EXHIBIT 5A

All text is new

LIMITED LIABILITY COMPANY AGREEMENT

of

NYSE AMEX OPTIONS LLC,

a Delaware limited liability company

DATED AS OF [_____], 2011

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES OR OTHER LAWS. BECAUSE SUCH SECURITIES HAVE NOT BEEN REGISTERED OR QUALIFIED THEY MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS THE SECURITIES HAVE BEEN QUALIFIED AND REGISTERED UNDER APPLICABLE STATE, FEDERAL, OR OTHER SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED. TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT MAY BE FURTHER SUBJECT TO THE RESTRICTIONS, TERMS AND CONDITIONS SPECIFIED HEREIN.

TABLE OF CONTENTS

Schedules
Schedule A – Members' Interest Allocations
Schedule 8.1(d)(i) – Directors Designated by NYSE Amex
Schedule 8.1(d)(ii) – Directors Designated by Founding Firms
Schedule 8.1(i)(v) – Board Decisions Requiring Supermajority Vote
Schedule 8.3(b) – Representatives to the Founding Firm Advisory Committee

Exhibits
Exhibit A – Form of Supplement

LIMITED LIABILITY COMPANY AGREEMENT
OF
NYSE Amex Options LLC,
a Delaware Limited Liability Company

This Limited Liability Company Agreement (this "Agreement") of NYSE Amex Options LLC, a Delaware limited liability company (the "Company"), is entered into pursuant to and in accordance with the Act (as defined herein) and shall be made as of this [•] day of [•], 2011 (the "Effective Date"), by and among those Persons (as defined herein) identified as Members (as defined herein) on Schedule A and NYSE Euronext (as defined herein).

WHEREAS, the Company has been formed on the date hereof as a limited liability company pursuant to the Act as described in Section 2.1;

WHEREAS, on the date hereof, the Company has issued Common Interests and Preferred Interests to the Members, and the Members, in consideration for the issuance, have made contributions to the Company, as described in Section 4.1 and as specified in an amended and restated contribution agreement dated as of February 22, 2011 by and among NYSE Euronext, the Company and the Members (the "Contribution Agreement");

WHEREAS, the Members and NYSE Euronext desire to enter into this Agreement in order to specify their respective rights and duties relating to the Company on the terms provided herein.

NOW, THEREFORE, in consideration of the agreements and covenants contained herein, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Terms. When used in this Agreement, the following terms shall have the meanings specified below (all terms used in this Agreement that are not defined in this Article I shall have the meanings specified elsewhere in this Agreement):

"19.9% Maximum Percentage" has the meaning specified in Section 4.9(a).

"AAA" has the meaning specified in Section 15.1(b).

"AAA Rules" has the meaning specified in Section 15.1(b).

"Act" means the Delaware Limited Liability Company Act, 6 Del. C. §18-101, et seq., as may be amended from time to time, or any successor federal statute then in effect.

"Advancement of Expenses" has the meaning specified in Section 8.5(d).

"Advisory Committee Member" has the meaning specified in Section 8.3(a).

"Affiliate" means, with respect to any Person, any other Person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such Person. The term "control," as used in this definition of "Affiliate" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, through the right or power to appoint majority of the board of directors, by contract or otherwise, and "controlled by" and "under common control" have corresponding meanings.

"Aggregate Class A Allocation" has the meaning specified in Section 10.2(b).

"Aggregate Class A Economic Allocation" has the meaning specified in Section 10.2(b).

"Aggregate Class A Voting Allocation" has the meaning specified in Section 10.2(b).

"Aggregate Class B Economic Allocation" means at any time, the proportion of the Common Interests and the entitlements to allocations of Net Profits and Net Losses and to Distributions represented by the Class B Common Interests (including the Non-voting Common Interests) in the aggregate. The Aggregate Class B Economic Allocation shall at all times be equal to one hundred percent (100%) minus the Aggregate Class A Economic Allocation.

"Aggregate Class B Voting Allocation" means at any time, the proportion of the Common Interests entitled to vote represented by the Class B Common Interests, in the aggregate. The Aggregate Class B Voting Allocation shall at all times be equal to one hundred percent (100%) minus the Aggregate Class A Voting Allocation.

"Aggregate Class B Allocation" means the Aggregate Class B Economic Allocation and the Aggregate Class B Voting Allocation, taken together.

"Agreement" has the meaning specified in the introduction to this Agreement.

"Already Pending Proceeding" has the meaning specified in Section 15.1(b)(iv).

"Alternate Maximum Percentage" has the meaning specified in Section 4.9(a).

"Annual Budget" means, with respect to any calendar year period, the budget for the operations of the Company during such period, as determined by Supermajority Vote of the Board.

"Approved Sale" has the meaning specified in Section 11.3(a).

"Associated Businesses" has the meaning specified in Section 9.7(a)(i).

"Available Cash" means, with respect to a Distribution pursuant to Section 6.1, cash (excluding cash in the Redemption Reserve) held by the Company at the time of such Distribution that both (i) is not required for the operations of the Company based on the Annual Budget of the Company for such year, and (ii) the Board determines in good faith is not required for (A) the payment of liabilities or expenses of the Company or (B) the setting aside of reserves to meet the anticipated cash needs of the Company.

"BAML" means Banc of America Strategic Investments Corporation, a corporation organized under the laws of the State of Delaware.

"Bankruptcy" means, with respect to any Person, such Person: (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4)(A) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official, or (B) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (A) above and either (I) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (II) is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) above (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

"Barclays" means Barclays Electronic Commerce Holdings Inc., a corporation organized under the laws of the State of Delaware.

"Base Rate" means, on any date, a variable rate per annum equal to the rate of interest published, from time to time, by The Wall Street Journal as the "prime rate" at large U.S. money center banks (or, if there is more than one such rate published, the average of such rates).

"Board" has the meaning specified in Section 8.1(a).

"Business Day" means any day other than (i) a Saturday or Sunday, (ii) a day on which commercial banks in New York City are required or permitted under applicable Laws to close for retail banking operations, and (iii) a "bank holiday" in London, England.

"Capital Account" means, with respect to any Member, the capital account maintained for such Member in compliance with Treas. Reg. §§ 1.704-1(b) and 1.704-2.

"Capital Contribution" means for each Member the total amount of cash and the agreed-upon value of property contributed (or deemed to be contributed) to the Company by such Member pursuant to Article IV and as specified on Schedule A-1 to the Contribution Agreement.

"Capped Distribution Amount" has the meaning specified in Section 7.5(a).

"Cause" means, in respect of any Director or the Chief Executive Officer, (a) the commission or alleged commission by such Director or Chief Executive Officer of (i) embezzlement of material amounts, (ii) theft of material goods or services, (iii) commission of a felony crime, or (iv) fraud, (b) material breach by such Director or Chief Executive Officer of his or her employment agreement or other contractual arrangements (in each case, if any) with the Company, which behavior (if curable) is not cured by such Director or Chief Executive Officer, as applicable, within the cure period specified in such employment agreement or contract, (c) behavior by such Director or Chief Executive Officer which is intended to be materially adverse to the business, condition (financial or otherwise), results of operations or prospects of the Company, (excluding participation in any vote, or in the case of a Director, furthering or engaging in any Associated Business or taking any action in his or her capacity as a Director), which behavior (if curable) is not cured within thirty (30) calendar days of such Director or Chief Executive Officer having received written notice thereof, (d) gross negligence by such Director or Chief Executive Officer, as applicable, in the performance of his or her duties, or (e) a violation by such Director or Chief Executive Officer, as applicable, of any Law governing the business or affairs of the Company or the Exchange.

"Certificate" means the Certificate of Formation for the Company originally filed with the Secretary of State of the State of Delaware and as amended from time to time.

"Chairman" has the meaning specified in Section 8.1(k).

"Chief Executive Officer" means the chief executive officer of the Company.

"Citadel" means Citadel Securities LLC, a limited liability company organized under the laws of the State of Delaware.

"Citigroup" means Citigroup Financial Strategies, Inc., a corporation organized under the laws of the State of Delaware.

"Class A Common Interests" means the Interests in the form of shares owned by NYSE Amex, as specified in Schedule A, having the rights and obligations specified in this Agreement.

"Class B Common Interests" means the Interests in the form of shares owned by each Founding Firm, as specified in Schedule A, having the rights and obligations specified in this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Common Interest Percentage" means, (i) with respect to NYSE Amex or a Transferee of Class A Common Interests, the product of (w) the Aggregate Class A Economic Allocation multiplied by (x) a fraction, (A) the numerator of which shall be the number of Class A Common Interests then held by NYSE Amex or such Transferee and (B) the denominator of which shall be the number of Class A Common Interests then held NYSE Amex and all such Transferees, and (ii) with respect to any Founding Firm or a Transferee of Class B Common Interests, the product of (y) the Aggregate Class B Economic Allocation multiplied by (z) a fraction, (A) the numerator of which shall be the number of Class B Common Interests then held by such Founding Firm or such Transferee, including, for the purpose of determining any economic entitlement or entitlement to designate a Director, any Non-voting Common Interests and (B) the denominator of which shall be the number of Class B Common Interests then held by all Founding Firms and all such Transferees, including, for the purpose of determining any economic entitlement or entitlement to designate a Director, any Non-voting Common Interests.

"Common Interests" means, collectively, the Class A Common Interests and Class B Common Interests.

"Company" has the meaning specified in the introduction to this Agreement.

"Company's Purposes" has the meaning specified in Section 3.1(b).

"Concentration Limitation" has the meaning specified in Section 11.8(b)(i).

"Confidential Information" has the meaning specified in Section 14.1(a).

"Contributed Assets" has the meaning specified in the Contribution Agreement.

"Contribution Agreement" has the meaning specified in the introduction to this Agreement.

"Controlling Interest" means, with respect to a Member, the direct or indirect ownership of 25% or more of the total voting power of such Member (other than voting rights solely with respect to matters affecting the rights, preferences or privileges of a particular class of equity securities), by any Person, alone or together with any Affiliate of such Person.

"Controlling Person" means, with respect to a Member, a Person who, alone or together with any Affiliate, owns a Controlling Interest in such Member.

"Default Interest Rate" means the Base Rate plus six percent (6%) or, if lower, the highest rate of interest permitted under applicable Law.

"Defending Party" has the meaning specified in Section 15.1(b)(i).

"Designating Founding Firm" has the meaning specified in Section 8.1(d)(ii).

"Director" has the meaning specified in Section 8.1(a).

"Disclosing Party" means, with respect to an item of Confidential Information, any Member or any Affiliate of a Member directly or indirectly disclosing, or providing access to such Confidential Information to another Person.

"Dispute" has the meaning specified in Section 15.1(a).

"Distribution" means any distribution made by the Company to a Member, whether in cash, property or Equity Securities and whether an operating distribution, liquidating distribution, redemption, repurchase or otherwise; provided that none of the following shall be deemed a "Distribution": (a) any repurchase by the Company of any Equity Securities of the Company in connection with the termination of employment of an employee of the Company or any of its Subsidiaries; (b) any recapitalization or exchange of Equity Securities of the Company, and any subdivision (by share split or otherwise) or any combination (by reverse share split or otherwise) of any outstanding Shares; or (c) any repurchase of Interests pursuant to any right of first refusal, right of first offer or similar repurchase right in favor of the Company.

"Drag Notice" has the meaning specified in Section 11.3(a).

"Effective Date" means the date specified in the introduction to this Agreement.

"Equity Securities" means, with respect to any Person, as applicable, (a) any capital stock, partnership, membership, joint venture or other ownership or equity interests, or other share capital of such Person, (b) any securities of such Person directly or indirectly convertible into or exchangeable for any capital stock, partnership, membership, joint venture or other ownership or equity interests, or other share capital (whether voting or non-voting, whether preferred, common or otherwise) of such Person or containing any profit participation features with respect to such Person, (c) any rights or options directly or indirectly to subscribe for or to purchase any capital stock, partnership, membership, joint venture or other ownership or equity interests, other share capital of such Person or securities containing any profit participation features with respect to such Person or directly or indirectly to subscribe for or to purchase any securities directly or indirectly convertible into or exchangeable for any capital stock, partnership, membership, joint venture or other ownership interests, other share capital of such Person or securities containing any profit participation features with respect to such Person, (d) any share or share appreciation rights, phantom share or share rights, contingent interest or other similar rights relating to such Person or (e) any equity securities of such Person issued or issuable with respect to the securities referred to in clauses (a) through (d) above in connection with a combination of shares, recapitalization, exchange, merger, consolidation or other reorganization.

"Event of Dissolution" has the meaning specified in Section 12.1(b).

"Excess Interests" has the meaning specified in Section 4.9(a).

"Exchange" has the meaning specified in Section 3.1(b).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor federal statute then in effect, and any reference to a particular section thereof shall

include a reference to the comparable section, if any, of any such similar statute, and the rules and regulations promulgated thereunder.

"Fair Market Value" or "FMV" means (i) with respect to the Company as of any date, the fair market value of the Company as determined in accordance with a process agreed upon by the Members; and (ii) with respect to any other asset as of any date, the fair market value on such date of such asset as determined in good faith by the Board or as otherwise provided in this Agreement.

"Final Adjudication" has the meaning specified in Section 8.5(d).

"Fiscal Year" with respect to the Company, has the meaning specified in Section 13.4.

"Founding Firm" shall mean (i) each of the Initial Members other than NYSE Amex and any Permitted Transferee(s) of such Initial Member (for the sake of clarity, other than any of its Required Transferees), taken collectively; provided that such Initial Member (taking into account ownership by its Permitted Transferees) has not ceased, for any period of time, to be a Member, it being understood that (A) such Initial Member and its Permitted Transferee(s) (for the sake of clarity, other than any of its Required Transferees) shall be deemed to be one (1) Founding Firm and (B) so long as such Initial Member holds any Class B Common Interests, such Initial Member shall be deemed the "Member" or "Founding Firm," as applicable, for purposes of any notice or certification provisions herein, (ii) any Required Transferee deemed to be a Founding Firm by the Board pursuant to Section 11.4(a) and (iii) any other Member, other than NYSE Amex, deemed to be a Founding Firm by the Board pursuant to Section 11.1(c).

"Founding Firm Advisory Committee" has the meaning specified in Section 8.3(a).

"Founding Firm Director" means a Director designated by a Designating Founding Firm pursuant to Section 8.1(d)(ii).

"GAAP" means generally accepted accounting principles in the United States.

"General Corporation Law" means the General Corporation Law of the State of Delaware, as amended, or any successor statute then in effect, and any reference to a particular section thereof shall include a reference to the comparable section, if any, of any such similar statute, and the rules and regulations promulgated thereunder.

"Goldman Sachs" means Goldman, Sachs & Co., a limited partnership organized under the laws of the State of New York.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any supra-national, governmental, federal, state, provincial, local governmental or municipal entity and any self-regulatory or quasi-governmental organization exercising executive, legislative, judicial, regulatory or administrative functions or pertaining to government (including, in each case, any branch, department or official thereof).

"Gross Asset Value" means, with respect to any Company asset, the adjusted basis of the Company asset for federal income tax purposes, except as follows:

(A) The initial Gross Asset Value of any Company non-cash asset contributed by a Member to the Company shall be the gross Fair Market Value of such Company asset as of the date of such contribution, it being agreed that the Gross Asset Value for purposes of the NYSE Amex non-cash contributions to the Company as of the Effective Date shall equal the amount specified in Schedule A-1 to the Contribution Agreement;

(B) The Gross Asset Value of each Company asset shall be adjusted to equal its respective gross Fair Market Value, as of the following times: (i) the acquisition of any additional Common Interests by any new or existing Member in exchange for more than a de minimis Capital Contribution or the grant of an interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a Member capacity or by a new Member acting in a Member capacity or in anticipation of becoming a Member; (ii) the distribution by the Company to a Member of more than a de minimis amount of Company assets (including cash) as consideration for all or part of its Common Interests unless the Board determines that such adjustment is not necessary to reflect the relative economic interests of the Members; (iii) the liquidation of the Company within the meaning of Treas. Reg. § 1.704-1(b)(2)(ii)(g); and (iv) in the Board's discretion, in accordance with GAAP, if substantially all of the Company's assets (excluding cash) consists of stock, securities or similar instruments that are readily tradable on an established securities market;

(C) The Gross Asset Value of a Company asset distributed to any Member shall be the Fair Market Value of such Company asset as of the date of distribution thereof;

(D) The Gross Asset Value of each Company asset shall be increased or decreased, as the case may be, to reflect any adjustments to the adjusted basis of such Company asset pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent that such adjustments are taken into account in determining Capital Account balances pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (d) to the extent that the Board determines that an adjustment pursuant to subparagraph (b) above is necessary or appropriate in conjunction with a transaction that would otherwise result in an adjustment pursuant to this subparagraph; and

(E) If the Gross Asset Value of a Company asset has been determined or adjusted pursuant to subparagraphs (A), (B) or (D), such Gross Asset Value shall thereafter be adjusted to reflect the depreciation or amortization taken into account with respect to such Company asset for purposes of computing Net Profits and Net Losses.

"Incapacity" means, as to any Person, the death, disability or the adjudication of incompetence or insanity of such Person, or Bankruptcy or dissolution of such Person (except in any case in which a Member that is a partnership or limited liability company shall be reconstituted by its remaining partners or members, as applicable, following any liquidation or dissolution caused by the legal incapacity of one or more of its partners or members, as applicable) or termination (other than by merger or consolidation), as the case may be, of such Person.

"Indemnitee" has the meaning specified in Section 8.5(a).

"Independent Director" has the meaning specified in Section 8.1(c).

"Initial Member" means any of NYSE Amex, Goldman Sachs, Citadel, BAML, Citigroup, TD Ameritrade, UBS, and Barclays.

"Initial Public Offering" means the first time a registration statement filed under the Securities Act with the Securities and Exchange Commission with respect to an offering, whether primary or secondary, of Interests (or securities convertible into, or exchangeable for, common stock or rights to acquire common stock or such securities of the Company or the New Company) is declared effective and the securities so registered are issued and sold.

"Interest" means the limited liability company interest in the Company owned by each Member including any and all benefits to which such Member may be entitled as provided in this Agreement or required by the Act, together with all obligations of such Member to comply with the terms and provisions of this Agreement.

"Law" means any and all (i) federal, territorial, state, local and foreign laws, ordinances, or regulations, (ii) codes, standards, rules, requirements, orders and criteria issued under any federal, territorial, state, local or foreign laws, ordinances or regulations, (iii) rules of any SRO and (iv) any and all judgments, orders, writs, directives, rulings, decisions, injunctions, decrees, assessments, settlement agreements, or awards of any governmental, judicial, legislative, executive, administrative or regulatory authority of the United States, or of any state, local, foreign, or multinational government, or any government of any possession or territory of the United States, or any subdivision, agency, commission, office or authority of any of the foregoing.

"Majority Vote" means, (i) with respect to matters submitted to the Board at a validly called meeting, the affirmative vote by those Directors representing greater than fifty percent (50%) of the Directors entitled to vote thereon and present in person or by proxy at such meeting, including, in the event that NYSE Amex's Common Interest Percentage exceeds fifteen percent (15%), the affirmative vote of Directors representing greater than fifty percent (50%) of the NYSE Amex Directors that are present in person or by proxy at the meeting and (ii) with respect to matters submitted to Members at a validly called meeting, the affirmative vote of those Members holding greater than fifty percent (50%) of the Common Interests entitled to vote thereon and present in person or by proxy at such meeting.

"Material Contract" means (i) any contract of the Company or a Subsidiary thereof necessary for the material operations of the Company or a Subsidiary thereof or (ii) any contract of the Company or a Subsidiary thereof that has a value in excess of $3 million per year.

"Maximum Percentage" means, for a Member, the lesser of the 19.9% Maximum Percentage and such Member's Alternate Maximum Percentage, if any.

"Member" means each Person who is a signatory to this Agreement (other than NYSE Euronext) or who has been admitted to the Company as a Member in accordance with this Agreement and has not ceased to be a Member in accordance with this Agreement or for any other reason.

"Members' Schedule" has the meaning specified in Section 10.1.

"Net Taxable Income" means, with respect to any annual or other period and any Member, the amount of net taxable income, if any, to be allocated to such Member for such period (excluding any items allocated under Section 704(c) of the Code with respect to contributed property).

"Net Profits" and "Net Losses" mean, with respect to any annual or other period, an amount equal to the Company's taxable income or loss for such period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be separately stated pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(A) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be added to such taxable income or loss;

(B) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) of the Code expenditures pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(i) (other than expenses in respect of which an election is properly made under Section 709 of the Code), and not otherwise taken into account in computing Net Profits or Net Losses pursuant to this definition shall be subtracted from such taxable income or loss;

(C) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (B) or (C) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such Company asset in computing Net Profits or Net Losses;

(D) Gain or loss resulting from any disposition of any Company asset with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Company asset disposed of, notwithstanding that the adjusted tax basis of such Company asset may differ from its Gross Asset Value;

(E) Depreciation with respect to any Company asset shall be computed by reference to the adjusted Gross Asset Value of such asset, notwithstanding that the adjusted tax basis of such Company asset differs from its Gross Asset Value; and

(F) To the extent an adjustment to the adjusted tax basis of a Company asset pursuant to Code Section 734(b) is required pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member's Interests, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Profits or Net Losses.

"New Claims" has the meaning specified in Section 15.1(b)(iv).

"New Company" has the meaning specified in Section 11.6.

"New Company Shares" has the meaning specified in Section 11.6.

"Non-Funded Interests" has the meaning specified in Section 4.5(b)(i).

"Non-Funding Member" has the meaning specified in Section 4.5(a).

"Non-Market Matters" means matters relating solely to one or more of the following: marketing, administrative matters, personnel matters, social or team-building events, meetings of Members, communication with Members, finance, location and timing of Board meetings, market research, real property, equipment, furnishings, personal property, intellectual property, insurance, contracts unrelated to the operation of the Exchange and de minimis items.

"Nonrecourse Deductions" has the meaning given to such term in Treas. Reg. § 1.704-2(b)(1).

"Nonrecourse Liability" has the meaning given to such term in Treas. Reg. § 1.704-2(b)(3).

"Non-voting Common Interests" means Class B Common Interests (i) designated as non-voting at the time of issuance; (ii) deemed to be non-voting pursuant to Section 7.5(b) or Section 7.5(d); or (iii) held by a Member, constituting Common Interests in excess of the 19.9% Maximum Percentage, absent SEC approval as contemplated in Section 11.8.

"NYSE Amex" means NYSE Amex LLC, a national securities exchange registered pursuant to Section 6 of the Exchange Act.

