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December 3, 2020

<u>Submitted via CFTC Portal</u>

Mr. Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: *<u>tpSEF Inc. – Regulation 40.2 Certification of BCOM WTI Crude Oil Exotic Options (tpSEF Submission #20-320P)</u>*

Dear Mr. Kirkpatrick:

tpSEF Inc. ("tpSEF") hereby notifies the Commodity Futures Trading Commission (the "Commission") of its intent to list BCOM WTI Crude Oil Exotic Options (the "Contract") on tpSEF's swap execution facility. tpSEF intends to list this Contract on December 5, 2020.

Pursuant to Commission Regulation 40.2, this submission includes:

i. The intended listing date – December 5, 2020;

ii. A certification by tpSEF that: (a) the Contract complies with the Commodity Exchange Act, as amended, and the Commission regulations thereunder; and (b) concurrent with this submission, tpSEF posted on its website: (i) a notice of pending certification of the Contract, and (ii) a copy of this submission, attached as <u>Exhibit A</u>;

iii. The terms and conditions of the Contract, attached as <u>Exhibit B</u>; and

iv. An explanation and analysis of the Contract's compliance with applicable core principles and Commission regulations, attached as <u>Exhibit C</u>.

tpSEF will be separately updating Appendix B to its Rulebook (tpSEF Inc. Swap Specifications) to reflect the listing of the Contract.

Questions regarding this submission should be directed to Brian Donnelly, Chief Compliance Officer, at (201) 984-6956 or by email at bddonnelly@tullettprebon.com.

Very truly yours,

tpSEF Inc.

By:________________________

Name: Brian D. Donnelly

Title: Chief Compliance Officer

Date: December 3, 2020

Enclosures

cc: CFTC Division of Market Oversight (dmosubmissions@cftc.gov)
Nancy Markowitz, CFTC (nmarkowitz@cftc.gov)

EXHIBIT A

CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY EXCHANGE ACT, 7 U.S.C. §7A-2 AND COMMODITY FUTURES TRADING COMMISSION REGULATION 40.2, 17 C.F.R. §40.2

tpSEF Inc. ("tpSEF") hereby certifies that: (i) BCOM WTI Crude Oil Exotic Options (the "Contract") comply with the Commodity Exchange Act, 7 U.S.C. §1 *et seq*. and Commodity Futures Trading Commission ("Commission") regulations thereunder; and (ii) concurrent with this submission, tpSEF posted on its website: (a) a notice of pending certification of the Contract with the Commission and (b) a copy of this submission.

tpSEF Inc.

By:____________________________

Name: Brian D. Donnelly

Title: Chief Compliance Officer

Date: December 3, 2020

EXHIBIT B

Terms and Conditions

Summary:	This covers uncleared BCOM WTI Crude Oil Exotic Options ("Exotic Options").
Incorporated Standards:	This contract description incorporates by reference the following industry standard documentation and standards: (a) 2005 ISDA Commodity Derivatives Definitions ("Commodity Definitions"); (b) the 1998 FX and Currency Option Definitions, as amended and supplemented from time to time, including the 2005 Barrier Option Supplement to the 1998 FX and Currency Option Definitions (the "1998 Definitions"); and (c) ISDA OTC Taxonomies.
Limitations on Available Selections and Default Settings:	Each Exotic Option traded is bespoke and the terms agreed between the Buyer and Seller. All option strategies result in call options and/or put options executed with the following strategies traded as agreed between the parties: Knockout, Double Knockout, Knockin, One Touch, No Touch, Double One Touch, Double No Touch
Product Type/ISDA OTC Taxonomy:	
ISDA OTC Asset Class:	Commodity
ISDA OTC Base Product:	Energy
ISDA OTC Sub-Product(s):	Oil
Further Limitations:	Exotic
Terms:	
Trade Date:	The date the transaction is agreed to between the parties and becomes legally binding on the parties
Commodity:	As specified by the parties from among the Available Commodities.
Option Style:	As specified by the parties from among the Available Option Styles.
Option Type:	As specified by the parties from among the Available Option Types.
Buyer:	As specified by the parties.
Seller:	As specified by the parties.
Commodity Reference Price:	As specified by the parties from among the Available

