth in the CDCC Rules. For greater clarity, each of the Client and the Receiving Clearing Member acknowledges that neither CDCC, nor its employees, directors, or officers, will have any liability of any kind arising from errors, omissions, acts done or steps taken in connection with the aforementioned instructions;
    - iii. Any errors shall be notified to CDCC by the Receiving Clearing Member in writing within one business day. Any errors that either (i) are not so notified; or (ii) have been so notified but are not corrected by CDCC within the same business day of the transfer (or such later time as may be agreed with the CDCC in writing prior to the expiry of such period), shall in either case be the responsibility and cost of the Receiving Clearing Member and Client to manage or deal with.
  - c. Agrees that neither CDCC nor any of its affiliates will be liable to the Client, the Receiving Clearing Member or any third party for: (i) acting upon any erroneous instructions of the Client or the Receiving Clearing Member in the information contained in these Porting Instructions; or (ii) any claim that a Client or Receiving Clearing Member may have with respect to Porting or (iii) as otherwise required by the Rules.

### **III. PORTING PROVISIONS**

Each of the Client and the Receiving Clearing Member acknowledges that:

4. Once CDCC confirms permitting transfers by way of Porting, the Porting Instructions are binding on the Client, the Receiving Clearing Member and CDCC, and are governed by and shall be construed in accordance with the CDCC Rules, the laws of Canada and of the Province of Quebec;
5. CDCC shall be entitled to rely on all representations and warranties given by the Receiving Clearing Member or the Client (as the case may be) when acting upon the Porting Instructions. Each of the Client and the Receiving Clearing Member further acknowledges that CDCC may ask for further evidence in support of the Client's and / or Receiving Clearing Member's authority to execute Porting Instructions, and that CDCC has the right to obtain any additional information or clarification from the Receiving Clearing Member (including Client's personal data);
6. CDCC may select Porting Instructions to be dealt with in such order as it sees fit, based on such criteria as it determines are relevant, including completeness and due execution of legibility, time of receipt, size of positions, lawfulness of porting, whether risk increasing or risk decreasing and satisfaction of the requirements of the CDCC Rules;
7. Due to operational constraints and depending on market conditions it may not be possible for CDCC to (i) proceed any request of transfer by way of Porting or (ii) proceed with a transfer by way of Porting, but not be able to process all Porting instructions received (irrespective of when such instructions are received);
8. Any deadlines related to Porting Instructions may be extended at CDCC's discretion by Notice to Members.
9. If the Porting Instructions are (i) not provided within the time frame specified by CDCC (ii) incomplete, missing or have unreadable information (iii) received after the deadline indicated in a Notice to Members, Client's positions and collateral will be liquidated in accordance with the current CDCC default management process
10. CDCC shall have no liability or obligation to the Client or to the Receiving Clearing Member in respect of Porting Instructions received. CDCC shall be under no obligation to make any enquiry into, and shall be fully entitled to rely on, any instructions or directions with respect to Porting Instructions, the identity of the Client or the assets recorded therein or transferred thereto or therefrom received from a Receiving Clearing Member and a Client that CDCC believes to be authorized to act;

SIGNATURES to the Porting Instructions

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**Receiving Clearing Member**

Authorized Representative name, title, address & signature

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**Client**

Full Legal Name

Authorized signatory's name, title, address & signature

**Transfer information**

Receiving Clearing Member Information	
CDCC Clearing Member Name:	
CDCC Clearing Member Number:	
CDCC Clearing Account Number to transfer derivative positions to:	
Depository CUID to transfer collateral to:	
Depository Internal Account to transfer collateral to:	

**The CDCC statement of risk account and other documents shall be provided with the Porting Instructions.**

SIGNATURES to the Transfer information:

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**Receiving Clearing Member**

Authorized Representative name, title, address & signature

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**Client**

Full Legal Name

Authorized signatory's name, title, address & signature