"NYSE Amex Director" means a Director designated by NYSE Amex pursuant to Section 8.1(d)(i).

"NYSE Amex Market Participant" means any Person that is an NYSE Amex options trading permit holder.

"NYSE Euronext" means NYSE Euronext, a Delaware corporation.

"NYSE Euronext Agreement" means that certain Services Agreement by and among the Company and NYSE Group, dated as of the Effective Date.

"NYSE Group" means NYSE Group, Inc., a Delaware corporation.

"Officer" or "Officers" has the meaning specified in Section 8.4(a).

"Participating Member" has the meaning specified in Section 4.4(c).

"Partner Nonrecourse Deductions" has the meaning specified in Treas. Reg. § 1.704-2(i).

"Permitted Persons" has the meaning specified in Section 9.7(a).

"Permitted Transfer" has the meaning specified in Section 11.4(a).

"Permitted Transferee" has the meaning specified in Section 11.4(a).

"Person" means an individual, partnership, limited liability company, trust, estate, association, joint stock company, unincorporated organization, governmental or regulatory body or other entity.

"Petitioning Party" has the meaning specified in Section 15.1(b)(i).

"Preferred Interests" means the preferred non-voting Interests owned by NYSE Amex (or any of its Transferees), including any and all benefits to which NYSE Amex may be entitled in respect of such preferred non-voting limited liability company interests, as provided in this Agreement.

"Preferred Return" means, with respect to Preferred Interests, an amount that accrues on the unpaid Priority Claim at the rate of one-year LIBOR plus two hundred and seventy-five (275) basis points reset daily.

"Price Per Interest" means, at any time, with respect to a Common Interest issued pursuant to Section 4.4, the Fair Market Value of the Company divided by the total number of Common Interests outstanding at such time.

"Priority Claim" means, upon any liquidation, dissolution, Sale of the Company or other similar realization event, the right of the Preferred Interest holder to receive the sum of (i) the amount of the non-cash Capital Contribution for the Preferred Interests identified on Schedule A-1 to the Contribution Agreement, reduced by the amount(s) paid by the Company (x) in respect of any redemptions of Preferred Interests pursuant to Section 11.5(a) or (y) otherwise as the Members may agree plus (ii) any accrued and unpaid Preferred Return thereon.

"Product" has the meaning specified in Section 3.1(b).

"Public Offering" means any underwritten sale for cash of the Equity Securities of the Company (or any successor thereto, whether by merger, conversion, consolidation, recapitalization, reorganization or otherwise) pursuant to an effective registration statement under the Securities Act filed with the Securities and Exchange Commission on Forms S-1 or S-3 (or any successor forms adopted by the Securities and Exchange Commission); provided that the following shall not be considered a Public Offering: (a) any issuance of Equity Securities of the Company in connection with and as consideration for a merger or acquisition, and (b) any issuance of Equity Securities of the Company to employees, officers, directors, consultants or other service providers of the Company or others as part of an incentive or compensation plan, agreement or arrangement.

"Qualified Public Offering" means an underwritten Public Offering that shall (a) give rise to at least $175,000,000 in gross proceeds (including gross proceeds received upon exercise of any over-allotment option by the underwriters) and (b) result in an implied valuation for the Equity Securities of the Company as a whole that will be no less than $550,000,000.

"Quarterly Tax Distribution" has the meaning specified in Section 6.2(a).

"Quorum" means, at any time, with respect to any matter, a combination of the Directors representing greater than fifty percent (50%) of the votes of all Directors who are elected and entitled to vote on such matter under this Agreement, including, in the case of any Supermajority Item, subject to the provisions of Section 8.1(i)(iv), a combination of Directors representing greater than fifty percent (50%) of the votes of all Directors designated by Designating Founding Firms.

"Receiving Party" means, with respect to an item of Confidential Information, any Member or any Affiliate of any Member directly or indirectly receiving such Confidential Information or access to such Confidential Information from another Person.

"Redemption Date" has the meaning specified in Section 11.5(e).

"Redemption Notice" has the meaning specified in Section 11.5(d).

"Redemption Option" has the meaning specified in Section 11.5(b).

"Redemption Reserve" has the meaning specified in Section 4.8(b).

"Regulatory Allocations" has the meaning specified in Section 5.2(d).

"Regulatory Call Notice" has the meaning specified in Section 4.3(a).

"Regulatory Capital Call" has the meaning specified in Section 4.3(a).

"Regulatory Capital Call Cap" has the meaning specified in Section 4.3(b).

"Regulatory Capital Contribution" has the meaning specified in Section 4.3(a).

"Regulatory Deficiency" means the operation of the Exchange or the Company (in connection with matters other than Non-Market Matters) in a manner that is not consistent with any Regulatory Matters Provision, the rules of NYSE Amex, as amended from time to time, or the federal securities laws, and the rules and regulations promulgated thereunder, applicable to the Exchange or NYSE Amex Market Participants, or that otherwise impedes NYSE Amex's ability to regulate the Exchange or NYSE Amex Market Participants or to fulfill its obligations under the Exchange Act as a SRO.

"Regulatory Matters Provision" means any of Sections 4.9 (with respect to provisions related to the 19.9% Maximum Percentage), 7.6, 8.1(d)(i), 8.1(e)(ii), 8.1(e)(iii), 8.1(h), 8.1(m), 9.3, 11.8, 13.2(c), 14.1(j), 14.1(k), 16.1 or 16.10 of this Agreement.

"Related Party Transaction" means any transaction relating to, between or among the Company on the one hand and, on the other hand, any (a) Member or any of its Affiliates or (b) any manager, officer or director of a Member or any of its Affiliates; provided that "Related Party Transactions" shall not include the NYSE Euronext Agreement.

"Representative" means, with respect to a Person: (i) any Affiliate of such Person, or (ii) any director, executive, officer, member, manager, employee, contractor, subcontractor, agent,

consultant, advisor or other representative, including legal counsel, accountant and financial advisors of such Person or of any Affiliate of such Person.

"Requested Amount" has the meaning specified in Section 4.5(a).

"Requesting Member" has the meaning specified in Section 13.6.

"Required Transferee" has the meaning specified in Section 11.4(a).

"Restricted Member" has the meaning specified in Section 7.5(a).

"Restricted Member Election" has the meaning specified in Section 7.5(a).

"Sale of the Company" means (a) the Transfer of all or substantially all of the Interests and/or other Equity Securities in the Company in any transaction or a series of related transactions, (b) the Transfer by the Company of all or substantially all of its assets, including a sale by the Company of the Exchange, in any transaction or a series of related transactions or (c) any merger, consolidation, reorganization or other business combination with any other entity in which the Company is not the surviving entity of such transaction (other than pursuant to a transaction or series of related transactions otherwise effected in accordance with the provisions of this Agreement in which the Members collectively own substantially the same equity interest and have substantially the same economic and voting rights in the Company both before and after such transaction(s)).

"Sanctioned Person" means a Person that the United States, the United Nations, Switzerland or the European Union (or any of its member states) has subjected to economic sanctions such as (i) blocking of assets, (ii) prohibiting any transactions with or involving such Person or (iii) any other regulatory action that restricts the ability of another Person lawfully to engage in business with, make payments or distributions to, or receive payments or contributions from, such Person.

"Securities Act" means the Securities Act of 1933, as amended, or any successor federal statute then in effect, and any reference to a particular section thereof shall include a reference to the comparable section, if any, of any such similar federal statute, and the rules and regulations promulgated thereunder.

"Securities and Exchange Commission" or "SEC" means the United States Securities and Exchange Commission or any successor.

"Selling Member" or "Selling Members" has the meaning specified in Section 11.3(a).

"Specified Entity" means, as of any date, (i) any U.S. securities option exchange (or facility thereof) or U.S. alternative trading system on which securities option contracts are executed (other than NYSE Amex or any of its Affiliates) that lists for trading any option contract that competes with a Product or a contract that is contemplated by the then-current business plan of the Company to be listed for trading by the Exchange within ninety (90) days of such date, (ii) any Person that owns or controls a U.S. securities option exchange or U.S. alternative trading system described in clause (i), and (iii) any Affiliate of a Person described in

clause (i) or (ii) above; provided that, in the event of a change in applicable Law permitting the execution of transactions in exchange-listed securities options otherwise than on a national securities exchange or facility thereof (including, but not limited to, internalization of orders for exchange-listed securities options or the execution of such orders on an alternative trading system), (x) a system operated by or on behalf of a Founding Firm or its Affiliates for purposes of the internalization or crossing of: (i) orders of customers of such Founding Firm or its Affiliates, (ii) orders of such Founding Firm or its Affiliates or (iii) orders routed from a retail broker-dealer or retail brokerage unit, shall not be considered a Specified Entity and (y) in addition to the matters covered in clause (x), NYSE Amex and the Founding Firms will negotiate in good faith the terms of an exception from the definition of Specified Entity for any alternative trading system owned solely by an individual Founding Firm or its Affiliates that performs order crossing in a manner that does not substantially compete with the Exchange in terms of market share and other relevant factors.

"Specified Terms" means with respect to a Transfer, customary terms and conditions for such Transfer as a Founding Firm, may agree with NYSE Amex, a third party purchaser or the Company, as applicable; provided that no Founding Firm shall be obligated to (a) make representations and warranties other than with respect to (i) such Founding Firm's unencumbered (other than such as may exist pursuant to the terms of this Agreement) title to and ownership of the relevant Common Interests, (ii) due authorization, execution and delivery of relevant documents by such Founding Firm, (iii) enforceability of relevant agreements against such Founding Firm and (iv) other matters relating to such Founding Firm in its capacity as a Founding Firm or (b) agree to covenants other than with respect to the Common Interests.

"SRO" or "Self-Regulatory Organization" means a "self-regulatory organization" as such term is defined under Section 3(a)(26) of the Exchange Act.

"Subsidiary" means for any Person, an Affiliate controlled by such Person, directly or indirectly, through one or more intermediaries.

"Supplement" means a supplement to this Agreement, a form of which is attached hereto as Exhibit A.

"Supermajority Item" means any matter subject to a Supermajority Vote pursuant to Section 8.1(i)(v).

"Supermajority Vote" means, with respect to matters submitted to the Board at a validly called and validly noticed meeting, (x) for so long as NYSE Amex's Common Interest Percentage equals or exceeds fifteen percent (15%), (A) the affirmative vote of more than fifty percent (50%) of the Directors designated by NYSE Amex pursuant to Section 8.1(d)(i) entitled to vote thereon and present in person or by proxy and (B) the affirmative vote of more than fifty percent (50%) of those Directors designated by Founding Firms pursuant to Section 8.1(d)(ii) entitled to vote thereon and present in person or by proxy, and (y) for so long as NYSE Amex's Common Interest Percentage is less than fifteen percent (15%), the affirmative vote of more than fifty percent (50%) of all Directors entitled to vote thereon and present in person or by proxy (which excess of fifty percent (50%) must include more than two-thirds (2/3) of those Directors

designated by Founding Firms and NYSE Amex in the aggregate entitled to vote thereon and present in person or by proxy).

"Target Capital Account" has the meaning specified in Section 5.1(b).

"Tax Amount" means, in respect of any Member for any tax year, the product of (a) the Tax Rate for such tax year multiplied by (b) the Net Taxable Income allocated to such Member for such tax year pursuant to Article V.

"Tax Distribution" means any Distributions actually made by the Company pursuant to Section 6.2.

"Tax Distribution Excess" has the meaning specified in Section 6.2(b).

"Tax Distribution Shortfall" has the meaning specified in Section 6.2(b).

"Tax Matters Member" has the meaning specified in Section 13.5(a).

"Tax Rate" means, for any tax year, forty-three and one-half percent (43.5%); provided that if the Board determines during a tax year (or in the succeeding tax year prior to the filing of the Company's income tax return for such year) that any Member is subject to an effective combined federal and state income tax rate for such tax year on items of Net Taxable Income that is greater than forty-three and one-half percent (43.5%), the Board may increase the Tax Rate for such year to equal such higher effective rate, and such Tax Rate shall be the same for all Members.

"TD Ameritrade" means Datek Online Management Corp., a corporation organized under the laws of the State of Delaware.

"Transaction Document" means any of this Agreement, the Contribution Agreement or the NYSE Euronext Agreement.

"Transfer" means any assignment, transfer, sale, exchange, conveyance, pledge, hypothecation, gift (testamentary or inter vivos), disposition or encumbrance, or attempt to do any of the aforementioned, whatsoever, whether made voluntarily, involuntarily or by operation of applicable Law.

"Transferee" means any Person who is the direct or indirect recipient of any Transfer of an Interest pursuant to this Agreement.

"Treasury Regulations" and "Treas. Reg." means the final or temporary regulations that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"Tribunal" has the meaning specified in Section 15.1(b)(i).

"UBS" means UBS Americas Inc., a corporation organized under the laws of the State of Delaware.

"Undertaking" has the meaning specified in Section 8.5(d).

"Voluntary Call Notice" has the meaning specified in Section 4.4(c).

"Voluntary Capital Call" has the meaning specified in Section 4.4(a).

"Voluntary Capital Call Cap" has the meaning specified in Section 4.4(a).

"Voluntary Capital Contribution" has the meaning specified in Section 4.4(a).

"Voluntary Participation Notice" has the meaning specified in Section 4.4(c).

1.2 Construction of Certain References. Except to the extent that the context requires otherwise:

(a) references in this Agreement to statutory provisions, enactments or a treaty shall include references to any amendment, modification or re-enactment of any such provision or enactment or treaty (whether before or after the date of this Agreement) and to any regulation or order made under such provision or enactment;

(b) a "regulation" includes any regulation, official directive or guideline (whether or not having the force of law) of any Governmental Authority or request from a Governmental Authority exercising supervisory authority (whether or not having the force of law);

(c) the use of headings and underlining in this Agreement is for ease of reference only and does not affect its construction;

(d) in this Agreement words importing the masculine gender include the feminine and neuter genders and vice versa and words importing the singular include the plural and vice versa;

(e) the schedules and exhibits attached hereto form a part of this Agreement and are incorporated herein by reference. References in this Agreement to an "Article", a "Section", a "Schedule", or an "Exhibit" are references to an article hereof, a section hereof, a schedule hereto, or an exhibit hereto, respectively;

(f) references in this Agreement to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and with respect to a Member, only if such successors and assigns are admitted as Members in accordance with this Agreement and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(g) definitions of or references to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements or modifications specified herein); and

(h) references in this Agreement to "including" shall be construed as a reference to "including but not limited to".

(i) references in this Agreement to an approval or vote by the Board shall mean a Majority Vote of the Board, unless otherwise specified.

ARTICLE II
ORGANIZATIONAL MATTERS

2.1 Formation. NYSE Amex has formed the Company under the Laws of the State of Delaware by filing the Certificate with the Secretary of State of the State of Delaware. The Company shall be governed by and operated in accordance with this Agreement and the Act. The rights and liabilities of the Members shall be determined pursuant to the Act and this Agreement. This Agreement shall be deemed effective only as of the Effective Date. To the extent that the rights or obligations of any Member are different by reason of any provision of this Agreement than they would be in the absence of such provisions, this Agreement shall, to the extent permitted by the Act, control.

2.2 Name. The name of the Company shall be "NYSE Amex Options LLC". The business of the Company may be conducted, in compliance with applicable Law, under that name or any other name hereafter approved by the Board.

2.3 Term. The term of the Company commenced as of the date of the filing of the Certificate and shall continue in perpetual existence until dissolved pursuant to this Agreement or the Act.

2.4 Office and Agent. The Company shall continuously maintain an office and registered agent in the State of Delaware as required by the Act. The principal office of the Company shall be located at c/o 11 Wall Street, New York, NY 10005 or such other location as the Board may determine. The registered agent shall be as stated in the Certificate or as otherwise determined by the Board.

2.5 Qualification in Other Jurisdictions. The Board shall cause the Company to be qualified or registered under assumed or fictitious name statutes or similar applicable Laws in any jurisdiction in which the Company owns property or transacts business if, in the reasonable judgment of the Board, such qualification or registration is necessary or advisable in order to protect the limited liability of the Members or to permit the Company lawfully to own property or transact business in such jurisdiction. Any Officer, as an authorized person within the meaning of the Act, shall execute, deliver and file any certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business.

ARTICLE III
PURPOSE AND POWERS OF THE COMPANY

3.1 Purpose.

(a) The nature of the business to be conducted or promoted by the Company is to engage in any lawful act or activity for which limited liability companies may be organized under the Act. The Company may engage in any and all activities necessary, desirable or incidental to the accomplishment of the foregoing. Notwithstanding anything herein to the

contrary, nothing specified herein shall be construed as authorizing the Company to possess any purpose or power, or to do any act or thing, forbidden by applicable Law to a limited liability company organized under the Laws of the State of Delaware.

(b) Without limitation on Section 3.1(a), the initial purposes of the Company are to operate an electronic exchange (the "Exchange") that will engage in the business of listing for trading (either directly or indirectly via service providers) options contracts permitted under applicable Law to be listed for trading on a national securities exchange (or facility thereof), as may be determined from time to time by the Board (each such contract that is so listed for trading on the Exchange, a "Product"), and to engage in or perform any and all acts or activities that are related or incidental to the foregoing or are necessary or desirable in connection therewith or are otherwise approved by the requisite vote of the Board (collectively referred to herein as the "Company's Purposes"). The Exchange will be operated as a "facility" (as such term is defined in Section 3(a)(2) of the Exchange Act) of NYSE Amex, which will act as the SRO for the Exchange.

3.2 Powers of the Company.

(a) Subject to the express provisions of this Agreement, the Company shall have the power and authority to take any and all actions necessary, appropriate, proper, advisable, convenient or incidental to or for the furtherance of the Company's Purposes:

(i) to conduct its business, carry on its operations and have and exercise the powers granted to a limited liability company by the Act in any state, territory, district or possession of the United States, or in any foreign country that may be necessary, convenient or incidental to the accomplishment of the Company's Purposes;

(ii) to acquire by purchase, lease, contribution of property or otherwise, own, hold, operate, maintain, finance, refinance, improve, lease, sell, convey, mortgage, transfer, demolish or dispose of any real or personal property that may be necessary, convenient or incidental to the accomplishment of the Company's Purposes;

(iii) to enter into, perform and carry out contracts of any kind, including contracts with any Member or any of its Affiliates, or any Agent of the Company necessary to, in connection with, convenient to, or incidental to the accomplishment of the Company's Purposes;

(iv) to purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, Equity Securities or other interests in or obligations of domestic or foreign corporations, associations, general or limited partnerships (including the power to be admitted as a partner thereof and to exercise the rights and perform the duties created thereby), trusts, limited liability companies (including the power to be admitted as a member or appointed as a manager thereof and to exercise the rights and perform the duties created thereby) or individuals or direct or indirect obligations of the United States or of any government, state, territory, governmental district or municipality or of any instrumentality of any of them;

(v) to lend money for any proper purpose, to invest and reinvest its funds, and to take and hold real and personal property for the payment of funds so loaned or invested;

(vi) to sue and be sued, complain and defend, and participate in administrative or other proceedings, in its name;

(vii) to appoint employees and agents of the Company, and define their duties and fix their compensation;

(viii) to indemnify any Person in accordance with the Act and to obtain any and all types of insurance;

(ix) to cease its activities and obtain a certificate of cancellation from the Delaware Secretary of State;

(x) to negotiate, enter into, renegotiate, extend, renew, terminate, modify, amend, waive, execute, acknowledge or take any other action with respect to any lease, contract or security agreement in respect of any assets of the Company;

(xi) to borrow money and issue evidences of indebtedness and guaranty indebtedness (whether of the Company or any of its Subsidiaries), and to secure the same by a mortgage, pledge or other lien on the assets of the Company;

(xii) to pay, collect, compromise, litigate, arbitrate or otherwise adjust or settle any and all other claims or demands of or against the Company or to hold such proceeds against the payment of contingent liabilities; and

(xiii) to make, execute, acknowledge and file any and all documents or instruments necessary, convenient or incidental to the accomplishment of the purposes specified in Section 3.1.

(b) Other than as expressly specified in this Agreement, the Company, and the Board, on behalf of the Company, may enter into and perform any and all documents, agreements and instruments contemplated thereby, all without any further act, vote or approval of any Member, and the Board may authorize any Person (including any Member) to enter into and perform any agreement on behalf of the Company.

3.3 Liability of Directors, Officers and Members. No Director, Officer or Member or their respective Affiliates shall be personally liable for any debts, liabilities or obligations of the Company, whether arising in contract, tort, or otherwise.

ARTICLE IV
CAPITAL CONTRIBUTIONS

4.1 Initial Capitalization.

(a) As of the Effective Date: (i) each Founding Firm has made a Capital Contribution to the Company in cash as specified opposite such Founding Firm's name under the heading "Cash Capital Contribution" on Schedule A-1 to the Contribution Agreement and (ii) NYSE Amex has contributed to the Company the Contributed Assets having the aggregate value

specified under the heading "Non-cash Capital Contribution" opposite NYSE Amex's name on Schedule A-1 to the Contribution Agreement, pursuant to the Contribution Agreement.

(b) In consideration for the contributions described in Section 4.1(a), each Initial Member: (i) has been admitted to the Company as a Member and (ii) has been issued the Interest specified opposite such Initial Member's name under the heading "Common Interests," and, in the case of NYSE Amex, the Interest specified opposite NYSE Amex's name under the heading "Preferred Interests", in each case on Schedule A. The sums of money required to finance the business and affairs of the Company shall be derived from the Capital Contributions to the Company pursuant to this Article IV, from funds generated from the operation and the business of the Company and from any loans or other indebtedness of the Company, which the Board approves from time to time.

4.2 Return on Capital Contributions.

(a) Except as otherwise provided in this Agreement, no return shall be paid by the Company to any Member on account of any Capital Contribution. No Member shall have liability to any other Member for the return of any Capital Contribution and any such return shall be made only to the extent of available Company assets in accordance with the terms of this Agreement.

(b) Except as otherwise provided in this Agreement in relation to the Preferred Interests, no Member shall have priority over any other Member as to the return of its Capital Contribution or as to Distributions of cash made by the Company.

(c) Except as otherwise provided in this Agreement, no Member shall be entitled to withdraw any part of its Capital Contribution or Capital Account or to (i) receive any Distributions from the Company, (ii) demand or receive property other than cash in return for its Capital Contribution or (iii) receive any funds or property of the Company.