	Commodity Reference Prices.
Business Day:	As specified by the parties.
Business Day Convention:	As specified by the parties.
Pricing Date(s):	As specified by the parties.
Strike Price:	As specified by the parties.
Expiration Date:	As specified by the parties.
Expiration Time:	As specified by the parities.
Latest Exercise Time:	As specified by the parties.
Automatic Exercise:	As specified by the parties.
Business Days for Exercise Date:	For American Options, as specified by the parties.
Cash Settlement:	Applicable
Settlement Dates:	As specified by the parties from among the Available Business Day Convention.
Calculation Agent:	As agreed by the parties.
Settlement Amount:	In the case of a digital or binary option, as specified by the parties.
Settlement Date:	As specified by the parties.
Valuation Date:	As specified by the parties.
Averaging Dates:	As specified by the parties.
Premium:	As specified by the parties.
Premium Payment Date:	As specified by the parties.
Barrier Event:	As specified by the parties.
Calculation Agent:	As specified by the parties.
Market Disruption Events:	Unless otherwise specified by the parties, per the Commodity Definitions.
Disruption Fallbacks:	Unless otherwise specified by the parties, per the Commodity Definitions.

Exotic Option Available Option Type

Knockout
Double Knockout
Knockin
One Touch
No Touch
Double One Touch
Double No Touch

Exotic Option Available Option Style

Style	Description	Default

American	Can be exercised on any Exercise Business Day from and including the Commencement Date to and including the Expiration Date.	Yes
European	Can be exercised only on the Expiration Date.	No

Exotic Option Available Commodity Reference Prices

Abbr	Name
BCOMCL	BCOM WTI Crude Oil ER
BCOMCLC	BCOM WTI Crude Oil Capped ER

EXHIBIT C

EXPLANATION AND ANALYSIS OF THE CONTRACT'S COMPLIANCE WITH APPLICABLE CORE PRINCIPLES AND COMMISSION REGULATIONS

As required by Commodity Futures Trading Commission ("Commission") Regulation 40.2(a), the following analysis, in narrative form, demonstrates that BCOM WTI Crude Oil Exotic Options (the "Contract") are consistent with the requirements of the Commodity Exchange Act, as amended (the "Act"), and the Commission regulations and guidance thereunder (in particular, Appendix B to Part 37 and Appendix C to Part 38).

Appendix B to Part 37

CORE PRINCIPLE 3 OF SECTION 5H OF THE ACT—SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION; CORE PRINCIPLE 4 OF SECTION 5H OF THE ACT—MONITORING OF TRADING AND TRADE PROCESSING

The swap execution facility shall permit trading only in swaps that are not readily susceptible to manipulation.

(a) Guidance.

(1) In general, a swap contract is an agreement to exchange a series of cash flows over a period of time based on some reference price, which could be a single price, such as an absolute level or a differential, or a price index calculated based on multiple observations. Moreover, such a reference price may be reported by the swap execution facility itself or by an independent third party. When listing a swap for trading, a swap execution facility shall ensure a swap's compliance with Core Principle 3, paying special attention to the reference price used to determine the cash flow exchanges. Specifically, Core Principle 3 requires that the reference price used by a swap not be readily susceptible to manipulation. As a result, when identifying a reference price, a swap execution facility should either: Calculate its own reference price using suitable and well-established acceptable methods or carefully select a reliable third-party index.

(2) The importance of the reference price's suitability for a given swap is similar to that of the final settlement price for a cash-settled futures contract. If the final settlement price is manipulated, then the futures contract does not serve its intended price discovery and risk management functions. Similarly, inappropriate reference prices cause the cash flows between the buyer and seller to differ from the proper amounts, thus benefitting one party and disadvantaging the other. Thus, careful consideration should be given to the potential for manipulation or distortion of the reference price.

All of the terms are agreed upon by the parties at the start of the contract, and do not change throughout the life of the Exotic Options. Whether any Exotic Option has been hit is determined by well-established commodity market sources.