(d) Any Distribution made to the Members shall be deemed to comply with all applicable Law including Sections 18-607(a) and 18-804(a) of the Act. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Distribution made by the Company was in violation of Sections 18-607 or 18-804(a) of the Act and was made with the knowledge of a Member of such violation, any obligation under applicable Law to return the same or any portion thereof shall be the obligation of such Member and not of the Board or any other Member.

(e) No Member shall receive any interest, salary or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company or otherwise in its capacity as a Member (including as a Director), except as otherwise specifically provided in this Agreement or as approved by the Board.

(f) Except as otherwise provided herein or under applicable Law, the Members shall not be liable to make Capital Contributions, and no Member shall be required to lend any funds to the Company. No Member shall have any personal liability for the repayment of any Capital Contribution of any other Member.

4.3 Regulatory Capital Contributions.

(a) At any time, and from time to time, the Board may, subject to Section 4.3(b), require each of the Members to participate on a pro rata basis in accordance with each Member's Common Interests in calls for additional Capital Contributions to the Company that may be necessary for the Company to ensure that the Exchange maintains, and complies with any regulatory requirements applicable to, its status as a facility of an SRO pursuant to the Exchange Act or to satisfy any other regulatory obligation (any such capital call, a "Regulatory Capital Call", and each such contribution, a "Regulatory Capital Contribution"). Upon such vote, the Board shall provide each Member with not less than thirty (30) days written notice (the "Regulatory Call Notice") of such Regulatory Capital Call, which shall specify (i) the aggregate dollar amount of such Regulatory Capital Call and the individual dollar amounts required to be contributed by such Member; (ii) the date by which such Regulatory Capital Contribution should be made; (iii) such Member's Common Interest Percentage as of the date of the Regulatory Call Notice; and (iv) the reason for such Regulatory Capital Call. Regulatory Capital Contributions shall be paid by wire transfer in accordance with instructions provided in the Regulatory Call Notice.

(b) Regulatory Capital Contributions to be made to the Company by the Members pursuant to this Section 4.3 shall not exceed $5,000,000 in the aggregate in any thirty-six (36)-month period following the Effective Date (the "Regulatory Capital Call Cap").

4.4 Voluntary Capital Contributions.

(a) At any time during the period commencing on the Effective Date, and ending on the second anniversary of the Effective Date, the Board may solicit the Members to make one or more additional Capital Contributions to the Company (each such solicitation, a "Voluntary Capital Call", and each such contribution, a "Voluntary Capital Contribution") for the benefit of the Company, up to an amount not to exceed $5,000,000 in the aggregate in any twelve (12) month period following the Effective Date (the "Voluntary Capital Call Cap").

(b) Notwithstanding Section 4.4(a), the Board may, by Supermajority Vote, solicit Voluntary Capital Contributions (i) at any time until the second anniversary of the Effective Date, in an amount exceeding the Voluntary Capital Call Cap; (ii) at any time following the second anniversary of the Effective Date, in any amount; and (iii) at any time, if such Voluntary Capital Contribution is necessary for the Company to ensure that the Exchange maintains, and complies with any regulatory requirements applicable to, its status as a facility of an SRO pursuant to the Exchange Act or to satisfy any other regulatory obligation, to the extent of any amount exceeding the Regulatory Capital Call Cap.

(c) Upon a Board vote in accordance with paragraph (a) or (b) of this Section 4.4, the Board shall promptly provide each Member with written notice ("Voluntary Call Notice") of such Voluntary Capital Call, which notice shall specify: (i) the aggregate dollar amount of such Voluntary Capital Call; (ii) the date by which such Voluntary Capital Contribution shall be made; (iii) such Member's Common Interest Percentage as of the date of the Voluntary Call Notice; (iv) the reason for such Voluntary Capital Call; and (v) the class(es) of Common Interests that will be issued, the number of such Common Interests proposed to be issued, and the

Price Per Interest at which such Common Interests will be issued, which Price Per Interest shall be determined as of the date of the Voluntary Call Notice. Each Member shall, no later than thirty (30) days after receiving the Voluntary Call Notice, deliver written notice as to whether it intends to participate or not (the "Voluntary Participation Notice") to the Company and the other Members (each such Member so participating, a "Participating Member"), disclosing the amount of the Voluntary Capital Contribution proposed to be made by such Participating Member. No Member shall have any obligation at any time to make any Voluntary Capital Contribution. Voluntary Capital Contributions shall be paid by wire transfer in accordance with instructions provided in the Voluntary Call Notice.

(d) The Participating Members in any Voluntary Capital Call shall have a right of oversubscription such that if any Member opts not to participate in a Voluntary Capital Call or any Participating Member opts to contribute an amount of cash less than the product of (i) the aggregate dollar amount of such Voluntary Capital Call multiplied by (ii) such Member's Common Interest Percentage, the Participating Members shall, among them, have the right to contribute up to the balance of the aggregate amount of such Voluntary Capital Call. Such right of oversubscription may be exercised by a Participating Member no later than thirty (30) days after receiving the Voluntary Participation Notice from each other Member by delivering written notice of its intention to oversubscribe to the Voluntary Capital Call to the other Members and the Company. If, as a result thereof, such oversubscriptions exceed the aggregate amount available in respect of such oversubscription privilege, the oversubscribing Participating Members shall be limited with respect to their oversubscriptions to (i) a pro rata allocation in accordance with their respective Common Interests or (ii) such amounts as they may otherwise agree among themselves.

(e) The Capital Account of each Participating Member shall be increased by its Voluntary Capital Contribution. Each such Participating Member shall receive Class A Common Interests or Class B Common Interests, as applicable, based on such Participating Member's participation in any Voluntary Capital Call, in an amount equal to such Participating Member's aggregate contribution to the Company (including pursuant to any oversubscription made pursuant to Section 4.4(d) divided by the Price Per Interest (determined as of the date of the Voluntary Call Notice), and the Aggregate Class A Allocation and Aggregate Class B Allocation shall be adjusted accordingly.

4.5 Non-Funding Members.

(a) Any Member that fails to make its Regulatory Capital Contribution on or before the payment date identified in the Regulatory Call Notice or any Member that elects to be a Participating Member but subsequently fails to make its Voluntary Capital Contribution on or before the payment date identified in the Voluntary Call Notice, as applicable, shall be considered a "Non-Funding Member" (the amount of any such subscription amount owed to the Company, the "Requested Amount"). The Requested Amount shall bear interest payable to the Company equal to the Default Interest Rate, from and after the payment date identified in the Regulatory Call Notice or the Voluntary Call Notice, as applicable, and until such non-payment has been cured by the Non-Funding Member or the Non-Funded Interest has been purchased by another Member or other Person pursuant to Section 4.5(b). Any interest paid by a Non-Funding

Member pursuant to this Section 4.5(a) shall not be treated as a Capital Contribution but shall be treated as interest income of the Company.

(b) In addition to, and not in limitation of, the foregoing, upon thirty (30) days written notice by the Company to any Member that becomes a Non-Funding Member (and provided that such non-payment has not been cured by the Non-Funding Member within such 30-day period), the Board, in its sole discretion, may:

(i) sell to any of the other Members, on a pro rata basis, all or any portion of (A) in the case of a Voluntary Capital Call, the Common Interests that the Non-Funding Member would have received had the Requested Amount been paid in full and (B) in the case of a Regulatory Capital Call, the amount of Common Interests corresponding to the Requested Amount (in both cases, the "Non-Funded Interests"); or

(ii) in the event that the entire amount of Non-Funded Interests of the Non-Funding Member is not acquired by the Members pursuant to clause (i) above, so notify the Members and designate one or more Persons (subject to the agreement of such Person(s)), which Person(s) may be Members, to acquire all or any portion of the Non-Funding Member's Non-Funded Interests not so acquired;

provided that (A) any purchase of such Non-Funded Interest by any Member, in whole or in part, shall result in a corresponding increase to such Member's Common Interest and (B) any purchase of such Non-Funded Interest by a Person who is not a Member shall be treated as a Transfer by the Non-Funding Member to such Person and shall be subject to Sections 7.3, 10.4, 11.1(c), 11.1(d), and 11.2(d).

A copy of any notice provided to a Non-Funding Member pursuant to this Section 4.5(b) shall be transmitted promptly to all other Members. In the event that a Non-Funding Member shall pay any overdue Voluntary Capital Contribution or Regulatory Capital Contribution, plus interest in accordance with Section 4.3(a) or Section 4.4(a), as applicable, prior to the expiration of the above-referenced thirty (30)-day notice period, such Member shall cease to be a Non-Funding Member and the remedies provided in this Section 4.5(b) and in Section 4.5(d) shall not be available with respect thereto.

(c) A Member shall indemnify, hold harmless and reimburse the Company for any and all reasonable out-of-pocket costs and expenses incurred by the Company (including with respect to obtaining any replacement capitalization) as a result of such Member's failure to pay any Requested Amount.

(d) In addition to, or in lieu of, and not in limitation of any of the foregoing, upon termination of the thirty (30)-day period provided in Section 4.5(b), the Board, in its sole discretion, may commence proceedings against the Non-Funding Member to collect any due and unpaid portions of the Non-Funding Member's Requested Amount plus interest in accordance with Section 4.5(a), and the expenses of such collection, including court costs and attorneys' fees and disbursements.

(e) Any actions taken by the Board or the Company pursuant to Sections 4.5(a) through 4.5(d) shall be in addition to and not in limitation of any other right or remedies that the Company may have against the Non-Funding Member.

4.6 Membership Interests. Interests shall for all purposes be personal property. No Member shall have any interest in specific Company property. Each Member, during the term of the Company, hereby waives any right to partition of the Company's property.

4.7 Loans From Members. A loan by a Member to the Company shall not be considered a Capital Contribution. If any Member shall advance funds to the Company, the making of such advances shall not result in any credit to such Member's Capital Account. The amount of any such advances shall be a debt of the Company to such Member and shall be payable or collectible in accordance with the terms and conditions upon which such advances are made; provided that the terms of any such loan shall not be less favorable to the Company than would be available to the Company from unrelated lenders and shall otherwise be subject to the express provisions of this Agreement.

4.8 Reserves.

(a) Reserves in an amount determined by the Board may be retained out of Capital Contributions, net proceeds from sales or operations, or from loans, other indebtedness or refinancings. Any reserves remaining on dissolution of the Company shall be held until the final liquidation and then distributed to the Members in accordance with the provisions of Section 12.2.

(b) As of the Effective Date, the Board shall establish an independent cash reserve account ("Redemption Reserve"), which shall be designated for the sole purpose of funding any redemptions of (i) Preferred Interests pursuant to Section 11.5(a) or (ii) Class B Common Interests as agreed upon by the Members, and shall not be used for any other purpose. The amount of the Redemption Reserve shall be agreed upon by the Members and shall be increased to the extent of any accrued but unpaid Preferred Return. The Company may not transfer Available Cash to the Redemption Reserve. Cash in the Redemption Reserve shall be invested on an arm's-length basis in accordance with guidelines established and periodically updated by the Board and such income and loss shall be included in Net Profits and Net Losses.

4.9 Ownership Limitations.

(a) No Member (other than NYSE Amex alone or, subject to receipt of SEC approval pursuant to the rule filing process under Section 19(b) of the Exchange Act, together with its Permitted Transferees) shall be permitted to own or vote (alone or together with its Affiliates), directly or indirectly, Common Interests in excess of the lower of (x) nineteen and nine-tenths percent (19.9%) of the then issued and outstanding Common Interests (the "19.9% Maximum Percentage") or (y) the maximum amount of Common Interests such Member (alone or together with its Affiliates) may own or vote under applicable Law and without subjecting the Company to material regulatory obligations or material liabilities or a reasonable likelihood of material regulatory obligations or material liabilities arising as a result of the extent of such ownership or voting interest (such maximum Common Interests a Member (alone or together with its

Affiliates) may own or vote under this clause (y), the "Alternate Maximum Percentage", and the amount in excess thereof or in excess of the 19.9% Maximum Percentage, as applicable, "Excess Interests").

(b) In the event that the Company believes that a Member other than NYSE Amex (alone or together with its Affiliates) has or may, as a result of then-contemplated events, in the near future, have Excess Interests (other than as a result of exceeding the 19.9% Maximum Percentage), the Company shall provide such Member with notice of such belief, setting forth the basis for the Company's position, and the Company and such Member shall discuss in good faith the proposed determination. If the Company and such Member agree that such Member (alone or together with its Affiliates) holds Excess Interests (other than as a result of exceeding the 19.9% Maximum Percentage), such Member shall, within a reasonable period after such agreement is reached, implement remedial measures including those described in Section 4.9(c). If the Company and such Member fail to reach agreement as to whether such Member (alone or together with its Affiliates) holds Excess Interests (other than as a result of exceeding the 19.9% Maximum Percentage), the Company shall be entitled to bring a dispute resolution proceeding in accordance with Article XV to resolve such dispute; and in the event the Company prevails in such dispute resolution proceeding, the applicable Interests shall be deemed to be Excess Interests for purposes of Section 4.9(c). In the event a Member (alone or together with its Affiliates) holds Excess Interests as a result of exceeding the 19.9% Maximum Percentage, such Member shall, subject to applicable Law, implement the remedial measures described in Section 4.9(c) and such Excess Interests shall automatically and immediately constitute Non-voting Common Interests as described in and subject to Section 4.9(c).

(c) A Member (alone or together with its Affiliates) that (x) holds Excess Interests as a result of exceeding the 19.9% Maximum Percentage or (y) pursuant to Section 4.9(b), agrees that it holds or is found to hold Excess Interests as a result of exceeding the applicable Alternate Maximum Percentage shall promptly implement the following remedial measures accordingly and in a manner consistent with this Agreement and applicable Law: (i) the offer of such Excess Interests at a price equal to the pro rata portion of the Fair Market Value of such Member's (or its Affiliates', if applicable) Common Interests attributable to the Excess Interests: first, to the remaining Members (other than NYSE Amex) pro rata in accordance with their relative Common Interests; second, if the remaining Members do not purchase all such Excess Interests, to NYSE Amex; and third, if NYSE Amex does not purchase all such Excess Interests, to any other Person approved by NYSE Amex (which approval shall not be unreasonably withheld, conditioned or delayed), subject to Section 10.4, (ii) subject to applicable Law, retention of such Excess Interests as Non-voting Common Interests, pursuant to Section 7.5, or (iii) except in the case of Excess Interests arising as a result of such Member (alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage, any other remedial action discussed in good faith by such Member and the Company pursuant to the first sentence of Section 4.9(b), in each case, as shall be determined by the relevant Member to be least burdensome. A Member's Excess Interests arising as a result of such Member (alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage shall automatically and immediately constitute, absent regulatory approval in accordance with Section 11.8 (including SEC approval pursuant to the rule filing process under Section 19(b) of the Exchange Act) to the contrary, Non-voting Common Interests and the Aggregate Class A Voting Allocation and Aggregate Class B Voting Allocation shall be adjusted accordingly. Any Member (alone or together with its Affiliates) that would hold Excess

Interests (due to such Member (alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage) as a result of such adjustments shall be subject to the provisions of this Section 4.9(c). Subject to applicable Law, Excess Interests of a Member that constitute Non-voting Common Interests solely as a result of such Member (alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage shall cease to constitute Non-voting Common Interests (and the Aggregate Class A Voting Allocation and Aggregate Class B Voting Allocation shall be adjusted accordingly) in the event that, and to the extent that, (I) such Member (or, if applicable, its Affiliates) Transfers, in accordance with Article XI, such Excess Interests to another Member or third party that (taking into account such Excess Interests then being Transferred) does not hold Common Interests that would constitute Excess Interests in the hands of such Transferee Member or third party due to such Transferee Member or third party (in each case, alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage or (II) such Excess Interests cease to be Excess Interests (due to such Member (alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage) because of a reduction in such Member's Common Interest Percentage. Notwithstanding the foregoing, nothing in this Section 4.9 shall limit Section 7.5, and nothing in this Section 4.9 shall limit the ability of a Member to make a Restricted Member Election pursuant to Section 7.5, which such Restricted Member Election shall impose separate and additional limitations with respect to Common Interests covered thereby (and shall be subject to the restrictions on revocation set forth in Section 7.5(a)(iii)). Without limitation to Section 16.19 and subject to providing notice to, and receiving approval from, the SEC under Section 19(b) of the Exchange Act, NYSE Amex may assign to an Affiliate the right to purchase Excess Interests pursuant to clause (i) hereof.

(d) In the event that material regulatory obligations or material liabilities of the Company arise as a result of a Member (alone or together with its Affiliates) holding Excess Interests (other than as a result of exceeding the 19.9% Maximum Percentage) and such material obligations or liabilities may be mitigated by such Member making a Restricted Member Election pursuant to Section 7.5(a), such Member shall be deemed to have made such a Restricted Member Election upon such obligation or liability arising; provided that, to the extent permitted under applicable Law and consistent with the proviso in Section 7.5(a)(iii), such Member may revoke such Restricted Member Election in connection with either (i) the sale of such Member’s Interests in accordance with clause (i) of Section 4.9(c) or (ii) any other remedial action taken by such Member in accordance with clause (iii) of Section 4.9(c).

4.10 Royalty Payments. NYSE Amex shall make Capital Contributions to the Company equal to the amount of the royalty fee payable by and invoiced to the Company pursuant to the NYSE Euronext Agreement (whether such royalty fee is identified as a royalty fee, software license or otherwise in the NYSE Euronext Agreement), on each occasion that such royalty fee is so payable and invoiced. NYSE Amex shall make such Capital Contributions at least three (3) Business Days prior to the time at which such fee must be paid by the Company under the NYSE Euronext Agreement. Such amount shall be immediately paid by the Company as required under the NYSE Euronext Agreement and shall not be used for the operations of the Company, to satisfy the services fee payable by and invoiced to the Company pursuant to the NYSE Euronext Agreement, or otherwise constitute Available Cash.

ARTICLE V
ALLOCATIONS AND ELECTIONS

5.1 Allocations.

(a) After taking into account the allocations made pursuant to Section 5.1(b), Section 5.2 and Section 5.3 and subject to such other arrangements as the Members may agree, Net Profits and Net Losses shall be allocated among the Members for each Company Fiscal Year in a manner such that, if the Company were dissolved, its affairs wound up and its assets distributed to the Members in accordance with their respective Capital Account balances immediately after making such allocation (and after taking into account, for the avoidance of doubt, allocations that would be made pursuant to Section 5.2 and Section 5.3 and otherwise in connection with such liquidation), the Distributions to each Member would, as nearly as possible, be equal to the Distributions that would be made to such Member pursuant to Section 12.2.

(b) Notwithstanding Section 5.1(a), Net Profits and Net Losses arising from an adjustment of the value of the Company's assets pursuant to subparagraph (b) of the definition of Gross Asset Value and, if necessary, items of gross income in the Company's taxable year that it liquidates under Article XII, shall be specially allocated among the Members until each Member's Capital Account balance equals such Member's Common Interest Percentage multiplied by the aggregate balance of all Capital Accounts of all Members (the "Target Capital Account"). Net Profits and Net Losses and, if necessary, items of gross income shall be allocated to a Member whose Class B Common Interests are redeemed pursuant to Section 11.5(b) or Section 11.5(c) in the Company's taxable year of such redemption to the extent such allocations are necessary to cause such Member's Capital Account balance to equal such Member's Target Capital Account. Such special allocations shall be made among the Members in proportion to the differences the Members have between their Capital Account balances and their Target Capital Accounts.

5.2 Special Allocations.

(a) Items of Net Profits and Net Losses that constitute Partner Nonrecourse Deductions shall be allocated in the manner provided under Treas. Reg. § 1.704-2(i)(1).

(b) Items of Net Profits and Net Losses that constitute Nonrecourse Deductions shall be allocated to the Members, pro rata, in accordance with their Common Interests.

(c) Items of Net Profits and Net Losses shall be allocated to comply with (i) the "partnership minimum gain chargeback" provisions of Treas. Reg. § 1.704-2(f); (ii) the "partner nonrecourse debt minimum gain chargeback" provisions of Treas. Reg. § 1.704-2(i)(4); and (iii) the "qualified income offset provisions" of Treas. Reg. § 1.704-1(b)(2)(ii)(d).

(d) The allocations specified in this Section 5.2 (the "Regulatory Allocations") are intended to comply with certain requirements of Section 704 of the Code and Treasury Regulations contemplated thereby and all such provisions shall be interpreted in a manner consistent with such requirements (including, without limitation, the ordering rules of Treas. Reg. § 1.704-2(j)). If the Board determines that the allocations under this Agreement do not comply with the Code and Treasury Regulations, this Section 5.2 shall be interpreted to authorize

and direct the Company to make allocations in accordance with the Code and the Treasury Regulations. Notwithstanding the other provisions of this Agreement, the Regulatory Allocations shall be taken into account so that the Net Profits and Net Losses allocated to each Member (after taking into account the Regulatory Allocations, including Regulatory Allocations that are expected to be made in future years) shall, to the extent possible, equal the amount of Net Profits and Net Losses that would have been allocated had no Regulatory Allocations been made.

5.3 Other Allocation Rules.

(a) In the event Members are admitted to the Company pursuant to this Agreement on different dates, the Company items of income, gain, loss, deduction and credit allocated by the Board to the Members for each Company taxable year during which Members are so admitted shall be allocated among the Members in proportion to their respective Common Interests during such Company taxable year using any reasonable convention permitted by Section 706 of the Code and selected by the Tax Matters Member.

(b) In the event a Member Transfers its Common Interests or there is a change in any Member's Common Interests during a Company taxable year, the allocation of Company items of income, gain, loss, deduction and credit allocated to a Member and its Transferee or between the Members for such Company taxable year shall be made between a Member and its Transferee or the Members in accordance with Section 706 of the Code using any reasonable convention permitted by Section 706 of the Code and selected by the Tax Matters Member.

(c) If, and to the extent that any Member or an Affiliate of any Member is deemed to recognize any item of income, gain, deduction, or loss as a result of any transaction between the Member or an Affiliate of the Member and the Company pursuant to Sections 83, 482 or 7872 of the Code, or any similar provision now or hereafter in effect in the United States, any state or foreign jurisdiction, to the extent permissible under the Treasury Regulations, the Board shall allocate the corresponding item of Net Profit or Net Loss to the Member who recognizes such item in order to reflect the Member's economic interest in the Company. In addition, if and to the extent NYSE Amex makes a Capital Contribution to the Company pursuant to Section 4.10, the Board shall allocate the corresponding item of expense to NYSE Amex in order to reflect NYSE Amex's economic interest in the Company.

5.4 Allocations for Income Tax Purposes.

(a) Except as otherwise provided in this Section 5.4, all items of Company income, gain, loss, deduction and credit for federal and applicable state and local income tax purposes shall be allocated by the Board among the Members in the same manner as they share correlative items of book income, gain, loss or deduction, as the case may be, for the Company taxable year. Allocations pursuant to this Section 5.4 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses or other items or Distributions pursuant to any provision of this Agreement.

(b) Solely for income tax purposes, income, gain, loss and deduction shall be allocated by the Board among the Members as required under Section 704(c) of the Code and Treasury Regulations promulgated thereunder so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes (including such adjusted basis for alternative minimum tax purposes) and its Gross Asset Value. The Company will elect the traditional allocation method under Treasury Regulation Section 1.704-3(b) unless the Tax Matters Member determines otherwise in its sole discretion. Any elections or other decisions relating to allocations under this Section 5.4, including the selection of any allocation method permitted under Treas. Reg. § 1.704-3, shall be made by the Tax Matters Member.

(c) Allocations of credits or tax credit recapture shall be allocated to the Members in accordance with their Common Interests as determined by the Board taking into account the requirements of the Code and the Treasury Regulations promulgated thereunder.

(d) If any portion of gain recognized on the disposition of property represents "recapture" of previously allocated deductions by virtue of the application of Sections 1245 or 1250 of the Code or any similar provision, such gain shall, to the extent permitted under the Code and the Treasury Regulations, be allocated in accordance with how the previously allocated deductions were allocated.

(e) The liabilities of the Company shall be allocated to the Members in accordance with Code Section 752 and Treasury Regulations promulgated thereunder; provided, however, to the extent permitted, Nonrecourse Liabilities that constitute "excess nonrecourse liabilities" (within the meaning of Treas. Reg. § 1.752-3(a)(3)) shall be allocated among the Members, pro rata, in accordance with their Common Interests in the Company.

ARTICLE VI
DISTRIBUTIONS

6.1 Distributions. Subject to Section 6.2 and any restrictions contained in any agreement or contract between the Company and a third party, the Board shall annually distribute the Company's Available Cash, in the following order of priority:

(a) First, to the holder of Preferred Interests, in the amount of the Preferred Return for such year (and any prior years for which undistributed Preferred Returns exist); and

(b) Second, subject to Section 7.5, the remainder to the Members, pro rata in accordance with their Common Interest Percentages;

provided that the aggregate amount distributed pursuant to this Section 6.1 in any year shall not exceed eighty percent (80%) of the Company's pre-tax net income for the prior calendar year.

6.2 Tax Distributions.

(a) Notwithstanding Section 6.1, the Company shall (to the extent of Available Cash and without the requirement to borrow the cash) distribute to each Member on or around the end of each quarter of the Company's tax year an amount of cash equal to one quarter of the Board's estimate of the Member's Tax Amount for the current tax year (the amount actually distributed

to a Member at the end of a quarter plus the amount that would be distributed at the end of a quarter to such Member but for the application of the final sentence of Section 6.2(b) shall be referred to as the "Quarterly Tax Distribution").

(b) If during the immediately succeeding year (and prior to filing of the Company's income tax return for the immediately preceding tax year), the Board determines that the aggregate amount of the Quarterly Tax Distributions received by a Member during the immediately preceding year is less than such Member's Tax Amount for such year (based on the actual amounts of Net Taxable Income that will be shown on the applicable tax returns of the Company for such year and the actual Tax Rate for such year) (such difference, the "Tax Distribution Shortfall"), then the Company shall (to the extent of Available Cash and without the requirement to borrow any additional amounts) distribute to such Member within a reasonable amount of time after such determination an amount of cash equal to the Tax Distribution Shortfall. If during the immediately succeeding year (and prior to the filing of the Company's income tax return for the immediately preceding tax year), the Board determines that the aggregate amount of the Quarterly Tax Distributions received by a Member during the immediately preceding year is greater than such Member's Tax Amount for such year (based on the actual amount of Net Taxable Income that will be shown on the applicable tax returns of the Company for such year and the Tax Rate for such year) (such difference, the "Tax Distribution Excess"), then amounts that would be subsequently distributed under Section 6.2(a) to such Member, but for this sentence, shall be reduced until the aggregate amount of all such reductions equals the Tax Distribution Excess.

(c) To the extent the Company makes a Distribution under this Section 6.2, the Company shall designate it as a Tax Distribution whether or not it constitutes a Quarterly Tax Distribution. If at the time of a Quarterly Tax Distribution any Member has a Tax Distribution Excess, the Company shall determine the amount that would be otherwise distributed to each Member under Section 6.2(a) at the time of the Quarterly Tax Distribution as if Section 6.2(b) were not in the Agreement, and shall reduce the amounts otherwise distributable to any Member with a Tax Distribution Excess in accordance with Section 6.2(b).

(d) Nothing in this Section 6.2 shall require that the Company make a Tax Distribution to a Member if such Distribution would conflict in any way with any contract or agreement that the Company has entered into with a third party.

(e) Tax Distributions shall be treated as an advance against (and shall reduce) amounts that a Member is otherwise entitled to receive under Section 6.1 or under Section 12.2.

6.3 Return of Distributions. In accordance with the Act and the Laws of the State of Delaware, a member of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Members that no Distribution to any Member pursuant to Article VI or Article XII hereof shall be deemed a return of money or other property paid or distributed in violation of the Act. The payment of any such money or Distribution of any such property to a Member shall be deemed to be a compromise within the meaning of the Act, and the Member receiving such money or property shall not be required to return to any Person any such money or property. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement,

any member is obligated to make any such payment, such obligation shall be the obligation of such Member and not of the other Members.

6.4 Limitation on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any Distribution if such Distribution would violate Section 18-607(a) or 18-804(a) of the Act or other applicable Law or if such Distribution would violate any agreement or contract between the Company and a third party, but shall instead make such Distribution as soon as practicable after such time as the making of such Distribution would not cause such violation.

6.5 Withholding; Indemnification and Reimbursement by Member. If the Company is required under applicable Law to withhold or pay any tax or other amount that is specifically attributable to a Member (or the status of a Member or the status of the shareholders, partners, or other owners of such Member), including foreign, federal or state withholding taxes, state personal property taxes, and state unincorporated business taxes, then such Member shall indemnify and reimburse the Company for the tax or other amount (including any interest, penalties and expenses associated with such payment). At the option of the Board, the Company may (i) offset Distributions to any Member that it is otherwise entitled to receive under this Agreement against such Member's obligation and, to the extent offset, such amount offset shall be treated as distributed to such Member for all purposes of this Agreement or (ii) promptly upon notification of an obligation to indemnify and reimburse the Company, require the Member to make a cash payment to the Company equal to the tax or other amount. A Member's obligation to indemnify and make contributions to the Company under this Section 6.5 shall survive the Member selling or otherwise disposing of its interest in the Company and the termination, dissolution, liquidation, or winding up of the Company. The Company may pursue all rights and remedies it may have against any Member, including instituting a lawsuit to collect such indemnification and reimbursement amount with interest calculated at the Default Interest Rate.

ARTICLE VII
MEMBERS

7.1 Limited Liability. Unless required under applicable Law, no Member or its Affiliates shall be personally liable for any debt, obligation, or liability of the Company or any of its Subsidiaries or other Members by reason of being a Member, regardless of whether that liability or obligation arises in contract, tort or otherwise. Except as otherwise provided in the Act or under applicable Law, no Member or its Affiliates will have any fiduciary or other duty to another Member or its Affiliates with respect to the business and affairs of the Company or of any of its Subsidiaries. No Member will have any responsibility to restore any negative balance in its Capital Account or to contribute to, or in respect of, the liabilities or obligations of the Company or of any of its Subsidiaries or to return any Distributions made by the Company not in error.

7.2 Members. The Members of the Company as of the date hereof are those Persons whose names appear on the signature pages of this Agreement (other than NYSE Euronext), and each of said Persons (other than NYSE Euronext) shall be deemed to have been admitted as a Member of the Company upon the Effective Date without the need for any further action or

consent by any Person and each of such Persons shall be deemed to have been issued their respective Common Interests or Preferred Interests on the Effective Date.

7.3 Admission of New Members. Except as otherwise provided in Article XI, new Members may be admitted, subject to the provisions of Section 10.4, from time to time by Supermajority Vote of the Board, subject to the following: (a) any new Member shall make a Capital Contribution in such amount and on such terms as the Board deems appropriate based upon the needs of the Company, the net value of its assets, the Company's financial condition, and the benefits anticipated to be realized by such additional Member; and (b) the additional Member agrees to be bound by the terms of this Agreement as provided for in Section 10.4.

7.4 Certain Confirmations. Each Member shall maintain commercially reasonable policies and procedures, taking into account the structure and organization of its operations, to prevent disclosure of Confidential Information of the Company by any Director, alternate Director, observer to the Board or any committee of the Board or Advisory Committee Member to any other individual appointed by such Member to perform a similar role with respect to, or who is an officer or employee of, a Specified Entity; provided that it is understood and agreed that such policies and procedures may be applicable to confidential information additional to the Confidential Information and need not be specific to the treatment of Confidential Information. Any individual designated to be a Director, alternate director, observer to the Board or any committee of the Board, or Advisory Committee Member may be required to acknowledge in writing pursuant to a form to be agreed upon by NYSE Amex and the Founding Firms[1] the foregoing requirements of this Section 7.4 and of Article XIV in connection with such individual's designation to such role.

7.5 Restricted Members.

(a) Notwithstanding anything herein to the contrary, each Member (other than NYSE Amex alone or together with its Permitted Transferees) then owning (alone or together with its Affiliates) any Excess Interests (other than as a result of exceeding the 19.9% Maximum Percentage) or then owning an Interest entitling such Member to Distributions in excess of such Member's Maximum Percentage of the Distributions (the "Capped Distribution Amount") then being made to all Members may, from time to time, make an irrevocable (subject to Section 7.5(a)(iii)) election (a "Restricted Member Election"), by written notice to the Company, to be treated for purposes of this Agreement as a "Restricted Member," solely with respect to such Excess Interests or Capped Distribution Amount. With respect to each Restricted Member, for so long as such Restricted Member Election remains in effect:

(i) in the event of any Distribution, (A) that is a Distribution of Class B Common Interests pursuant to Article VI or Article XII, then, at the request of such Restricted Member by written notice to the Company, such Restricted Member shall receive in lieu of Class B Common Interests, at the Company's sole option based on a Majority Vote of the disinterested Directors, either (x) the cash equivalent of such Distribution to be paid by the Company within ninety (90) days of the date such Distribution would have otherwise been made, and the

[1] Form to be agreed upon prior to the Effective Date.

allocations in Section 5.1 shall be adjusted accordingly to reflect each Member's share of such Distribution or (y) a promissory note from the Company (i) in a principal amount equivalent to the amount of such Distribution; (ii) having a maturity determined by Supermajority Vote of the disinterested Directors not to exceed 5 years; and (iii) having additional commercially reasonable terms to be determined by Supermajority Vote of the disinterested Directors that are consistent with customary market practice (provided that the Company shall not enter into any contractual restrictions that specifically and directly limit the Company's ability to repay or redeem such promissory note except as required under applicable Law), and the allocations in Section 5.1 shall be adjusted accordingly to reflect each Member's share of such Distribution; or (B) that is not a Distribution of Class B Common Interests, and such Member has elected in its Restricted Member Election for this clause (B) to apply, then the amount of any Distribution that would otherwise be made to such Restricted Member in excess of the Capped Distribution Amount shall be distributed to all other Members who are entitled to participate in such Distribution on a pro rata basis with respect to the Common Interests held by such Members and the allocations in Section 5.1 shall be adjusted accordingly to reflect each Member's share of such Distribution; provided that with respect to any Restricted Member, including in the event that such Distribution permits any Member to elect to be treated as a Restricted Member pursuant to this Section 7.5(a) and such Member so elects, the Distributions to any such Restricted Member shall not exceed the Capped Distribution Amount;

(ii) such Restricted Member agrees to transfer the proceeds of any Transfer of Common Interests by such Restricted Member (taking into account any proceeds received by such Restricted Member for previous Transfers) in excess of such Restricted Member's Maximum Percentage of the proceeds of such Transfer of Common Interests to all other Members who are not Restricted Members on a pro rata basis with respect to the number of Common Interests held by such Members; provided that with respect to any Restricted Member, including in the event that such Transfer permits any Member to elect to be treated as a Restricted Member pursuant to this Section 7.5(a) and such Member so elects, the amount transferred to any such Restricted Member shall be limited so as to not cause the Restricted Member's total ownership interest to exceed such Restricted Member's Maximum Percentage or the Capped Distribution Amount, as applicable; and

(iii) any such Restricted Member Election shall be binding upon such Restricted Member and its direct and indirect transferees, provided, however, that such Restricted Member, in its capacity as a Member and a Restricted Member, may (x) upon written notice to the Company at any time and without precondition, reverse its election with respect to clause (B) of Section 7.5(a)(i) and (y) only under the following circumstances, reverse its election to be treated as a Restricted Member upon written notice to the Company:

(A) such Restricted Member owns such Restricted Member's Maximum Percentage or less of the Common Interests then issued and outstanding (in which case such reversal may occur without any further consent of the Board or any other condition precedent);

(B) with the written approval of the Board granted in the sole discretion of the majority of the disinterested Directors; or

(C) such Restricted Member provides the Board with appropriate written notice that such Common Interests have been Transferred to the extent permissible under this Agreement (1) as part of a widespread public or private offering where no single Transferee (together with its affiliates) acquires more than 2% of the total Common Interests, (2) to an underwriter for the purpose of underwriting a widely distributed public or private offering, (3) in one or more open market transactions effected on a stock exchange, electronic communication network or similar execution system, or in the over-the-counter market (which may include a sale to one or more broker-dealers acting as market makers or otherwise intending to resell the Common Interests sold to them in accordance with their normal business practices), (4) to an acquirer which has acquired control of a majority of the total Common Interests, or (5) with the written approval of the U.S. Board of Governors of the Federal Reserve System or its staff.

(b) Notwithstanding anything herein to the contrary, Common Interests with a voting interest in excess of the Maximum Percentage of the then issued and outstanding Common Interests of each Member who elects to be treated as a Restricted Member shall be deemed Non-voting Common Interests and the Aggregate Class A Voting Allocation and Aggregate Class B Voting Allocation shall be adjusted accordingly. Non-voting Common Interests shall not be included in determining whether the requisite percentage in interest of the Members have consented to, approved, adopted or taken any action pursuant to this Agreement. Except as provided in this Section 7.5(b), Non-voting Common Interests will be identical in all regards to all other Common Interests held by Members.

(c) For the purposes of Sections 7.5(a)(iii) and 7.5(b), references to Common Interests owned by a Restricted Member shall include all Common Interests Transferred to another Person or Persons by such Restricted Member after making its Restricted Member Election (excluding any Transfers in accordance with Section 7.5(a)(iii)(C)).

(d) Without limiting the foregoing, a Member may make a Restricted Member Election with respect to any of its Class B Common Interests, even if such Class B Common Interests do not constitute Excess Interests. Upon such election, such Class B Common Interests shall be deemed Non-voting Common Interests and the provisions of Section 7.5(b) shall apply with respect to such Member, provided that such Member may only reverse such election under the circumstances described in Section 7.5(a)(iii)(C).

(e) For the avoidance of doubt, absent SEC approval as contemplated in Section 11.8, the Excess Interests of a Member (other than NYSE Amex alone or together with its Affiliates) arising as a result of such Member (alone or together with its Affiliates) exceeding the 19.9% Maximum Percentage shall immediately and automatically constitute Non-voting Common Interests pursuant to the second sentence of Section 4.9(c) and shall not be subject to the provisions of this Section 7.5.

7.6 Member Conduct. The Company and, to the extent it relates to the Company, each Member, agrees to comply with the federal securities laws and the rules and regulations promulgated thereunder and to cooperate with NYSE Amex pursuant to its regulatory authority and with the SEC. Furthermore, each Member shall take into consideration whether its actions would cause the Exchange or the Company to engage in conduct that fosters and does not interfere with NYSE Amex's or the Company’s ability to carry out their respective

responsibilities under the Exchange Act and to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. In furtherance of the foregoing, the Members may, upon (A) the affirmative written consent of NYSE Amex (in its capacity as SRO) and (B) a Supermajority Vote of the Board (excluding the vote of the Director designated by the Member subject to sanction), suspend or terminate a Member's voting privileges, including the ability to designate Directors pursuant to Section 8.1(d) in the event: (i) such Member has materially violated any Regulatory Matters Provision or any applicable Law; (ii) such Member is subject to any applicable "statutory disqualification" (within the meaning of Section 3(a)(39) of the Exchange Act); or (iii) such action is necessary or appropriate in the public interest or for the protection of investors. Prior to any such suspension or termination, (x) the Company shall deliver to such Member a written notice specifying in reasonable detail the basis for such proposed suspension or termination and (y) Representatives of such Member shall be given an opportunity to address the Board regarding such proposed suspension or termination prior to the Board voting thereon. In the event of such suspension or termination, the Director (if any) designated by such Member shall immediately cease to be a Director and the authorized number of Directors shall be reduced accordingly.

ARTICLE VIII
MANAGEMENT OF THE COMPANY

8.1 Board of Directors.

(a) Establishment. There is hereby established a board of directors (the "Board"), which shall be a "manager" of the Company within the meaning of the Act, and which shall be comprised of natural persons (each, a "Director") having the authority and duties specified in this Agreement. Each Director shall be entitled to one vote. No Director acting alone, or with any other Director or Directors (other than acting as the Board), shall have the power to act for or on behalf of, or to bind the Company (including as a result of each being a "manager" within the meaning of the Act of the Company as further provided in this Section 8.1). Each Director shall be a "manager" within the meaning of the Act of the Company, but, notwithstanding the foregoing, no Director shall have any rights or powers beyond the rights and powers granted to such Director in this Agreement or under the Act. Directors need not be residents of the State of Delaware.

(b) Powers. The Board hereby delegates the day-to-day operation of the Company and the management of the business and affairs of the Company to the Officers and NYSE Group in accordance with the NYSE Euronext Agreement (except as otherwise provided herein). The Board shall oversee the conduct and performance of the duties delegated pursuant to this Section 8.1.

(c) Number of Directors; Term of Office. Subject to Section 8.1(d), the authorized number of Directors is, as of the date hereof, thirteen (13) Directors. The Board may be expanded by Supermajority Vote of the Board to include any number of independent Directors as may be required by applicable Law, provided that in the event the Board is so expanded, the

Board shall determine, by Supermajority Vote, applicable independence criteria in accordance with, among other appropriate considerations, the requirements of applicable Law which shall include, for this purpose, SEC guidelines, if any, regarding such criteria (any such independent Director, an "Independent Director"). The Directors shall be appointed by the Members pursuant to Section 8.1(d) and shall hold office until their respective successors are elected and qualified or until their earlier death, resignation or removal. In the event that the Company is not required to appoint Independent Directors, the Company shall authorize one individual to be designated by NYSE Amex to participate as a non-voting observer in meetings of the Board, so long as the Exchange is operated as a facility of NYSE Amex.

(d) Designation of Directors. Each Member agrees that it shall vote all of such Member's Common Interests and any other voting Equity Securities of the Company over which such Member has voting control and shall take all other actions reasonably necessary or desirable within such Member's control (whether in such Member's capacity as a Member, Director, member of a Board committee or Officer or otherwise, and including attendance at meetings in person or by proxy for purposes of obtaining a Quorum and execution of written consents in lieu of meetings), and the Company shall take all necessary and desirable actions within its control (including calling special Board and Member meetings), so that the following Persons shall be elected to the Board:

(i) up to seven (7) representatives designated by NYSE Amex who shall initially be as specified on Schedule 8.1(d)(i) and, after the Effective Date, such other Persons who are designated by NYSE Amex from time to time pursuant to this clause (i), one of whom may, in NYSE Amex's sole discretion, be the Chief Executive Officer; provided that (x) upon any expansion of the Board to include any Independent Directors pursuant to Section 8.1(c), for so long as NYSE Amex's Common Interest Percentage equals or exceeds fifteen percent (15%), NYSE Amex shall have the right to designate a number of additional Directors equal to the aggregate number of Independent Directors added to the Board pursuant to Section 8.1(c) or, if fewer, the largest number of additional Directors allowable under applicable Law, and the authorized number of Directors shall be correspondingly increased and (y) upon any expansion of the Board to include any additional Directors appointed by Members other than NYSE Amex pursuant to this Agreement, NYSE Amex shall have the right to designate a number of additional Directors equal to the aggregate number of Directors so added to the Board and the authorized number of Directors shall be correspondingly increased; provided, further, that each individual designated by NYSE Amex to serve as a Director shall be reasonably acceptable to the Founding Firms; and provided, further, notwithstanding anything to the contrary in this Agreement, that NYSE Amex shall appoint at least such number (not to exceed seven (7) Directors) as is necessary to ensure that no single Founding Firm's designees to the Board constitute twenty percent (20%) or a greater percentage of the total number of Directors on the Board; and

(ii) one (1) representative designated by each Founding Firm (other than Barclays) authorized to so designate a representative pursuant to this Section 8.1(d)(ii) (a "Designating Founding Firm"), who shall initially be as specified on Schedule 8.1(d)(ii) and, after the Effective Date, such other Person who is designated by such Designating Founding Firm from time to time pursuant to this clause (ii); provided that each individual designated by the Founding Firms to serve as a Director shall be reasonably acceptable to NYSE Amex; provided, further, that if such Designating Founding Firm's Common Interest Percentage falls

below, in the case of Goldman Sachs and Citadel, five percent (5%), and in all other cases, three percent (3%), the individual designated by such Designating Founding Firm shall immediately cease to be a Director, such Founding Firm shall cease to be a Designating Founding Firm, and the authorized number of Directors shall be reduced accordingly; provided, further, that if such Designating Founding Firm's Class B Common Interests are subject to redemption, the Board (A) may require the individual designated by such Designating Founding Firm to resign, (B) may permanently, or for such shorter period as the Board may designate, disqualify such Designating Founding Firm from designating representatives to the Board pursuant to this Section 8.1(d)(ii), and (C) pursuant to clause (A) or (B), reduce the authorized number of Directors accordingly; provided that the affected Director shall not be authorized to participate in any such decision by the Board.