The Bloomberg WTI Crude Oil subindex, which serves as the index or reference price for the Exotic Options, is a subindex of the Bloomberg Commodity Index. It is intended to reflect the performance of crude oil as measured by the price of selected futures contract months of the NYMEX West Texas Intermediate sweet, light crude oil futures contract. It is a "rolling index," which means that it does not involve the taking of physical possession of crude oil. According to Bloomberg, "The roll occurs over a period of five business days in certain months according to a pre-determined schedule, generally beginning on the sixth business day of the month and ending on the tenth business day. Each day, approximately 20% of each rolling futures position that is included in the month's roll is rolled, increasing from 0% to 20%, 40%, 60%, 80% and finally 100%." The index reflects the performance of its underlying crude oil futures contracts, including the impact of rolling, without regard to income earned on cash positions.

The underlying commodity index is based on comprehensive, well-established and transparent rules that govern, among other things, the selection of the futures contracts included in the index, the rebalancing of the index, the calculation procedures and timing of the pricing of the index. In addition, the relevant commodity index is comprised of futures contracts physical commodities that are actively traded which makes the market for the commodity index itself deep and liquid. In addition, NYMEX has a well-developed surveillance program that serves to detect and prevent market abuses and ensure the orderly trading of the WTI futures contracts that comprise the index. Finally, tpSEF Inc. ("tpSEF") has established rules and an enforcement infrastructure to prevent manipulation. tpSEF staff conduct real-time market surveillance and the National Futures Association ("NFA") provides regulatory services on a T+1 basis. NFA's services include comprehensive trade practice and market surveillance services (the scope of which can be found in the Regulatory Services Agreement between NFA and tpSEF submitted to the Commission as part of tpSEF's swap execution facility application) (note that the foregoing also demonstrates compliance with Core Principle 4).

(3) For swaps that are settled by physical delivery or by cash settlement refer to the guidance in Appendix C to Part 38 of this chapter—Demonstration of Compliance that a Contract is not Readily Susceptible to Manipulation, section b(2) and section c(4), respectively.

Please see below.

<u>**Appendix C to Part 38 - Demonstration of Compliance That a Contract Is Not Readily Susceptible to Manipulation**</u>

(c) Futures Contracts Settled by Cash Settlement. (1) Cash settlement is a method of settling certain futures or option contracts whereby, at contract expiration, the contract is settled by cash payment in lieu of physical delivery of the commodity or instrument underlying the contract. An acceptable specification of the cash settlement price for commodity futures and option contracts would include rules that fully describe the essential economic characteristics of the underlying commodity (e.g., grade, quality, weight, class, growth, issuer, maturity, source, rating, description of the underlying index and index's calculation methodology, etc.), as well as how the final settlement price is calculated. In addition, the rules should clearly specify the trading months and hours of trading, the last trading day, contract size, minimum price change (tick size) and any limitations on price movements (e.g., price limits or trading halts).

Essential Economic Characteristics of the Exotic Options Terms

The terms and conditions of the Exotic Options match the terms that are commonly offered in the U.S. market and are listed in <u>Exhibit B</u>. As is common with energy exotic options, the Contract has several flexible terms. For instance, counterparties are able to choose the option style and tenor of the option, and commodity futures contract from a list of commodities contracts (see Exhibit B). Other flexible terms include the Contract's notional amount, minimum size, and settlement date. The trading hours, however, are fixed at twenty-three hours, Sunday – Friday (ET).

Calculation of Cash Settlement Price

In the case of a call option, if the reference price is in excess of the strike price, then the seller of the option will owe the option buyer cash in an amount equal to the difference between that reference price and the strike price agreed at the inception of the Contract. If the reference price is at or below the strike, no payment is due on exercise. In the case of a put option, if the reference price is less than the strike price, then the seller of the option will owe the option buyer cash in an amount equal to the difference between that the strike price agreed at the inception of the Contract and that reference price. If the reference price is at or above the strike, no payment is due on exercise.