(iii) In the event the Board is expanded to include Independent Directors pursuant to Section 8.1(c) and NYSE Amex's Common Interest Percentage equals or exceeds fifteen percent (15%), NYSE Amex shall designate one-half of the total number of Independent Directors to be so included, in consultation with the Founding Firms, and the Founding Firms shall designate one-half of the total number of Independent Directors to be so included, in consultation with NYSE Amex; provided that if the number of Independent Directors to be so included is odd, NYSE Amex shall designate a number of Independent Directors that is equal to the number of Independent Directors designated by the Founding Firms plus one; provided further that if (A) two or fewer Members have the right to designate a Director pursuant to Section 8.1(d)(ii) or (B) the aggregate Common Interests held by all Founding Firms excluding Non-voting Common Interests, falls below fifteen percent (15%) of the then issued and outstanding Common Interests, NYSE Amex shall have the exclusive right to designate all of the Independent Directors. The Independent Directors designated by NYSE Amex and the Founding Firms shall be subject to approval by a Supermajority Vote of the Board. In the event that NYSE Amex's Common Interest Percentage is less than fifteen percent (15%), the Independent Directors shall be appointed by mutual agreement of NYSE Amex and a majority of the Founding Firms.

(iv) If and for so long as NYSE Amex's then-current Common Interest Percentage is less than fifteen percent (15%), the number of NYSE Amex Directors shall be decreased to a number equal to the then-current number of Founding Firm Directors, the aggregate number of representatives of the Board to be designated by NYSE Amex pursuant to this Section 8.1(d) shall be decreased accordingly, and the number of Directors shall be reduced accordingly, until such time as either (x) one or more Founding Firms become eligible to designate a Director, in which case the aggregate number of representatives of the Board to be designated by NYSE Amex pursuant to this Section 8.1(d) shall simultaneously be increased to a number equal to the number of Founding Firm Directors, or (y) NYSE Amex's then-current Common Interest Percentage again equals or exceeds fifteen percent (15%), in which case the aggregate number of representatives of the Board to be designated by NYSE Amex pursuant to this Section 8.1(d) shall be increased to a number equal to the number of Founding Firm Directors plus one (1), and, in each case, the number of Directors shall be increased accordingly.

(v) In the event the Company at any time has any Subsidiaries, the Company shall ensure that the composition of the board of directors (or similar governing body) of such

Subsidiary shall mirror the composition of the Board, unless the Board, by a Supermajority Vote, determines otherwise.

(e) Resignation; Removal.

(i) Any Director may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein or, if no time is specified, at the time of its receipt by the Company. The acceptance of a resignation shall not be necessary to make it effective. A Director may be removed as a Director at any time and for any reason by the Board, pursuant to the written request of the Person or Persons entitled to designate such Director pursuant to Section 8.1(d). A Director may also be removed for Cause by Majority Vote of the Board; provided that (i) Representatives of the Member entitled to designate such Director shall be given the opportunity to speak to the Board regarding such proposed removal prior to the Board voting on the removal of such Director and (ii) the affected Director shall not be authorized to participate in any such decision by the Board. In the event that a Director designated by a Designating Founding Firm fails to attend a majority of Board meetings during any 12-month period, the Board may require the affected Founding Firm to designate a replacement Director.

(ii) The Board may, by Supermajority Vote (excluding the vote of the Directors designated by the Member subject to sanction), suspend or terminate a Director's service as such to the Company in the event: (A) such Director has materially violated any Regulatory Matters Provision or any applicable Law or (B) such action is necessary or appropriate in the public interest or for the protection of investors. Prior to any such suspension or termination, (x) the Board shall deliver to the Designating Founding Firm that appointed such Director a written notice specifying in reasonable detail the basis for such proposed suspension or termination and (y) Representatives of such Designating Founding Firm shall be given an opportunity to address the Board regarding such proposed suspension or termination prior to the Board voting thereon. In the event of such suspension or termination, the individual designated by such Designating Founding Firm shall immediately cease to be a Director and the resulting vacancy shall be filled pursuant to Section 8.1(f).

(iii) Any Director who becomes subject to any applicable “statutory disqualification” (within the meaning of Section 3(a)(39) of the Exchange Act) shall be deemed to have automatically resigned from the Board.

(f) Vacancies. In the event that any Director designated hereunder for any reason ceases to serve as a Director during his or her term of office, the resulting vacancy shall be filled by a representative designated by the Person or Persons entitled to designate such Director pursuant to Section 8.1(d).

(g) Alternates; Observers.

(i) Each Designating Founding Firm will be permitted to appoint an alternate director, who will have the right to serve, act and vote as the Director designated by such Designating Founding Firm in the absence of the principal Director from time to time in cases of necessity. Such alternate will be permitted to attend all meetings of the Board even if the

principal Director is present at such meetings (it being understood that in such case such alternate will attend as an observer and shall not have the right to act or vote as a Director at any such meeting). In the event a Director is removed pursuant to Section 8.1(e)(ii), the then-appointed alternate to such Director shall immediately cease to be an alternate and shall, instead, become a Director (unless the related Designating Founding Firm appoints another person as its Director, in which case the alternate shall remain an alternate). In the event a Director is removed pursuant to Section 8.1(d)(ii), any alternate to such Director shall immediately cease to be an alternate and, for the sake of clarity, shall not become a Director.

(ii) To the extent a Founding Firm lacks representation on the Board, such Founding Firm shall have the right to appoint a non-voting observer to the Board.

(h) Qualification of Directors and Alternates. Each individual designated to the Board as a director pursuant to Section 8.1(d) or as an alternate pursuant to Section 8.1(g), prior to serving on the Board, shall certify in writing to the Company that he or she is not subject to a "statutory disqualification" within the meaning of Section 3(a)(39) of the Exchange Act. Each Founding Firm, prior to designating an individual to the Board (as a director, alternate or observer) pursuant to Section 8.1(d), 8.1(f), or 8.1(g), as applicable, shall certify in writing to the Company that such individual is not then a director (or an alternate director or observer to the board or any committee of the board), officer or employee of a Specified Entity. In the event an individual designated by a Designating Founding Firm pursuant to Section 8.1(d), or appointed as an alternate pursuant to Section 8.1(g), becomes a member of the board of directors or similar governing body of a Specified Entity, such individual shall immediately cease to be a Director, alternate or observer, as applicable, and the resulting vacancy shall be filled pursuant to Section 8.1(d), Section 8.1(f) or Section 8.1(g), as applicable.

(i) Meetings of the Board.

(i) The Board shall meet at such reasonable times and at such reasonable places (either within or outside of the State of Delaware) as the Board may designate. Special meetings of the Board shall be held on the call of the Chairman or on the call of four Directors upon at least two (2) days' (if the meeting is to be held in person) or one (1) day's (if the meeting is to be held by telephone communications or video conference) oral or written notice to the Directors, or upon such shorter notice as may be approved by the Board, provided that any meeting of the Board at which any Supermajority Item is considered shall, absent exigent circumstances, be held upon no less than three (3) Business Days' notice. A record shall be maintained by the Secretary of the Company of each meeting of the Board.

(ii) Notice of Meetings.

(A) Notice of the time and place of meetings of the Board, other than special meetings, shall be in writing and made (i) by personal delivery; (ii) by a nationally recognized overnight courier service; (iii) by facsimile if the writing is legible and sent from a facsimile machine providing written confirmation of receipt; (iv) by deposit in the United States Postal Service as registered or certified US Mail, postage and charges prepaid, return receipt requested, or (v) by electronic transmission, to each Director addressed to the Director at the Director's address or facsimile number as it is shown upon the records of the Company or, if it is

not so shown on such records or is not readily ascertainable, at the place at which the meetings of the Directors are regularly held. In case such notice is mailed, it shall be deposited in the United States Mail at least five (5) days prior to the time of the holding of the meeting. In case such notice is delivered by any other means hereunder, it shall be so delivered prior to the time specified in Section 8.1(i)(i). Any such transmission of notice, as above provided, shall be due, legal and personal notice to such Director. The Officers shall endeavor to obtain from each Director in writing any consent required by applicable Law, if any, for the use of electronic means of transmission for communications hereunder.

(B) Notice of a meeting need not be given to any Director if a written waiver of notice executed by him or her before or after the meeting is filed with the records of the meeting, or if such Director attends the meeting without protesting, prior to the meeting or at its commencement, the lack of notice to such Director. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(C) The notice of any meeting of the Board shall include the agenda of the meeting specifying in reasonable detail the matters to be discussed at such meeting and identifying any specific Supermajority Items to be considered. Any Director that wishes to have any additional matter discussed at any such meeting shall give to the Chairman and each other Director, alternate and observer not later than one (1) day prior to any such meeting, notice of each matter he or she so wishes to discuss. Any Director may waive such notice as to himself.

(iii) Conduct of Meetings. Any meeting of the Board may be held in person, telephonically or by video conference.

(iv) Quorum. A Quorum shall constitute a quorum of the Board for purposes of conducting business. At all times when the Board is conducting business at a meeting of the Board, a Quorum must be present at such meeting. If a Quorum shall not be present at any meeting of the Board, then the Directors present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a Quorum shall be present, provided that if, at any duly called meeting wherein a Supermajority Item is being considered, a Quorum is not met solely due to the fact that a requisite number of Founding Firm Directors are not present, such meeting shall be rescheduled on, absent exigent circumstances, at least three (3) Business Days' prior written notice of such rescheduled meeting and, for purposes of such rescheduled meeting, the absence of the requisite number of Founding Firm Directors shall not prevent the Board from taking action by Supermajority Vote. A Director may vote or be present at a meeting either in person or by proxy.

(v) Vote Required For Action. A Majority Vote (regardless of the number of Directors present at a meeting at which a Quorum is present) shall be an act of the Board, unless the vote of a greater number of Directors is required by applicable Law, the Certificate, or this Agreement. The matters specified on Schedule 8.1(i)(v) may only be taken (whether by the Company or any Subsidiary) with approval by a Supermajority Vote of the Board; provided that any matter excepted from Schedule 8.1(i)(v) by any item on Schedule 8.1(i)(v) shall be deemed to be excepted from all items on Schedule 8.1(i)(v) except where expressly covered by another item on such Schedule. Notwithstanding anything to the contrary contained in this Agreement, in the event that at any given time, (A) two or fewer Members have the right to designate a

Director pursuant to Section 8.1(d)(ii) or (B) the aggregate number of Class B Common Interests held by all Founding Firms, excluding Non-voting Common Interests, falls below twenty percent (20%) of the then issued and outstanding Common Interests, the list of matters that may be taken only with approval by a Supermajority Vote of the Board shall include only those actions specified in items 8, 12, 15, 16, 24 and 25 on Schedule 8.1(i)(v), provided that in the event that the aggregate number of Class B Common Interests held by all Founding Firms, excluding Non-voting Common Interests, falls below fifteen percent (15%) of the then issued and outstanding Common Interests, a Supermajority Vote of the Board on such actions shall only be required to the extent that any such action would have a materially and disproportionately disadvantageous effect on the economic or voting rights of the Founding Firms; provided further that a material change to the pricing of the NYSE Euronext Agreement, subject to the provisions therein, that is not in good faith consideration of (i) documented additional or enhanced services (subject to such additional or enhanced services being provided at cost) or (ii) a documented increase in the aggregate cost of the services provided thereunder (for the sake of clarity, net of any reductions in other costs of services provided thereunder) will per se be deemed to have a materially and disproportionately disadvantageous effect on the economic rights of Founding Firms.

(vi) Actions Without a Meeting. Notwithstanding any provision contained in this Agreement, any action of the Board may be taken without a meeting if a consent or consents in writing, setting forth the action so taken, shall be signed by Directors representing a Majority Vote of the Board, or a Supermajority Vote of the Board, as applicable pursuant to Section 8.1(i)(v); provided that any action approved pursuant to this Section 8.1(i)(vi) shall be preceded by three (3) Business Days' prior written notice to each Director and alternate Director; and provided, further that Section 8.1(i)(iv) shall not apply to any such consent or consents. A record shall be maintained by the Company of each such action taken by written consent of the Board.

(j) Compensation of the Directors. Directors, as such, shall not receive any compensation for their services, provided that an Independent Director may receive reasonable compensation for his or her services as may be from time to time approved by the Board. In addition, a fixed sum for Independent Directors and reimbursement for out-of-pocket expenses, if any, may be allowed for attendance at each regular or special meeting of the Board; provided that nothing contained in this Agreement shall be construed to preclude any Director (including the Chairman or Chief Executive Officer) from serving the Company or any of its Subsidiaries in any other capacity and receiving compensation for such service.

(k) Chairman of the Board. Any one of the Directors designated by NYSE Amex pursuant to Section 8.1(d)(i) shall be elected to be the chairman of the Board (the "Chairman") by the Board. The Director designated as such on Schedule 8.1(d)(i) shall serve as the initial Chairman. At any time, the Chairman, if any, can be removed from his or her position as Chairman by the Board. The Chairman, in his or her capacity as the Chairman of the Board, shall not have any of the rights or powers of an Officer. The Chairman shall preside at all meetings of the Board and at all meetings of the Members at which he or she shall be present.

(l) No Duties.

(i) In addition to, and not by way of limitation of, the provisions of Section 8.5(a) and without limitation on any Person's obligations to comply with NYSE Amex's

authority as an SRO, this Agreement eliminates, to the fullest extent permitted under the Act, any duties (including fiduciary duties, except as otherwise expressly provided in any of the NYSE Euronext Agreement, as applicable) of the Directors, alternate Directors, observers to the Board and members of the Founding Firm Advisory Committee to, and any and all liabilities for breach of contract and breach of duties (including fiduciary duties) of the Directors, alternate Directors, observers to the Board and members of the Founding Firm Advisory Committee, to the Company, to the Members or to any other Person that is a party to or is otherwise bound by this Agreement, except for the implied contractual covenant of good faith and fair dealing and any liability for acts or omissions that constitute a bad faith violation of the implied contractual covenants of good faith and fair dealing.

(ii) Any repeal or modification of this Section 8.1(l) shall not adversely affect any right or protection of any Director, alternate Director, observer to the Board or member of the Founding Firm Advisory Committee existing prior to such repeal or modification. This Section 8.1(l) shall not apply to the Chief Executive Officer in his or her capacity as an employee of the Company.

(m) Compliance.

(i) (A) The Board in carrying out its duties hereunder and without limitation on its other obligations under applicable Law or otherwise and (B) each Director, in carrying out his or her duties hereunder and without limitation on his or her other obligations under applicable Law or otherwise (but subject to the waiver of fiduciary duties pursuant to Section 8.1(l)), shall be obligated to (x) comply with the federal securities laws and the rules and regulations promulgated thereunder and (y) cooperate with NYSE Amex pursuant to its regulatory authority and the provisions of this Agreement and with the SEC.

(ii) Furthermore, each Director shall take into consideration whether his or her actions would cause the Exchange or the Company to engage in conduct that fosters and does not interfere with NYSE Amex or the Company's ability to carry out their respective responsibilities under the Exchange Act and to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

(iii) NYSE Amex shall receive notice of planned or proposed changes to the Company (but not to include changes relating solely to Non-Market Matters) or the Exchange and NYSE Amex must not object affirmatively to such changes prior to implementation, not inconsistent with this Agreement. NYSE Amex, in the performance of its obligations as the SRO for the Exchange, shall, following receipt of such notice and without undue delay, notify the Company whether or not it has any objection to such change based on the potential for such change to give rise to a Regulatory Deficiency. In the event that NYSE Amex, in its sole discretion, determines that such planned or proposed changes to the Company or the Exchange could cause a Regulatory Deficiency if implemented, NYSE Amex may direct the Company to, and the Company shall, modify the planned or proposed changes as necessary to ensure that it does not cause a Regulatory Deficiency. In the event that NYSE Amex, in its sole discretion,

determines that a Regulatory Deficiency exists or is planned, NYSE Amex may direct the Company to, and the Company shall, undertake such modifications to the Company (but not to include Non-Market Matters) or the Exchange as are necessary or appropriate to eliminate or prevent the Regulatory Deficiency and allow NYSE Amex to perform and fulfill its regulatory responsibilities under the Exchange Act.

(n) Corporate Policies.

(i) NYSE Euronext has developed corporate compliance policies that govern the conduct of its employees, officers, and directors and the employees, officers, and directors of its Affiliates. The Board shall adopt these policies on the Effective Date; provided that these policies shall not apply to Directors, alternate Directors or observers to the Board appointed by a Founding Firm except as described in Section 8.1(n)(ii) and 8.1(n)(iii). These policies (except for their application to Directors, alternate Directors or observers to the Board appointed by a Founding Firm) may be revised from time to time by NYSE Euronext; provided that the personal trading policy referred to in Section 8.1(n)(ii), as it applies to Directors, alternate Directors and observers to the Board appointed by the Founding Firms, may only apply to stock and other securities issued by NYSE Euronext and its Affiliates. Any such revised policies will be promptly provided to the Company. Subject to applicable Law, all employees, officers, and directors (other than Directors, alternate Directors and observers to the Board appointed by a Founding Firm) of the Company or its Affiliates will be expected to comply with these policies, except as described in Sections 8.1(n)(ii) and 8.1(n)(iii).

(ii) The personal trading policy of NYSE Euronext shall apply to Directors, alternate Directors and observers to the Board appointed by the Founding Firms solely in their personal capacities, and shall not apply to any Founding Firm or any Director, alternate Director or observer to the Board appointed by a Founding Firm in his or her capacity as an employee of any Founding Firm. Modifications or revisions by NYSE Euronext of its personal trading policy shall be applicable to Directors, alternate Directors and observers to the Board appointed by the Founding Firms solely in their personal capacity, and shall not apply to any Founding Firm or any Director, alternate Director or observer to the Board appointed by a Founding Firm in his or her capacity as an employee of any Founding Firm.

(iii) NYSE Euronext represents and warrants that it has obtained a waiver by the audit committee of the board of directors of NYSE Euronext exempting the Directors, alternate Directors and observers to the Board appointed by the Founding Firms from all of its corporate compliance policies (other than its personal trading policy, as and to the extent described in Section 8.1(n)(ii)).

(iv) Notwithstanding the foregoing and subject to applicable Law, to the extent the terms and conditions of the corporate compliance policies of NYSE Euronext (including the personal trading policy) conflict with any term or condition of this Agreement, the terms and conditions of this Agreement shall control.

(o) NYSE Euronext Audit. NYSE Euronext or an Affiliate thereof shall have the right to conduct audits of all operations of the Company. The NYSE Euronext internal audit group shall have access to all records and employees of the Company and will determine which

audits to conduct and the timetable for such work. Any such audit shall be considered in a manner consistent with the NYSE Euronext audit group charter, which mandates the independent role of the group and which is approved by the NYSE Euronext Audit Committee. If the Company engages an external party to conduct an audit, the NYSE Euronext audit group shall have the right to review with the external party the nature and extent of the work and any resulting report and supporting written work product. NYSE Euronext shall bear all of the costs and expenses incurred by the Company and its Representatives related to the exercise of its rights pursuant to this Section 8.1(o).

8.2 Committees of the Board. The Board may designate from among the Directors one or more committees, each of which shall be comprised of one or more Directors, and may designate one or more of the Directors as alternate members of any committee, who may, subject to any limitations imposed by the Board, replace absent or disqualified Directors at any meeting of that committee. Any such committee shall have and may exercise all of the authority delegated by the Board in such resolution or ascribed to such committee in a written charter, subject to the limitations specified in the Act; provided, however, that any committee established by the Board shall (a) not be empowered to act or exercise any authority on any matter that requires approval by the Board unless such committee is specifically authorized to so act by Supermajority Vote of the Board and (b) at all times include at least two Founding Firm Directors and (c) include any remaining Founding Firm Directors as observers to such committee, at such Directors' option. Directors may be removed from any committee by Majority Vote of the Board.

8.3 Founding Firms Advisory Committee.

(a) Establishment. The Board shall establish on the Effective Date a Founding Firm advisory committee (the "Founding Firm Advisory Committee") comprised of natural persons (each, an "Advisory Committee Member") having the capacity to provide advice to the Board, which advice the Board will consider in good faith but shall not be bound by, with respect to subjects identified by the Board from time to time, including new Products and market structure.

(b) Number of Advisory Committee Members; Term of Office. The authorized number of Advisory Committee Members is, as of the date hereof, nine (9), and hereafter, the authorized number of Advisory Committee Members may be increased or decreased by Majority Vote of the Board; provided, that at all times each Founding Firm shall be entitled to have one (1) representative on the Founding Firm Advisory Committee (except as otherwise provided herein). The Advisory Committee Members shall be appointed by the Members as follows: two (2) Advisory Committee Members appointed by NYSE Amex and one (1) Advisory Committee Member appointed by each Founding Firm. Advisory Committee Members shall hold office until their respective successors are appointed or until their earlier death, resignation or removal. The Advisory Committee Members as of the date hereof are listed on Schedule 8.3(b).

(c) Resignation; Removal; Vacancies. Any Advisory Committee Member may resign at any time and may be removed at any time and for any reason by the Board, at the request of the Member entitled to appoint such Advisory Committee Member pursuant to Section 8.3(b). In the event that any Advisory Committee Member for any reason ceases to serve as an Advisory

Committee Member during his or her term of office, the resulting vacancy shall be filled by the Member entitled to appoint such Advisory Committee Member pursuant to Section 8.3(b).

(d) Qualification of Advisory Committee Members. Each individual designated to the Founding Firm Advisory Committee pursuant to Section 8.3(b), prior to serving on the Founding Firm Advisory Committee, shall certify in writing to the Company that he or she is not subject to a "statutory disqualification" within the meaning of Section 3(a)(39) of the Exchange Act. Each Founding Firm, prior to designating an individual to the Founding Firm Advisory Committee pursuant to Section 8.3(b) shall certify in writing to the Company that such individual is not then a director (or an alternate director or observer to the board or any committee of the board), officer or employee of a Specified Entity. In the event an individual designated to the Founding Firm Advisory Committee pursuant to Section 8.3(b) becomes a member of the board of directors or similar governing body of a Specified Entity, such individual shall immediately cease to be an Advisory Committee Member and the resulting vacancy shall be filled pursuant to Section 8.3(c).

8.4 Officers.

(a) Appointment of Officers. The Board shall appoint one or more individuals as officers of the Company ("Officers"), which shall include the Chief Executive Officer and such other officers as the Board deems advisable, provided that upon resignation or expiration of the initial Chief Executive Officer specified in Section 8.4(e), any new Chief Executive Officer shall be designated by NYSE Amex, after consultation with the Founding Firms, and approved by Supermajority Vote of the Board. No officer need be a Member or a Director. An individual may be appointed to more than one office. Each Officer shall be a "manager" (as that term is used in the Act) of the Company, but, notwithstanding the foregoing, no Officer shall have any rights or powers beyond the rights and powers granted to such Officer in this Agreement. The initial Officers shall be qualified individuals who may not, at the time of their appointment, be employed by any Member other than NYSE Amex or an Affiliate thereof pursuant to the NYSE Euronext Agreement.

(b) Duties of Officers Generally. Under the direction of and, at all times, subject to the authority of the Board and as further described in the NYSE Euronext Agreement, the Officers and NYSE Group, pursuant to the NYSE Euronext Agreement, shall have full and complete discretion, subject to the terms of this Agreement, to manage and control the day-to-day business, operations and affairs of the Company in the ordinary course of its business, to make all decisions affecting the day-to-day business, operations and affairs of the Company in the ordinary course of its business and to take all such actions as they deem necessary or appropriate to accomplish the foregoing, in each case, unless the Board shall have previously restricted (specifically or generally) such powers. In addition, the Officers shall have such other powers and duties as may be prescribed by the Board or this Agreement. The Chief Executive Officer shall have the power and authority to delegate to any agents or employees of the Company rights and powers of Officers to manage and control the day-to-day business, operations and affairs of the Company in the ordinary course of its business, as the Chief Executive Officer may deem appropriate from time to time, in each case, unless the Board shall have previously restricted (specifically or generally) such powers. Except to the extent otherwise provided herein, each Officer shall have a fiduciary duty of loyalty and care similar to that of

officers of business corporations organized under the General Corporation Law; provided that in the event the Chief Executive Officer is also a Director, this sentence shall not apply to such Chief Executive Officer acting in his or her capacity as a Director.

(c) Authority of Officers. Subject to Section 8.4(b), any Officer shall have the right, power and authority to transact business in the name of the Company or to act for or on behalf of or to bind the Company. With respect to all matters within the ordinary course of business of the Company, third parties dealing with the Company may rely conclusively upon any certificate of any Officer to the effect that such Officer is acting on behalf of the Company.

(d) Removal, Resignation and Filling of Vacancy of Officers. Subject to Section 8.4(e), the Board may remove any Officer other than the Chief Executive Officer, for any reason or for no reason, at any time, by Supermajority Vote. Any Officer may resign at any time by giving written notice to the Board, and such resignation shall take effect at the date of the receipt of that notice or any later time specified in that notice; provided that unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any such resignation shall be without prejudice to the rights, if any, of the Company or such Officer under this Agreement. A vacancy in any office because of death, resignation, removal or otherwise shall be filled in the manner prescribed in this Agreement for regular appointments to that office.

(e) Chief Executive Officer. Under the direction of and, at all times, subject to the authority of the Board, the Chief Executive Officer shall have general supervision over the day-to-day business, operations and affairs of the Company and shall perform such duties and exercise such powers as are incident to the office of chief executive officer of a corporation organized under the General Corporation Law. Subject to the NYSE Euronext Agreement, the Chief Executive Officer shall have such other powers and perform such other duties as may from time to time be prescribed by the Board. The Chief Executive Officer shall report jointly to the Board and to the head of US Options at NYSE Euronext. The Chief Executive Officer may be removed (i) absent Cause, by the affirmative vote of greater than fifty percent (50%) of the Founding Firm Directors or (ii) for Cause, by Majority Vote of the Board. The initial Chief Executive Officer shall be Steve Crutchfield.

(f) Other Officers. All other Officers shall have such powers and perform such duties as may from time to time be prescribed by the Board and/or the Chief Executive Officer, subject to the NYSE Euronext Agreement.

8.5 Indemnification.

(a) All Members, their Affiliates, and their respective directors, authorized officers, authorized representatives, and agents, and all Directors, alternate Directors, observers to the Board, Officers, Advisory Committee Members, employees and agents of the Company (each, an "Indemnitee") shall be indemnified by the Company to the fullest extent permitted under the Act and applicable Law by reason of any act or omission performed or omitted by such Indemnitee on behalf of the Company except to the extent that it is finally judicially determined that such action or omission constitutes bad faith, fraud, violation of law, gross negligence or intentional misconduct or violations of such Indemnitee's duties pursuant to this Agreement; provided that

there shall be no indemnification under this Section 8.5(a) for any matter arising under or out of the NYSE Euronext Agreement. To the fullest extent permitted under the Act and applicable Law, no Officer or Director, nor any Affiliate of any Officer or Director, shall be personally liable, responsible or accountable in damages or otherwise to the Company, to any of its Members or to any other Person that is a party to or is otherwise bound by this Agreement for or with respect to any action taken or failure to act on behalf of the Company within the scope of the authority conferred on such Officer or Director by this Agreement or by applicable Law, except to the extent that it is finally judicially determined that such liability arose out of or was related to actions or omissions constituting bad faith, fraud, violation of law, gross negligence or intentional misconduct or violations of such Indemnitee's duties pursuant to this Agreement. Any repeal or modification of this Section 8.5(a) shall not adversely affect any right or protection of any Indemnitee existing prior to such repeal or modification.

(b) To the extent that at law or in equity a Person shall have duties (including fiduciary duties) and liabilities to the Company or the Members, such duties and liabilities may be restricted by provisions of this Agreement, including Section 8.1(l). None of the Directors, alternate Directors, observers to the Board, Advisory Committee Members or Members shall be liable to the Company, to any Member or to any other Person that is a party to or is otherwise bound by this Agreement for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Director, alternate Director, observer to the Board, Advisory Committee Member or Member in good faith on behalf of the Company, in its capacity as a Director, alternate Director, observer to the Board, Advisory Committee Member or Member and in a manner reasonably believed to be within the scope of authority conferred on such Director, alternate Director, observer to the Board, Advisory Committee Member or Member by this Agreement. No Officer shall be liable to the Company, any Member or to any other Person that is a party to or is otherwise bound by this Agreement for any loss, damage or claim incurred by reason of any act or omission reasonably required to be performed or omitted by such Officer within the scope of his or her employment on behalf of the Company, except to the extent that it is finally judicially determined that such liability arose out of or were related to actions or omissions constituting bad faith, fraud, violation of law, gross negligence or intentional misconduct or violations of such Officer's duties pursuant to Section 8.4(b).

(c) The Directors, alternate Directors, observers to the Board, Advisory Committee Members and Officers shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to the matters any such Director, alternate Director, observer to the Board, Advisory Committee Member or Officer reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses or net cash flow or any other facts pertinent to the existence and amount of assets from which Distributions to the Members might properly be paid, except to the extent that it is finally judicially determined that such Person committed actions or omissions constituting bad faith, fraud, violation of law, gross negligence or intentional misconduct or violations of such Person's duties pursuant to this Agreement.

(d) The right to indemnification conferred in this Section 8.5 shall be a contract right and shall include the right to be paid by the Company the expenses incurred in defending any

such proceeding in advance of its final disposition (an "Advancement of Expenses"); provided, however, that if the Act so requires, an Advancement of Expenses incurred by an Indemnitee in his capacity as a Director, alternate Director, observer to the Board, Advisory Committee Member or Officer (and not in any other capacity in which service was or is rendered by such Indemnitee) shall be made only upon delivery to the Company of an undertaking (an "Undertaking"), by or on behalf of such Indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a "Final Adjudication") that such Indemnitee is not entitled to be indemnified for such expenses under this Section 8.5 or otherwise.

(e) If a claim under this Section 8.5 is not paid in full by the Company within sixty (60) days after a written claim has been received by the Company, except in the case of a claim for an Advancement of Expenses, in which case the applicable period shall be thirty (30) days, the Indemnitee may at any time thereafter bring suit against the Company to recover the unpaid amount of any such claim. If successful in whole or in part in any such suit, or in a suit brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Indemnitee or the Company, as the case may be, shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnitee to enforce a right to an Advancement of Expenses) it shall be a defense that, and (ii) any suit brought by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Company shall be entitled to recover such expenses upon a Final Adjudication that the Indemnitee has not met the applicable standard of conduct specified in the Act. Neither the failure of the Company (including the Board, independent legal counsel or the Members) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct specified in the Act, nor an actual determination by the Company (including the Board, independent counsel or the Members) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an Advancement of Expenses hereunder, or by the Company to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such Advancement of Expenses, under this Section 8.5 or otherwise shall be on the Company.

8.6 Insurance. The Company shall purchase and maintain at all times following the Effective Date insurance, in amounts and with coverage comparable to those typically maintained by similarly situated companies, on behalf of all Directors, alternate Directors, observers to the Board, Officers and Advisory Committee Members against any liabilities asserted against such Persons and incurred by such Persons in any such capacity, or arising out of such Person's status as such.

ARTICLE IX
RIGHTS AND DUTIES OF MEMBERS

9.1 Meetings of Members.

(a) Generally. Meetings of the Members may be called by (i) the Board or (ii) by a Member or Members holding not less than thirty-five percent (35%) of the then issued and outstanding Common Interests. All meetings of the Members shall be held telephonically or at the principal office of the Company or at such other reasonable place within or without the State of Delaware as may be determined by the Board or Member(s) calling the meeting and specified in the respective notice or waivers of notice of such meeting. A record shall be maintained by the Secretary of the Company of each meeting of the Members.

(b) Notice of Meetings of Members. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting of the Members, describing the purposes for which the meeting is called shall be delivered not fewer than ten (10) days, but not more than sixty (60) days, before the date of the meeting, either personally or by any written method by which it is reasonable to expect that the Members would receive such notice not later than the Business Day prior to the date of the meeting, to each holder of Common Interests (with a copy to the Secretary of the Company), by or at the direction of the Member(s) calling the meeting or the Board, as the case may be. The notice of any meeting of the Members shall include an agenda specifying in reasonable detail the matters to be discussed at such meeting and identifying any specific Supermajority Items to be considered.

(c) Quorum. Except as otherwise provided herein or under applicable Law, at any time, Members which both (x) represent greater than forty-five percent (45%) of the Common Interests outstanding and entitled to vote at such time and (y) constitute an absolute majority of Members entitled to vote at such time, represented in person by proxy, shall constitute a quorum of Members for purposes of conducting business. Once a quorum is present at the meeting of the Members, the subsequent withdrawal from the meeting of any Member prior to adjournment or the refusal of any Member to vote shall not affect the presence of a quorum at the meeting. If, however, such quorum shall not be present at any meeting of the Members, the Members entitled to vote at such meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until Members representing greater than forty-five percent (45%) of the Common Interests outstanding and entitled to vote at such time shall be present or represented.

(d) Vote Required; Member Decisions. Except as otherwise required by this Agreement or applicable Law, resolutions of the Members at any meeting of Members shall be adopted by Majority Vote of the Members at such meeting at which a quorum is present.

(e) Actions Without a Meeting. Unless otherwise prohibited by applicable Law, any action to be taken at a meeting of the Members may be taken without a meeting if a consent or consents in writing, setting forth the action so taken, shall be signed by a Member or Members representing a Majority Vote of the Members; provided that all Members shall receive at least three (3) Business Days' prior written notice of any action proposed to be approved by written

consent. A record shall be maintained by the Secretary of the Company of each such action taken by written consent of a Member or Members.

(f) Approval by Adversely Affected Member. Notwithstanding any other provision of this Agreement to the contrary, no action may be taken by the Members that would adversely affect the rights of a Member of a class in a manner different than all other Members of such class (taking into account its relative Common Interest in the Company) without the prior written consent of such Member adversely affected thereby.

9.2 Voting Rights. Except as specifically provided herein or otherwise required under applicable Law, for all purposes hereunder, including for purposes of Article IX hereof, each Member shall be entitled to one vote per Common Interest other than Non-voting Common Interests held by such Member. A Member may vote or be present at a meeting either in person or by proxy.

9.3 Voting Trusts. Members are prohibited from entering into voting trust agreements with respect to their Common Interests.

9.4 Registered Members. The Company shall be entitled to treat the owner of record of any Common Interests as the owner in fact of such Common Interests for all purposes, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such Common Interests on the part of any other person, whether or not it shall have express or other notice of such claim or Common Interests, except as expressly provided by this Agreement or the Laws of the State of Delaware.

9.5 Withdrawal. A Member shall not cease to be a Member as a result of the Bankruptcy of such Member or as a result of any other events specified in § 18-304 of the Act. So long as a Member continues to own or hold any Common Interests, such Member shall not have the ability to resign as a Member prior to the dissolution and winding up of such Member and any such resignation or attempted resignation by a Member prior to the dissolution or winding up of such Member shall be null and void. As soon as any Person who is a Member ceases to own or hold any Common Interests, such Person shall no longer be a Member.

9.6 Authority. No Member, in its capacity as a Member, shall have the power to act for or on behalf of, or to bind the Company.

9.7 Outside Activities.

(a) Subject to the terms and conditions of any written agreement by any Member to the contrary (including this Agreement and any non-competition agreements with employees of the Company or any of its Subsidiaries), a Member, Director, alternate Director and observer to the Board (unless such Director, alternate Director or observer is also an Officer or employee of the Company) and any Person employed by, related to or in any way affiliated with any Member (the "Permitted Persons")

(i) (A) may have business interests and engage in business activities in addition to those relating to the Company; and

(B) may engage in any business or trade, profession, employment or activity whatsoever (regardless of whether any such activity competes, directly or indirectly, with the business or activities of the Company),

(any such competing, additional or complementary businesses in clauses (A) or (B), "Associated Businesses") in each case for its own account, or in partnership or participation with, or as an employee, officer, director, stockholder, member, manager, trustee, general or limited partner, agent or representative of, any other Person, and no Permitted Person shall be required to devote its entire time (business or otherwise), or any particular portion of its time (business or otherwise) to the business of the Company. Without limiting the generality of the foregoing, but subject to any other written agreement to which a Permitted Person may be party, each Permitted Person (x) may engage in the same or similar activities or lines of business as the Company or develop or market any products or services that compete, directly or indirectly, with those of the Company, (y) may invest or own any interest in, or develop a business relationship with, any Person engaged in the same or similar activities or lines of business as, or otherwise in competition with, the Company and (z) may do business with any client or customer of the Company. Neither the Company nor any Permitted Person, nor any Affiliate of any of the foregoing Persons, by virtue of this Agreement, shall have any rights in and to any such independent venture or the income or profits derived therefrom, regardless of whether or not such venture was initially presented to a Permitted Person as a direct or indirect result of its relationship with the Company.

(ii) no Permitted Person shall have any obligation hereunder to present any business opportunity to the Company or any of its Subsidiaries, even if the opportunity is one that the Company or such a Subsidiary might reasonably have pursued or had the ability or desire to pursue, in each case, if granted the opportunity to do so, and no Permitted Person shall be liable to the Company or any of its Subsidiaries, any Member (or any Affiliate thereof) or any other Person for breach of any fiduciary or other duty relating to the Company or any of its Subsidiaries (whether imposed by Law or otherwise), by reason of the fact that the Permitted Person pursues or acquires such business opportunity, directs such business opportunity to another Person or fails to present such business opportunity, or information regarding such business opportunity, to the Company or any of its Subsidiaries.

(iii) Any repeal or modification of this Section 9.7(a) shall not adversely affect any right or protection of any Permitted Person existing prior to such repeal or modification.

(b) Subject to the terms of any written agreement by any Member to the contrary, neither the Company nor any other Member shall have any rights by virtue of this Agreement in any business interests or activities of any Member.

(c) Nothing in this Section 9.7 shall limit or otherwise prejudice any contractual rights (other than under this Agreement) the Company may have or obtain against any Person, or any director, officer or employee of any such Person.

9.8 NYSE Euronext Agreement. The Founding Firms may, by unanimous vote of all Founding Firms, cause the Company to submit an issue to the dispute resolution process under the NYSE Euronext Agreement.

ARTICLE X
MEMBERSHIP

10.1 Membership Interests Generally. The Interests of the Members may be classified or grouped into one or more types, classes or series, with each type or class or series having the rights and privileges, including voting rights, if any, specified in this Agreement. The Company shall keep an updated schedule setting forth all Members and the corresponding Interest held by each of them (the "Members' Schedule", as may be amended, modified or supplemented from time to time). Schedule A shall be deemed the initial Members' Schedule. Ownership of Common Interests or Preferred Interests shall not entitle a Member to call for a partition or division of any property of the Company or for any accounting.

10.2 Authorization and Issuance of Interests.

(a) Preferred Interests. The Company is hereby authorized to issue Preferred Interests to NYSE Amex, which are issued and outstanding as of the date hereof, as specified in Schedule A. Preferred Interests will be entitled to Distributions in respect of the Preferred Return, pursuant to Section 6.1 and the Priority Claim but not otherwise.

(b) Class A Common Interests; Initial Class A Allocation. The Company is hereby authorized to issue the Class A Common Interests, which are issued and outstanding as of the date hereof, as specified in Schedule A, and which shall initially represent (i) the percentage of the aggregate number of Common Interests (such percentage, the "Aggregate Class A Economic Allocation") specified on Schedule A and (ii) the percentage of the aggregate number of Common Interests entitled to vote (such percentage, the "Aggregate Class A Voting Allocation" and together with the Aggregate Class A Economic Allocation the "Aggregate Class A Allocation") specified on Schedule A. From time to time, the Aggregate Class A Economic Allocation and the Aggregate Class A Voting Allocation shall be separately or together subject to adjustment upwards or downwards, as applicable, in accordance with the provisions of this Agreement.

(c) Class B Common Interests; Initial Class B Allocation. The Company is hereby authorized to issue the Class B Common Interests, which are issued and outstanding as of the date hereof, as specified in Schedule A, and which shall initially represent (i) the percentage of the aggregate number of Common Interests specified on Schedule A and (ii) the percentage of the aggregate number of Common Interests entitled to vote specified on Schedule A. The Class B Common Interests shall include the Non-voting Common Interests, which are issued as of the date hereof, as specified in Schedule A. From time to time, the Aggregate Class B Economic Allocation and the Aggregate Class B Voting Allocation shall be separately or together subject to adjustment upwards or downwards, as applicable, in accordance with the provisions of this Agreement.

10.3 Additional Interests. Subject to Section 10.4, the Company may establish and issue additional classes of Interests by a Supermajority Vote of the Board, provided that any such issuance shall require an amendment to this Agreement pursuant to Section 16.10. Upon the issuance of any such Interests, the Board shall adjust the Aggregate Class A Allocation,

Aggregate Class B Allocation and the Common Interest Percentage of the Members and the Company shall update the Members' Schedule accordingly.

10.4 Admission as Member. Any Person that has acquired any Interest in accordance with the terms of, and subject to the restrictions provided in, this Agreement and such additional requirements as the Members may agree will be admitted to the Company as a Member with respect to such Interest as promptly as reasonably practicable after (a) payment of the Capital Contribution (if applicable) for such Common Interests or Preferred Interests and (b) the timely execution, acknowledgment and delivery by the Member of a subscription agreement in form and substance reasonably satisfactory to the Board (if applicable) and such other instruments as are required by the Board, including a Supplement in the form of Exhibit A. Upon execution and delivery of such Supplement by such Person and the Company, and upon the amendment of the Members' Schedule by the Secretary of the Company and the satisfaction of any other applicable conditions, such Person shall be admitted as a Member and deemed listed as such on the books and records of the Company and thereupon shall be issued its Interests. The execution and delivery of any instrument adding a Member as a party to this Agreement shall not require the consent of any Member hereunder. The rights and obligations of each Member hereunder shall remain in full force and effect notwithstanding the addition of any Person as a party hereto.

10.5 Sanctioned Persons. Notwithstanding anything to the contrary herein, no Sanctioned Person shall be permitted to acquire Interests or other Equity Securities of the Company at any time or otherwise become a Member.

ARTICLE XI
TRANSFERS

11.1 Assignment of Interests by a Member; Admission of Members.

(a) Except as provided in Section 11.1(b), no Member shall resign or voluntarily withdraw as a Member or make a Transfer other than in accordance with the terms and conditions specified in this Article XI.

(b) Upon the Bankruptcy, termination, liquidation or dissolution of a Member that is a partnership, trust, corporation, limited liability company, or other entity, or the Incapacity of a Member, the estate or successor in interest of such Member shall thereupon succeed to the rights of such Member as a Member to receive allocations and Distributions hereunder and may become a substitute Member upon the terms and conditions specified in Section 11.1(c).

(c) The admission of any substitute Member, including any Transferee of Interests in accordance with this Article XI or with Section 4.9, shall not become effective until (i) the Board gives its written consent, which shall be deemed given with respect to Transfers made in accordance with Sections 4.9, 11.3, and/or 11.4 and/or as otherwise agreed by the Members and (ii) such substitute Member and the withdrawing Member and/or the transferor Member, as the case may be, shall have executed, acknowledged and delivered such instruments as are required by the Board (including a Supplement). The additional or substitute Member shall thereafter have all of the rights and obligations of a Member hereunder and may, in the sole discretion of

the Board, be deemed a Founding Firm and granted all of the rights and obligations of a Founding Firm hereunder.

(d) Notwithstanding anything to the contrary herein, unless approved by the Board, no Transfer of Common Interests shall be permitted, nor shall any Transferee become a beneficial owner of Common Interests pursuant to a Transfer, if such Transfer (i) could cause the Company to be treated as a publicly traded partnership within the meaning of Section 7704 of the Code; or (ii) would result in the sale or exchange of fifty percent (50%) or more of the total Interests in the Company's capital and profits in one or more transactions in the aggregate within a 12-month period.

(e) Notwithstanding anything to the contrary herein, no Transfer of Shares to any Person that is a Sanctioned Person shall be permitted.

11.2 Transfer of Interests.

(a) Unless otherwise agreed upon by the Members, no Member, or any assignee or successor in interest of any Member, will be permitted to sell, assign or otherwise Transfer any Common Interests to any third party except in the case of a Transfer of Class A Common Interests or Class B Common Interests, as applicable, pursuant to Sections 4.9, 11.3, 11.4 or 11.6 and/or as otherwise agreed by the Members; provided, in each case, that no such Transfer may be made to any Person whose affiliation with the Company would, as reasonably determined by NYSE Amex, cause reputational damage to NYSE Amex or any of its Affiliates. In addition, notwithstanding anything herein to the contrary and subject to Section 11.3, no Transfers of Class B Common Interests shall be permitted to a Specified Entity; provided, that for the avoidance of doubt and subject to Section 11.4(c), Class B Common Interests may be Transferred to a Specified Entity if such Transfer is a Permitted Transfer. No Equity Securities of the Company may be pledged except on terms and conditions satisfactory to the Board.