(2) Cash settled contracts may be susceptible to manipulation or price distortion. In evaluating the susceptibility of a cash-settled contract to manipulation, a designated contract market should consider the size and liquidity of the cash market that underlies the listed contract in a manner that follows the determination of deliverable supply as noted above in (b)(1). In particular, situations susceptible to manipulation include those in which the volume of cash market transactions and/or the number of participants contacted in determining the cash-settlement price are very low. Cash-settled contracts may create an incentive to manipulate or artificially influence the data from which the cash-settlement price is derived or to exert undue influence on the cash-settlement price's computation in order to profit on a futures position in that commodity. The utility of a cash-settled contract for risk management and price discovery would be significantly impaired if the cash settlement price is not a reliable or robust indicator of the value of the underlying commodity or instrument. Accordingly, careful consideration should be given to the potential for manipulation or distortion of the cash settlement price, as well as the reliability of that price as an indicator of cash market values. Appropriate consideration also should be given to the commercial acceptability, public availability, and timeliness of the price series that is used to calculate the cash settlement price. Documentation demonstrating that the settlement price index is a reliable indicator of market values and conditions and is commonly used as a reference index by industry/market agents should be provided. Such documentation may take on various forms, including carefully documented interview results with knowledgeable agents.

The Contract operates in liquid commodity markets with many participants. Also, as noted above, the reference price which serves as the basis for cash settlement price is not easily susceptible to manipulation or distortion. In that regard, it is based on (a) factors that are fixed at the start of the contract, (b) is calculated by a reliable third party, and (c) is based on prices from actively traded futures contracts.

(3) Where an independent, private-sector third party calculates the cash settlement price series, a designated contract market should consider the need for a licensing agreement that will ensure the designated contract market's rights to the use of the price series to settle the listed contract. (i) Where an independent, private-sector third party calculates the cash settlement price series, the designated contract market should verify that the third party utilizes business practices that minimize the opportunity or incentive to manipulate the cash-settlement price series. Such safeguards may include lock-downs, prohibitions against derivatives trading by employees, or public dissemination of the names of sources and the price quotes they provide. Because a cash-settled contract may create an incentive to manipulate or artificially influence the underlying market from which the cash-settlement price is derived or to exert undue influence on the cash-settlement computation in order to profit on a futures position in that commodity, a designated contract market should, whenever practicable, enter into an information-sharing agreement with the third-party provider which would enable the designated contract market to better detect and prevent manipulative behavior.

As described above, the cash settlement reference price is calculated through a method that is not easily susceptible to manipulation.

(ii) Where a designated contract market itself generates the cash settlement price series, the designated contract market should establish calculation procedures that safeguard against potential attempts to artificially influence the price. For example, if the cash settlement price is derived by the designated contract market based on a survey of cash market sources, the designated contract market should maintain a list of such entities which all should be reputable sources with knowledge of the cash market. In addition, the sample of sources polled should be representative of the cash market, and the poll should be conducted at a time when trading in the cash market is active.

Please see above regarding the calculation of the cash settlement price.

(iii) The cash-settlement calculation should involve computational procedures that eliminate or reduce the impact of potentially unrepresentative data.

Please see above regarding the calculation of the cash settlement price.

(iv) The cash settlement price should be an accurate and reliable indicator of prices in the underlying cash market. The cash settlement price also should be acceptable to commercial users of the commodity contract. The registered entity should fully document that the settlement price is accurate, reliable, highly regarded by industry/market agents, and fully reflects the economic and commercial conditions of the relevant designated contract market.

Please see above regarding the calculation of the cash settlement price.

(v) To the extent possible, the cash settlement price should be based on cash price series that are publicly available and available on a timely basis for purposes of calculating the cash settlement price at the expiration of a commodity contract. A designated contract market should make the final cash settlement price and any other supporting information that is appropriate for release to the public, available to the public when cash settlement is accomplished by the derivatives clearing organization. If the cash settlement price is based on cash prices that are obtained from non-public sources (e.g., cash market surveys conducted by the designated contract market or by third parties on behalf of the designated contract market), a designated contract market should make available to the public as soon as possible after a contract month's expiration the final cash settlement price as well as any other supporting information that is appropriate or feasible to make available to the public.

Please see above regarding the calculation of the cash settlement price. The reference price, or data necessary to calculate the reference price, is publicly available on exchanges' websites.

(4) Contract terms and conditions requirements for futures contracts settled by cash settlement.