(b) Upon any Transfer of Class A Common Interests or Class B Common Interests, the Aggregate Class A Allocation shall be adjusted as follows (and the Aggregate Class B Allocation shall be adjusted inversely):

(i) any acquisition of Class B Common Interests by NYSE Amex (or any Permitted Transferee of its Class A Common Interests) shall result in an increase of the Aggregate Class A Allocation equal to the amount of Class B Common Interests (computed as a percentage of the aggregate Common Interests) so acquired, provided that an acquisition of Non-voting Common Interests (other than an acquisition of Non-voting Common Interests pursuant to Section 4.9(c) which, pursuant to Section 4.9(c), cease to constitute Non-voting Common Interests as a result of such acquisition) shall not result in any change to the Aggregate Class A Voting Allocation or the Aggregate Class B Voting Allocation;

(ii) any redemption of Class B Common Interests by the Company pursuant to Section 11.5 shall result in an increase of the Aggregate Class A Allocation equal to the product of (i) the amount of Class B Common Interests (computed as a percentage of the aggregate Common Interests) so redeemed multiplied by (ii) a fraction, (A) the numerator of which shall be the Aggregate Class A Allocation immediately prior to such redemption and (B) the denominator

of which shall be equal to (x) one-hundred percent (100%) minus (y) the amount of the Class B Common Interests (computed as a percentage of the aggregate Common Interests) so redeemed, provided that a redemption of Non-voting Common Interests shall not result in any change to the Aggregate Class A Voting Allocation or the Aggregate Class B Voting Allocation; and

(iii) any acquisition of Class A Common Interests by the Members (other than NYSE Amex) or redemption of Class A Common Interests, shall result in a decrease to the Aggregate Class A Allocation equal to the amount of Class A Common Interests so acquired or redeemed, as applicable.

Upon any such adjustment to the Aggregate Class A Allocation, the Aggregate Class B Allocation and each Member's Common Interest Percentage shall also be adjusted accordingly in accordance with this Agreement, and the Company shall update and distribute to each Member a revised Members' Schedule.

(c) Subject to Section 11.2(b), upon any Transfer of Class A Common Interests to the Founding Firms or Class B Common Interests to NYSE Amex or its Affiliates, as applicable, such Class A Common Interests or Class B Common Interests, as applicable, shall cease to be Class A Common Interests or Class B Common Interests, as applicable, and shall instead become Class B Common Interests or Class A Common Interests, respectively.

(d) Notwithstanding any other provisions of this Article XI, no Transfer of the whole or any part of the Interest of a Member, may be made unless in the opinion of counsel (who may be counsel for the Company), reasonably satisfactory in form and substance to the Board and counsel for the Company (which opinion may be waived, in whole or in part, at the discretion of the Board), such Transfer would not violate any federal securities Laws or any state or provincial securities or "blue sky" Laws (including any investor suitability standards) applicable to the Company or the Interest to be transferred, or cause the Company to be required to register as an investment company under the Investment Company Act of 1940, as amended, or cause the Company to become a publicly traded partnership under Section 7704 of the Code. Such opinion of counsel shall be delivered in writing to the Company prior to the date of such Transfer.

(e) For purposes of this Article XI, "Interests" shall include any Interests or other Equity Securities of the Company.

11.3 Drag-Along Rights.

(a) If, at any time after the date hereof, (i) a Member (the "Selling Member"), acting alone or together with any other Members, intends to make a Transfer of seventy-five percent (75%) or more of the then-outstanding Common Interests (other than by a Public Offering or a Transfer to a Permitted Transferee), and (ii) the Board, by Supermajority Vote, approves a Sale of the Company to a Person that is not an Affiliate of the Company (any such Transfer of Common Interests, an "Approved Sale"), then (x) the Selling Member or the Board (as applicable) may deliver written notice (the "Drag Notice") to the Members notifying them of the exercise of the provisions of this Section 11.3, and (y) all the Members (other than the Selling Member(s)) shall be obligated to participate in such Transfer on a pro rata basis and/or to consent to, vote in favor of and raise no objections against the Sale of the Company, as applicable.

(b) If an Approved Sale is structured as (i) a merger or consolidation, each Member shall vote its Common Interests to approve such merger or consolidation, whether by written consent or at a Members meeting (as requested by a Majority Vote of the Board) and waive all dissenter's rights, appraisal rights and similar rights in connection with such merger or consolidation, (ii) a sale of Common Interests, each Member (other than the Selling Member(s)) shall agree to sell, and shall sell, the same percentage of Common Interests held by such Member as the percentage of Common Interests held by the Selling Member(s) that are proposed to be sold in the Approved Sale by such Selling Member(s), or (iii) a sale of assets, each Member shall vote its Common Interests to approve such sale and any subsequent liquidation of the Company or other distribution of the proceeds therefrom, whether by written consent or at a Members meeting (as requested by Majority Vote of the Board).

(c) In furtherance of the foregoing, (i) each Member shall take, with respect to its Common Interests, all necessary or desirable actions reasonably requested by the Board in connection with the consummation of an Approved Sale and (ii) each Member shall make the same representations, warranties, indemnities and agreements as each other Member, including voting to approve such transaction and executing the applicable purchase, sale or merger agreement and related documents, except that (A) each Member shall be obligated only to make representations and warranties with respect to such Member's title to and ownership of Common Interests, authorization, execution and delivery of relevant documents by such Member, enforceability of relevant agreements against such holder and other matters relating to such holder, to enter into covenants only in respect of a Transfer of such Member's Common Interests in connection with such Approved Sale and to enter into indemnification obligations with respect to the foregoing, in each case to the extent that each other Member is similarly obligated, but no Member shall be obligated to enter into indemnification obligations with respect to any of the foregoing nor shall any Member have any liability of any nature whatsoever with respect to any other Member, any other Member's Common Interests or any breach of any representations, warranties or covenants by another Member (all of which liabilities shall be several and not joint), (B) in no event shall any Member be liable in respect of any indemnity obligations with respect to such Member, any other Member, the Company or its Subsidiaries in general pursuant to any Approved Sale in an aggregate amount in excess of the total consideration payable to such Member in such Approved Sale nor in excess of its pro rata portion of the total consideration payable to such Member with respect to indemnities generally applicable to all Members, and (C) no Member shall be required to enter into any non-compete, non-solicitation or no-hire provision, any provision providing for the licensing by such Member of intellectual property or the delivery by such Member of any products or services, or any other provision that is not a strictly financial term related directly to the sale of the relevant Member's Common Interests under the Approved Sale.

(d) The obligations of the Members with respect to an Approved Sale are subject to the satisfaction of the following conditions: (i) upon the consummation of the Approved Sale each Member participating in such Approved Sale shall receive the same form of consideration and the same portion of the aggregate net consideration (net of any post-closing adjustments and following the payment of the reasonable expenses of the Members that are not otherwise paid by the Company or the acquiring party) as such holder would have received if such aggregate net consideration had been received by the Company and distributed in complete liquidation pursuant to the rights and preferences specified in Section 12.2 as in effect immediately prior to

the consummation of the Approved Sale; (ii) if any holders of a class of Common Interests are given an option as to the form and amount of consideration to be received, each holder of such class of Common Interests will be given the same option; (iii) in the event that the consideration to be received by the Selling Member(s) is other than cash, each other Member may, in its sole discretion, elect to receive, in lieu of such other consideration, cash consideration with an equivalent value to such other consideration as reasonably determined by the Board and otherwise on the same terms and conditions upon which the Selling Member(s) sell their Common Interests, subject to this Section 11.3; and (iv) each holder of then currently exercisable rights to acquire a particular class of Interests will be given an opportunity to exercise such rights prior to the consummation of the Approved Sale and participate in such sale as holders of such class of Common Interests; provided, however, that the fact that, in connection with an Approved Sale, certain members of management of the Company may (x) receive additional, reasonable consideration for entering into restrictive covenants in favor of a purchaser or one of its Affiliates or (y) obtain the right, or be subject to the obligation, to make a debt or equity investment in a purchaser or one or more of its Affiliates (whether directly or through a contribution of Common Interests) shall not constitute a failure to satisfy any of the conditions specified in this Section 11.3(d).

(e) If the Company or the holders of Common Interests enter into any negotiation or transaction for which Rule 506 (or any similar rule then in effect) under the Securities Act promulgated by the SEC may be available with respect to such negotiation or transaction (including a merger, consolidation or other reorganization), the holders of Common Interests shall at the request of the Company, appoint a "purchaser representative" (as such term is defined in Rule 501 under the Securities Act promulgated by the SEC) reasonably acceptable to the Company. If any holder of Common Interests appoints a purchaser representative designated by the Company, the Company shall pay the reasonable fees of such purchaser representative. However, if any holder of Common Interests declines to appoint the purchaser representative designated by the Company, such holder shall appoint another purchaser representative (reasonably acceptable to the Company), and such holder shall be responsible for the fees of the purchaser representative so appointed.

(f) Subject to Section 11.3(b), each holder of Common Interests shall, to the extent requested by the Company, pay such holder's pro rata portion of the expenses incurred by the holders in connection with an Approved Sale.

11.4 Permitted Transfers.

(a) The restrictions specified in this Article XI (other than those contained in Sections 11.1(c)(ii), 11.1(d), 11.2(d), 11.8 and the rights triggered by Section 11.5(b)) shall not apply with respect to (i) any Transfer of Interests by any Member among any of its Affiliates, (ii) any Transfer by merger, consolidation or similar business combination or through the acquisition of substantially all of the assets and liabilities of the transferring party and (iii) any Transfer required under, or effected to enable a Member to be in compliance with, applicable Law or the requirements of a Governmental Authority or any SRO (each, a "Permitted Transfer", any Transferee under clause (i) or (ii), a "Permitted Transferee" and any Transferee pursuant to clause (iii), a "Required Transferee"), except for in the case of clause (ii) any Transfer to a Person whose assets subsequent to such Transfer would be comprised principally of Interests;

provided that (A) in each case such Member shall provide the Company prompt written notice of any such Permitted Transfer, (B) the restrictions contained in this Article XI shall continue to be applicable to the Interests after any such Transfer and (C) in the case of a Transfer under clause (iii), any Founding Firm that is so required to make any such Transfer shall submit the names of any potential transferees to the Board along with any information reasonably requested by the Board, and the Board shall promptly, acting reasonably and in good faith, identify which, if any, of the rights and obligations of a Founding Firm such potential transferees would have and any reasonable and conforming amendments to this Agreement that would be appropriate as a result thereof and, in the event one of such transferees becomes a Transferee pursuant to such Transfer, then such Transferee shall have the rights and obligations of a Founding Firm so determined by the Board, provided that (x) the Board shall not unreasonably withhold, condition or delay its consent to granting such Required Transferee the rights of a Founding Firm described in this Agreement, and (y) the transferring Founding Firm shall not have any obligation to certify on behalf of such Required Transferee or otherwise be responsible for the performance of such Required Transferee under this Agreement.

(b) Notwithstanding the foregoing, no party hereto shall avoid the provisions of this Agreement by making one or more Transfers to one or more Permitted Transferees and then shortly thereafter disposing of all or any portion of such party's ownership interest in any such Permitted Transferee.

(c) In the event of a Permitted Transfer to a Specified Entity by a Founding Firm, the Board may: (i) require any individual, alternate or observer appointed by or representing such Founding Firm to the Board pursuant to Section 8.1 or individual appointed by such Founding Firm to the Founding Firms Advisory Committee pursuant to Section 8.3(c) to resign; (ii) disqualify such Transferee Specified Entity from voting for individuals to serve on the Board or the Founding Firm Advisory Committee (permanently or for such shorter period as the Board may designate), and (iii) redeem such Transferee Specified Entity's Interests pursuant to Section 11.5(b)(iii).

(d) In the event a Permitted Transferee ceases for any reason to be a Permitted Transferee (other than as a result of a transaction that otherwise constitutes a Permitted Transfer or in a transfer to a Required Transferee), such Permitted Transferee shall promptly Transfer the Common Interests held by such Permitted Transferee to the Member from whom it acquired such Common Interests or to a then-qualifying Permitted Transferee of such Member.

11.5 Redemption of Interests.

(a) Redemption of Preferred Interests. The Company may, by Majority Vote of the Board, redeem any or all of the Preferred Interests at any time; provided that only such funds as are available in the Redemption Reserve may be used to fund any such redemption.

(b) Redemption of Common Interests. The Company shall have the right, by Majority Vote of the Board, to redeem (the "Redemption Option") any or all of a Member's Class B Common Interests, at a redemption price equal to the lower of (x) the balance of such Member's Capital Account (as adjusted pursuant to paragraph (b) of the definition of Gross Asset Value) with respect to the Class B Common Interests so redeemed and (y) the pro rata

portion of FMV (over the twelve-calendar-month period ended at the end of the immediately preceding month) represented by such Class B Common Interests:

(i) if such Member fails to make a Regulatory Capital Contribution pursuant to Section 4.3 on or before the payment date identified in the relevant Regulatory Call Notice and fails timely to cure such non-payment;

(ii) if such Member directly or indirectly acquires a controlling interest in or becomes the direct or indirect beneficial owner of a controlling interest in, grants a controlling interest to or becomes directly or indirectly beneficially owned by, or comes under common control with, a Specified Entity (for purposes hereof, "controlling interest" shall mean greater than fifty percent (50%) of the voting equity of the applicable entity) and, in the event such Member becomes directly or indirectly beneficially owned by or comes under common control with a Specified Entity, has not cured such event within nine (9) months; provided that the Board shall extend such nine-month period to twelve (12) months in the event that a Founding Firm has made good faith efforts to cure such event and is reasonably expected to be able to so cure such event within such extended period;

(iii) if such Member makes a Permitted Transfer to a Specified Entity; or

(iv) as otherwise agreed upon by the Members.

(c) In the event a Founding Firm (A) determines that (x) a Member has become a Sanctioned Person and (y) regulatory or other requirements necessitate such Member's withdrawal as a Member if such Founding Firm were to remain a Member and (B) provides notice of such determination to the Company, the Company may redeem all Common Interests owned by such Sanctioned Person by Supermajority Vote of the Board (excluding the vote of the affected Member), at a redemption price equal to the lower of (I) the balance of such Member's Capital Account (as adjusted pursuant to paragraph (b) of the definition of Gross Asset Value) and (II) the Fair Market Value of such Sanctioned Person's Common Interests; provided that if the Company fails to redeem such Sanctioned Member's Common Interests, such Founding Firm shall have the right to put its Common Interests to the Company at a price equal to one dollar ($1).

(d) Notice. The Company may elect, within thirty (30) calendar days of the event triggering such right under Section 11.5(b), to redeem on the Specified Terms some or all of the Class B Common Interests owned by the applicable Founding Firm pursuant to Section 11.5(b) by delivering written notice (the "Redemption Notice") to such Founding Firm. The Redemption Notice shall specify the amount of Class B Common Interests to be acquired, the aggregate consideration to be paid for such Class B Common Interests and the time and place for the closing of the transaction.

(e) Closing. The closing of the purchase of the Class B Common Interests pursuant to the Redemption Option shall take place on the date designated in the Redemption Notice, which date shall not be more than sixty (60) days, or such longer period as may be necessary to obtain receipt of all required regulatory approvals, nor less than thirty (30) days after the delivery of the Redemption Notice (the "Redemption Date"). The Company shall pay for the Class B

Common Interests to be purchased pursuant to the Redemption Option by wire transfer of funds in the aggregate amount of the purchase price for such Class B Common Interests to the account specified by the applicable Founding Firm. The Redemption Reserve shall not be used to fund any such purchase of Class B Common Interests pursuant to the Redemption Option. In addition, to the extent permitted by applicable Law, the Company may pay the purchase price for any Class B Common Interests acquired hereunder by offsetting any bona fide debts owed by the Member to the Company that have been reduced to judgment in accordance with Article XV.

(f) Restrictions. Notwithstanding anything to the contrary contained in this Agreement, all redemptions of Class B Common Interests by the Company pursuant to this Section 11.5 shall be subject to applicable restrictions contained in the Act and in the Company's debt financing agreements and if any such restrictions prohibit the redemption of Class B Common Interests pursuant to this Section 11.5 which the Company is otherwise entitled or required to make, the time periods provided in Section 11.5(e) shall be suspended, and the Company may make such redemptions as soon as any applicable restrictions allow; provided that the price at which such redemption is made shall be fixed as of the date such redemption would have occurred had there not existed any restrictions on such redemption. Furthermore, nothing shall require the Company to segregate or set aside any funds or other property for the purpose of making any payment or Distribution pursuant to this Section 11.5. The right of any Member or beneficiary thereof to receive any payment or Distribution hereunder shall be an unsecured claim against the general assets of the Company. Notwithstanding anything to the contrary in this Section 11.5(f), a Founding Firm shall remain a Member and shall be entitled to all of the rights, benefits and privileges of being a Member until it shall have received payment in full for its Class B Common Interests, and no redemption shall be effective prior to such time. Notwithstanding anything to the contrary herein, if the application of this Section 11.5(f) prohibits the redemption of the Class B Common Interests of a Sanctioned Person pursuant to Section 11.5(c), the Company shall redeem such Class B Common Interests by providing such Sanctioned Person a promissory note, the terms of which shall be determined by the Majority Vote of disinterested Directors, in a principal amount equal to the lower of (I) the balance of such Member's Capital Account (as adjusted pursuant to paragraph (b) of the definition of Gross Asset Value) and (II) the Fair Market Value of such Sanctioned Person's Common Interests, in each case, determined as of the date the Company determines to redeem such Sanctioned Person, payable at such time as any applicable restrictions allow, and the Company shall become the owner of such Class B Common Interests upon tender of such promissory note.

(g) Transfer to NYSE Amex. In the event the Company elects not to exercise the Redemption Option with respect to all or any portion of the Class B Common Interests subject to the Redemption Option, NYSE Amex shall have the right, but not the obligation, within thirty (30) days of the event triggering such right under Section 11.5(b), to require the applicable Founding Firm to Transfer any or all of such unredeemed Class B Common Interests to NYSE Amex on the Specified Terms at price equal to the pro rata portion of FMV (over the twelve-calendar-month period ended at the end of the immediately preceding calendar month) represented by such Class B Common Interests. NYSE Amex may exercise its right under this Section 11.5(g) by delivering written notice to the applicable Founding Firm, setting forth the amount of such unredeemed Class B Common Interests such Founding Firm shall be required to Transfer and the date on which such Transfer shall be consummated, which date shall not be more than sixty (60) days nor less than thirty (30) days after the delivery of such notice. NYSE

Amex shall pay for the Class B Common Interests to be purchased pursuant to this Section 11.5(g) by wire transfer of funds in the aggregate amount of the purchase price for such Class B Common Interests to the account specified by the applicable Founding Firm. Without limitation to Section 16.19, NYSE Amex may assign to an Affiliate the right to purchase Class B Common Interests pursuant to this Section 11.5(g).

11.6 Initial Public Offering. At any time upon the determination of the Board that an Initial Public Offering is in the best interests of the Company and the Members, and upon approval by a Supermajority Vote of the Board if such Initial Public Offering does not constitute a Qualified Public Offering, subject to applicable Law and receipt of applicable regulatory approvals, either (a) the Company shall be required to contribute all or a specified portion of the assets of the Company to a corporation newly formed under the Laws of the State of Delaware (the "New Company"), or (b) the Members shall be required to contribute their Interests to the New Company, in each case in exchange for shares of the New Company's stock having substantially the same equity interests and voting rights as the Interests being contributed ("New Company Shares"), and the Company shall cause the New Company to file and use its best efforts to have declared effective a registration statement under the Securities Act for an Initial Public Offering, and to cause the New Company and its officers and employees to use their best efforts to market the New Company Shares, subject to all applicable Securities Act restrictions. To the extent required by the underwriters managing a registered public offering of the New Company Shares, each Member agrees to complete and execute all customary questionnaires and similar documents so required under the terms of such underwriting agreements. Upon the consummation of an Initial Public Offering, Section 8.1(d), this Article XI, Schedule 8.1(i)(v), and such other provisions as the Board may determine, including this Agreement in its entirety, shall terminate automatically and be of no further force and effect. Notwithstanding anything to the contrary herein, as a condition to an Initial Public Offering, the Company or any successor thereto shall enter into a registration rights agreement, upon commercially reasonable terms, with any Member requesting such agreement with respect to the registration of its Equity Securities with customary terms and conditions and in form and substance reasonably satisfactory to the Board and such Member; provided that such registration rights agreement shall include (i) demand registration rights that apply (A) equally to all Members, (B) only after an Initial Public Offering, and (C) subject to customary minimum thresholds and (ii) piggyback registration rights for all Members on a pro rata basis in proportion with their relative common equity interests.

11.7 Prospective Transferees. Upon request of the Board, the Company shall promptly supply to the Board or any prospective Transferee all information required to be delivered in connection with a Transfer pursuant to Rule 144A under the Securities Act.

11.8 Additional Requirements.

(a) Notice Requirements. Beginning after SEC approval of this Agreement, the Company shall provide the SEC with written notice ten (10) days prior to the closing date of any acquisition of an Interest by a Person that results in a Member's ownership of Common Interests, alone or together with any Affiliate, meeting or crossing the threshold level of five percent (5%) or the successive five percent (5%) ownership levels of ten percent (10%) and fifteen percent (15%) of the aggregate Common Interests.

(b) Requirements Regarding Direct Ownership of the Company.

(i) Beginning after SEC approval of this Agreement, no Person that is not a Member as of the Effective Date, either alone or together with its Affiliates, at any time, may directly own Common Interests that would result in such Person having ownership of Common Interests representing more than the 19.9% Maximum Percentage or any successive five percent (5%) ownership threshold (i.e., 24.9%, 29.9%, etc) (the "Concentration Limitation").

(ii) The Concentration Limitation shall apply to each Person (other than NYSE Amex alone or together with its Affiliates, as applicable) unless and until: (A) such Person shall have delivered to the Board a notice in writing, not less than forty-five (45) days (or such shorter period as the Board shall expressly consent to) prior to the acquisition of any Common Interests that would cause such Person (either alone or together with its Affiliates) to exceed the Concentration Limitation, of such Person's intention to acquire such Common Interests; (B) such notice shall have been filed with, and approved by, the SEC under Section 19(b) of the Exchange Act and shall have become effective thereunder; and (C) the Board shall not have determined to oppose such Person's acquisition of such Common Interests.