(i) An acceptable specification of the terms and conditions of a cash-settled commodity contract will also set forth the trading months, last trading day, contract size, minimum price change (tick size) and daily price limits, if any.

Please see Exhibit B for the Exotic Options' terms and conditions. While there are a number of common terms, many of the terms are flexible. Nevertheless, the terms are all within commonly accepted market norms.

(A) Commodity Characteristics: The terms and conditions of a commodity contract should describe the commodity underlying the contract.

The terms and conditions of the Exotic Options specifically list the commodities on which counterparties can choose to base the Exotic Option.

(B) Contract Size and Trading Unit: An acceptable specification of the trading unit would be a contract size that is consistent with customary transactions in the cash market. A designated contract market may opt to set the contract size smaller than that of standard cash market transactions.

The size of the Exotic Option is as determined by the counterparties, which is consistent with customary transactions in the market.

(C) Cash Settlement Procedure: The cash settlement price should be reliable, acceptable, publicly available, and reported in a timely manner as described in paragraphs (c)(3)(iv) and (c)(3)(v) of this appendix C.

The cash settlement procedure, and an explanation of how it is not readily susceptible to manipulation, is described above.

(D) Pricing Basis and Minimum Price Fluctuation (Minimum Tick): The minimum price increment (tick) should be set a level that is equal to, or less than, the minimum price increment commonly observed in cash market transactions for the underlying commodity. Specifying a futures' minimum tick that is greater than the minimum price increment in the cash market can undermine the risk management utility of the futures contract by preventing hedgers from efficiently establishing and liquidating futures positions that are used to hedge anticipated cash market transactions or cash market positions.

As determined by the counterparties.

(E) Maximum Price Fluctuation Limits: Designated contract markets may adopt price limits to: (1) Reduce or constrain price movements in a trading day that may not be reflective of true market conditions but might be caused by traders overreacting to news; (2) Allow additional time for the collection of margins in times of large price movements; and (3) Provide a "cooling-off" period for futures market participants to respond to bona fide changes in market supply and demand fundamentals that would lead to large cash and futures price changes. If price-limit provisions are adopted, the limits should be set at levels that are not overly restrictive in relation to price movements in the cash market for the commodity underlying the futures contract. For broad-based stock index futures contracts, rules should be adopted that coordinate with New York Stock Exchange ("NYSE") declared Circuit Breaker Trading Halts (or other market coordinated Circuit Breaker mechanism) and would recommence trading in the futures contract only after trading in the majority of the stocks underlying the index has recommenced.

As determined by the counterparties.

(F) Last Trading Day: Specification of the last trading day for expiring contracts should be established such that it occurs before publication of the underlying third-party price index or determination of the final settlement price. If the designated contract market chooses to allow trading to occur through the determination of the final settlement price, then the designated

contract market should show that futures trading would not distort the final settlement price calculation.

The last trading day will be the last day of the term of the option, which is set by the individual counterparties. The last trading day is the last opportunity for the holder of the of the option to exercise that right and, for European style options, the only opportunity for the holder of the option to exercise its that right.

(G) Trading Months: Trading months should be established based on the risk management needs of commercial entities as well as the availability of price and other data needed to calculate the cash settlement price in the specified months. Specification of the last trading day should take into consideration whether the volume of transactions underlying the cash settlement price would be unduly limited by occurrence of holidays or traditional holiday periods in the cash market. Moreover, a contract should not be listed past the date for which the designated contract market has access to use a proprietary price index for cash settlement.

The trading months will be set by the individual counterparties.

(H) Speculative Limits: Specific rules and policies for speculative position limits are set forth in part 150 and/or part 151, as applicable, of the Commission's regulations.

tpSEF will comply with Parts 150 and 151 of the Commission's regulations.

(I) Reportable Levels: Refer to § 15.03 of the Commission's regulations.

tpSEF will adhere to the applicable reporting levels set forth in § 15.03 of the Commission's regulations.

(J) Trading Hours: Should be set by the designated contract market to delineate each trading day.

The Exotic Options are traded twenty-three hours a day from Sunday to Friday Eastern Time. The Exotic Options are not traded between 5:30 p.m. and 6:30 p.m. Eastern Time.