(iii) Pursuant to clause (C) of Section 11.8(b)(ii), the Board shall oppose an ownership of Common Interests by a Person if the Board shall have determined, in its sole discretion, that (A) such ownership of Common Interests by such Person, either alone or together with its Affiliates, will impair the ability of the Company and the Board to carry out their functions and responsibilities, including but not limited to, under the Exchange Act, or is otherwise not in the best interests of the Company; (B) such ownership of Common Interests by such Person, either alone or together with its Affiliates, will impair the ability of the SEC to enforce the Exchange Act; (C) such Person or its Affiliates are subject to any applicable "statutory disqualification" (within the meaning of Section 3(a)(39) of the Exchange Act); or (D) if such Common Interests would result in the Person (alone or together with its Affiliates) having an ownership interest of more than twenty percent (20%) of the aggregate Common Interests and such Person or one of its Affiliates is either a "member" or "member organization" of NYSE Amex (as defined in the rules of NYSE Amex, as such rules may be in effect from time to time). In making a determination pursuant to clause (C) of Section 11.8(b)(ii), the Board may impose such conditions and restrictions on such Person and its Affiliates owning any Common Interests as the Board may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act and the governance of the Company.

(c) Requirements Regarding NYSE Amex's Ownership of the Company. Beginning after SEC approval of this Agreement, the aggregate Common Interest Percentage held by NYSE Amex and its Affiliates, as applicable, shall not decline below fifteen percent (15%) unless and until: (A) NYSE Amex shall have delivered to the Board a notice in writing, not less than forty-five (45) days (or such shorter period as the Board shall expressly consent to) prior to the Transfer of any Common Interests that would result in such a decline, of NYSE Amex's intention to Transfer such Common Interests; and (B) such notice shall have been filed with, and approved by, the SEC under Section 19(b) of the Exchange Act and shall have become effective thereunder.

(d) Requirements Regarding Indirect Ownership of the Company.

(i) Except as provided in Section 11.8(d)(iii), a Controlling Person shall be required to execute, and the relevant Member shall take such action as is necessary to ensure that each of its Controlling Persons executes, an amendment to this Agreement upon establishing a Controlling Interest in any Member that, alone or together with any Affiliate, holds an ownership interest in the Company equal to or greater than 20% of the aggregate Common Interests.

(ii) In such amendment, the Controlling Person shall agree (A) to become a party to this Agreement and (B) to abide by all the provisions of this Agreement relating to regulatory matters.

(iii) Notwithstanding the foregoing, a Person shall not be required to execute an amendment to this Agreement pursuant to this subsection (d) if such Person does not, directly or indirectly, hold any interest in a Member.

(iv) Beginning after SEC approval of this Agreement, any amendment to this Agreement executed pursuant to this Section 11.8(d) is subject to the rule filing process pursuant to Section 19 of the Exchange Act. The non-economic rights and privileges, including all voting rights, of the Member in which a Controlling Interest is held under this Agreement and the Exchange Act shall be suspended until such time as the amendment executed pursuant to this Section 11.8(d) has become effective pursuant to Section 19 of the Exchange Act or the Controlling Person no longer holds a Controlling Interest in the Member.

ARTICLE XII
DISSOLUTION EVENTS AND TERMINATION OF INTERESTS

12.1 Dissolution.

(a) Subject to Section 12.4, this Agreement shall remain in full force and effect until the earlier of (i) the date that the Certificate is cancelled in the manner provided in the Act and (ii) the occurrence of an Event of Dissolution.

(b) Each of the following shall be an "Event of Dissolution":

(i) Supermajority Vote by the Board to such effect;

(ii) The sale or other disposition of all or substantially all of the Company's assets and the receipt of all consideration therefrom; and

(iii) The entry of a decree of judicial dissolution under Section 18-802 of the Act; provided that, notwithstanding anything contained herein to the contrary, no Member shall make an application for the dissolution of the Company pursuant to Section 18-802 of the Act without approval by a Supermajority Vote of the Board.

The dissolution of the Company shall be effective as of the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until the winding up of the Company

has been completed, the assets of the Company have been distributed as provided in Section 12.2 and the Certificate shall have been canceled.

12.2 Liquidation. Upon the termination and dissolution of the Company, the Board shall take all steps necessary and proper to effect an orderly liquidation of the Company's business and shall apply and distribute the net proceeds of such liquidation in the following order of priority:

(a) First, to creditors, including Members who are creditors (but excluding liabilities to Members for distributions under Section 18-606 of the Act), to the extent otherwise permitted by applicable Law, in satisfaction of liabilities of the Company (other than contingent, conditional or unmatured liabilities for which reserves are established pursuant to Section 12.2(b)), whether by payment or the making of reasonable provision for payment thereof;

(b) Second, to the establishment of any reserves determined by the Board to be reasonably necessary or appropriate to provide for any contingent, conditional or unmatured Company liabilities and obligations (which reserves may be paid over to a bank or trust company, as escrow agent, to be held by such escrow agent for the purpose of disbursing such reserves in payment of the referenced liabilities and obligations) and, at the expiration of such period as the Board shall deem advisable, to pay over the balance thereafter remaining for distribution in a manner hereinafter specified in this Section 12.2;

(c) Third, to the holder of Preferred Interests, to the extent of the Priority Claim; and

(d) Finally, subject to such other arrangements as the Members may agree, to the Members, pro rata, in accordance with their Common Interest Percentages; provided that in the event that Section 7.5 or such other arrangements as the Members may agree limits the distribution that can be made to a Member under this Section 12.2(d), the distribution so limited shall be made to the other Members in proportion to their respective Common Interest Percentages.

The winding up and liquidation of the business of the Company under this Section 12.2 shall be conducted within such period of time as shall reasonably be determined by the Board in light of market conditions, any pending proceedings in a bankruptcy court or other court of law, and in order to maximize the proceeds of the disposition of Company assets; provided, however, that the winding up and liquidation shall be completed within ninety (90) days after the date of such termination and dissolution; provided, further, NYSE Amex may elect to receive Company property-in-kind, provided that the Fair Market Value of such property-in-kind shall be determined by a Supermajority Vote of the Board or, if the Board is unable to so agree, pursuant to an appraisal thereof by an independent valuation firm approved by a Supermajority Vote of the Board. To the extent the Fair Market Value of the Company property distributed to NYSE Amex is in excess of the amount it would otherwise receive under this Section 12.2, it shall make a cash payment to the Company in the amount of the difference, with the proceeds to be distributed, pro rata, to all the Members other than NYSE Amex. This Agreement shall remain in full force and effect during the period of winding up and until the filing of a certificate of cancellation with the Secretary of State of Delaware upon completion of the liquidation of the Company's affairs, and during such period the Board shall continue to have all powers herein

specified, subject to the condition that the Company's affairs shall be conducted in a manner consistent with the winding up of the business of the Company. In the event that the Board determines that it is necessary or appropriate to make a distribution of Company property in-kind (other than a distribution of Company property to NYSE Amex alone pursuant to this Section 12.2(d), such property shall be transferred and conveyed to the Members as tenants to vest in each of them as a tenant-in-common an undivided interest in the whole of said property equal to the respective interests in the distribution of proceeds in accordance with Section 12.2(d) hereof; provided, however, that assets consisting of securities may be distributed to the parties pro rata based on their respective interests in the distribution of proceeds in accordance with Section 12.2(d) hereof.

12.3 Final Statement. As soon as practicable after the dissolution of the Company, a final statement of the Company's assets and liabilities shall be prepared by the Company's accountant and furnished to the Members.

12.4 Right to Continue Business of Company. Upon the occurrence of an Event of Dissolution, the Company shall be dissolved unless, within fifteen (15) days of such event, those Members representing greater than fifty percent (50%) of the Common Interests agree in writing to continue the business of the Company. Upon the Bankruptcy or other Incapacity of any Member, the Company shall not be dissolved and the business of the Company shall be continued, and by becoming parties to this Agreement all Members agree to such continuance.

12.5 Certificates of Dissolution, Continuance and Cancellation. Pursuant to Section 18-203 of the Act, the Board and the Members shall file, when appropriate, a certificate of dissolution or a certificate of cancellation. Pursuant to Sections 18-202, 18-208 and 18-211 of the Act, the Board or Members representing greater than fifty percent (50%) of the Common Interests shall file, when appropriate, an amendment to the Certificate, a restated Certificate or a certificate of correction, as applicable.

ARTICLE XIII
BOOKS AND RECORDS; CERTAIN TAX MATTERS

13.1 Records. At all times during the continuance of the Company, the Board shall keep or cause to be kept, true and complete books of account in accordance with the accounting methods followed for federal income tax purposes. The books and records of the Company shall reflect all transactions of the Company and shall be appropriate and adequate for the Company's business. Books and records of the Company shall include:

(a) a current alphabetical list of the full name and last known business or residence address of each Member, together with the Capital Contribution, Capital Account and share in Net Profits and Net Losses of each Member;

(b) a copy of the Certificate and this Agreement, together with any amendments, and executed copies of any powers of attorney pursuant to which any amendment has been executed;

(c) copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the three most recent tax years; and

(d) the following financial information:

(i) audited financial statements (or, if not available to the Board, unaudited financial statements) for each of the three most recent Fiscal Years;

(ii) unaudited profit and loss statements, balance sheets, and statements of cash flow for each quarterly period ended in the then current Fiscal Year;

(iii) unaudited management reports, including cash balances and key performance indicators, for each monthly period ended in the then current Fiscal Year; and

(iv) the then-current Annual Budget, including detailed information on past and proposed fees and expenses arising out of the NYSE Euronext Agreement.

13.2 Delivery to Members and Inspection.

(a) Each Member has the right, on reasonable request, to inspect during normal business hours any of the Company's records required to be maintained by Section 13.1. Within ninety (90) days of the end of each Fiscal Year, within forty-five (45) days of the end of each quarterly period ended in the then current Fiscal Year (or as soon as practicable after becoming available), and within thirty (30) days of the end of each monthly period ended in the then-current Fiscal Year (or as soon as practicable after becoming available), the Company shall send to each Member the financial statements of the Company specified in Sections 13.1(d)(i), (ii) and (iii), respectively. In addition, the Company shall provide to each Member holding five percent (5%) or more of the Common Interests and each Founding Firm, in each case, that does not have a right to appoint a Director, notification of any material events or actions directly affecting the Company (including defaults, regulatory actions and investigations, and allegations of violations of Law) within a reasonable period of time after such material event or action. Subject to Section 13.2(b), each Member has the right to inspect any records made available to the Director or observer, as applicable, appointed by such Member to the Board.

(b) Notwithstanding anything to the contrary in this Article XIII or elsewhere in this Agreement, Members shall not have a general right to inspect the following:

(i) internal memoranda of the Board, whether relating to Company matters or any other matters;

(ii) correspondence with and memoranda of advice from attorneys for the Company or the Board;

(iii) correspondence with and memoranda of advice to or from the accountants for the Company or the Board; and

(iv) trade secrets and customer lists of the Company or the Board, investor information, financial statements of investors or Members, supplier lists, and similar and related materials, documents and correspondence.

(c) The books and records of the Company shall be subject at all times to inspection and copying of the SEC and NYSE Amex at no additional charge to the SEC or NYSE Amex. The books, records, premises, officers, directors, agents and employees of the Company shall be deemed the books, records, premises, officers, directors, agents and employees of NYSE Amex for purposes of and subject to oversight pursuant to the Exchange Act. To the extent related to the Company's business, the books, records, premises, officers, directors, agents and employees of each Member shall be deemed the books, records, premises, officers, directors, agents and employees of NYSE Amex for purposes of and subject to oversight pursuant to the Exchange Act.

13.3 Tax Returns and Reports. The Tax Matters Member shall be responsible for timely filing or causing to be filed all tax returns and reports of the Company and its Subsidiaries, under the supervision of the Board. Within a reasonable period of time after the end of each tax year, taking into account any available filing extensions, the Company shall send to each Person who was a Member at any time during such tax year, an Internal Revenue Service Form K-1 (and any relevant state or local equivalent form) and such other information (as reasonably requested by a Member) with respect to the Company as may be necessary for the preparation of such Member's income tax returns. Each Member shall provide to the Company any information with respect to such Member that the Company reasonably requires to complete and file the Company's tax returns or complete other tax filings.

13.4 Fiscal Year and Tax Year. The Company's "Fiscal Year" (and tax year) shall be January 1 to December 31. Notwithstanding the foregoing, if the Board determines that Section 706(b) of the Code requires that the Company use a different tax year, the Board shall cause the Company to use such year for tax purposes.

13.5 Tax Matters Member.

(a) The Company hereby designates NYSE Amex (or such other Member as NYSE Amex in its sole discretion designates from time to time) to act as the "Tax Matters Member" in accordance with Sections 6221 through 6233 of the Code. The Tax Matters Member is authorized to represent the Company before the Internal Revenue Service and any other governmental agency with jurisdiction, and to sign such consents and to enter settlements and other agreements with such agencies as the Tax Matters Member deems necessary or advisable; provided, however, that (a) any material action taken by the Tax Matters Member in its capacity as such (including the extension of any statute of limitations, the making of any tax elections and the filing or settlement of any action or suit) shall require the prior consent of the Board, (b) the Tax Matters Member shall provide to the Board a timely and complete summary of each material written communication from or to the U.S. Internal Revenue Service relating to any material Company tax matter, and (c) the Tax Matters Member shall notify the Board of administrative or judicial proceedings relating to material Company tax matters.

(b) The Tax Matters Member shall be authorized, in its sole discretion, to hire a nationally recognized accounting firm to assist the Tax Matters Member in fulfilling its obligations under Sections 13.5 and 13.6 and any other tax related matters contemplated in this Agreement. Any payment required to be made to such firm shall be at the full cost and expense of the Company.

(c) The Tax Matters Member shall be entitled to reimbursement from the Company for reasonable costs it incurs in performing its duties as the Tax Matters Member. In addition to any indemnification provided by Section 8.5 of this Agreement, the Company shall, to the fullest extent permitted by applicable Law, indemnify, defend and hold harmless the Tax Matters Member, any of its Affiliates and their respective shareholders, officers, directors, members, managers, Agents and employees, and each representative from, against and in respect of any liability (whether direct or indirect, in contract or tort or otherwise) for any losses, claims, damages, liabilities or expenses (including fees and expenses of counsel) arising out of or in connection with the Tax Matters Member's duties as the Tax Matters Member of the Company, except to the extent that it is finally judicially determined that such liabilities arose out of or were related to actions or omissions constituting bad faith, fraud, violation of applicable Law, gross negligence or intentional misconduct. The Company shall reimburse the Tax Matters Member for its reasonable legal and other expenses incurred in connection with defending any claim with respect to such liabilities if the Tax Matters Member agrees to reimburse promptly the Company for such amounts if it is finally judicially determined that the Tax Matters Member was not entitled to indemnity hereunder.

13.6 Tax Elections. Unless otherwise provided by this Agreement, all tax elections shall be made by the Tax Matters Member; provided, however, that the Company will make the election under Code Section 754 (to the extent permissible under the Code) upon the written request of one (1) or more Members (each a "Requesting Member") to the Tax Matters Member. Each Requesting Member shall be responsible for (on a pro rata basis based upon the number of Requesting Members) expenses incurred to effect and administer the election, including administrative, advisory and accounting expenses, so long as the election remains in effect (it being understood that such expenses refer to costs in excess of the costs the Company and NYSE Amex would incur had a Section 754 election not been in effect). Such expenses shall reduce Distributions that a Requesting Member is otherwise entitled to receive under this Agreement and the amount offset shall be treated as distributed to such Member for all purposes of this Agreement.

13.7 Tax Status. The Company is intended to qualify for federal income tax purposes as a partnership that is not publicly traded. No Member (including the Tax Matters Member), Officer or Director shall take any action inconsistent with such qualification, including the filing of an election under Treas. Reg. § 301.7701-3 to be taxed as an association, unless otherwise approved by a Supermajority Vote of the Board in accordance with this Agreement. Nothing in this Section 13.7 shall limit the ability of the Company to consummate an Initial Public Offering in accordance with Section 11.6 that is properly approved under this Agreement.

13.8 Restrictions on Foreign Operations. The Company shall not own (directly or indirectly) any interest in a separate unit (foreign branch or hybrid entity, as defined in Treas. Reg. § 1.1503(d)-1(b)(3)) for purposes of the dual consolidated loss rules promulgated under Code Section 1503(d). The Company shall not directly or indirectly (other than through an entity that is treated as a corporation for United States federal income tax purposes) own assets, conduct business or otherwise engage in activities that would cause it to have a permanent establishment outside the United States or a foreign branch, as that term is defined in Treasury Regulation Section 1.367(a)-6T(g)(1) for purposes of the dual consolidated loss rules in Treasury Regulation Section 1.1503(d)-1(b)(4), or cause any Member to file an income tax return or pay

income tax in any jurisdiction outside the United States solely as a result of the Company's activities in such jurisdiction. To mitigate this risk, the Company shall consult with tax counsel prior to directly or indirectly engaging in any business or activities that reasonably may create a risk of being treated as a permanent establishment or foreign branch, including for example, maintaining or conducting business through a fixed place of business outside the United States (a place of management, branch, office, or other ownership of real property outside the United States), sending one or more employees to work at a fixed location outside the United States for a significant period of time, engaging in business activities outside the United States that are reflected in a separate set of books and records, or maintaining outside the United States agents or employees with the authority to enter into contracts on behalf of the Company.

ARTICLE XIV
CONFIDENTIALITY

14.1 Confidentiality.

(a) "Confidential Information" shall mean and include any confidential information (i) relating to the Company or any Member, or the business, financial structure, financial position or financial results, clients or affairs of the Company or any Member or (ii) that is provided to any Member or the Company or their Representatives or to which the Company or any Member or their Representatives has access as a result of this Agreement, activities conducted pursuant to or in connection with this Agreement or activities conducted by the Company or on behalf of the Company that is either (x) marked as confidential, (y) the Disclosing Party informs the Receiving Party at or prior to the time of disclosure is confidential or (z) should be reasonably understood by the Receiving Party to be confidential. Notwithstanding the foregoing, Confidential Information will not include any information that: (A) is publicly available without such disclosure resulting, directly or indirectly, from a breach of an obligation by the Receiving Party; provided, however, that where such specific information is publicly available, but a compilation which includes such specific information is not publicly available, the remaining portion of such compilation shall be treated as Confidential Information hereunder unless falling within another exception hereunder; (B) was previously known to the Receiving Party; (C) was received by the Receiving Party from a source lawfully having possession of such information and the right to disclose same; (D) is released or disclosed to the public by the Disclosing Party; provided, however, that where such specific information is so released or disclosed to the public, but a compilation which includes such specific information is not so released or disclosed to the public, the remaining portion of the compilation shall be treated as Confidential Information hereunder; or (E) is independently developed by the Receiving Party.

(b) The Company, NYSE Euronext and each Member agrees that when the Company or any such Member or its Representative is a Receiving Party it will be bound by an obligation of confidence to the Disclosing Party in respect of any Confidential Information of the Disclosing Party, so long as such information remains confidential. In respect of such Confidential Information, the Receiving Party will not, directly or indirectly:

(i) disclose any of such Confidential Information, or any part thereof, to any third party except as specifically permitted by this Agreement; and

(ii) use any of such Confidential Information, or any part thereof, for any purpose except as specifically permitted by this Agreement or otherwise required to conduct the activities contemplated by this Agreement; provided, however, that, the foregoing shall not be construed to prevent the Company or any Member or its respective Affiliates from carrying on existing businesses, seeking or making other business opportunities or investments, entering into new lines of business and/or developing or marketing new or existing products or services in any jurisdiction or territory (whether or not the same as or similar to or competitive with any business, line of business or any product or service now conducted, developed or marketed or intended in the future to be conducted, developed or marketed by the Company or any of its Affiliates or any Member or its Affiliates). For the sake of clarity, Confidential Information may be disclosed to Permitted Persons engaged in Associated Businesses having a need to know such Confidential Information for the purpose for which it was provided, and this Article XIV shall not preclude any Permitted Person from engaging in Associated Businesses or from operating in the best interests of and satisfying their obligations to such Associated Businesses, subject to neither such Member nor Permitted Person disclosing Confidential Information in violation of this Article XIV. It is further acknowledged and agreed that such Member and such Permitted Person may have the benefit and use of Confidential Information in the course of their involvement with such Associated Businesses and such benefit and use shall not be precluded under this Agreement so long as no such Confidential Information is disclosed (and such benefit or use is not tantamount to disclosure) by such Member or Permitted Person in violation of this Article XIV and subject to the next to last sentence of this Section 14.1(b)(ii).

(c) The Receiving Party will take all reasonable precautions and actions and will take at least the same precautions and actions as the Receiving Party takes to prevent the disclosure of its own comparable confidential information, to prevent the disclosure to third parties of the Confidential Information of the Disclosing Party or any part thereof, and will ensure that the Receiving Party's Representatives comply with this Article XIV.

(d) The Company, NYSE Euronext and each Member will keep confidential, will not disclose and will otherwise retain in confidence the terms (but not the existence) of the Transaction Documents; except that the Company and Members may make announcements, give notices or make other disclosures concerning the Transaction Documents to third parties if that announcement or notice is either (x) approved by a Supermajority Vote of the Board or (y) expressly permitted by this Article XIV.

(e) Notwithstanding Section 14.1(b), (c) or (d), a Receiving Party or its Affiliates may provide the Confidential Information to those third parties who have a legitimate "need to know" if specifically permitted by this Agreement or if:

(i) (A) such information is required to be filed with any Governmental Authority or Self-Regulatory Organization, including a requirement to disclose such Confidential Information to a stock exchange or securities commission, including the Securities and Exchange Commission or any other relevant exchange or financial authority in the United States of America or elsewhere, (B) it is requested to do so by any Governmental Authority or Self-Regulatory Organization having regulatory authority over such Receiving Party (or its Affiliates) or (C) the Receiving Party determines in its sole discretion that it is necessary or appropriate to provide such Confidential Information to a Governmental Authority or Self-Regulatory

Organization, provided, in each case, that the Receiving Party shall have, where applicable, taken such reasonable steps to protect the confidentiality of such information as the Receiving Party takes with respect to the protection of its own comparable confidential information in such circumstances;

(ii) such information is required by an auditor for the purpose of an audit of the Receiving Party (or one or more of its Affiliates); provided such auditor agrees to maintain the confidentiality of the Confidential Information provided to it;

(iii) such information is, in the reasonable opinion of the Receiving Party, necessary in connection with any tax return of the Receiving Party or its Affiliates;

(iv) such information is provided to a lender, professional adviser, vendor or service provider for a bona fide business purpose of the Receiving Party and is disclosed subject to customary restrictions on the further disclosure or use of such Confidential Information, consistent in scope with the provisions of this Article XIV; or

(v) such information is provided to a third party to which the Receiving Party sells or offers to sell its Interest or any part thereof or any participation therein in accordance with the restrictions on Transfers contained in this Agreement (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by confidentiality obligations substantially the same as or more protective of the Disclosing Party than the provisions of this Article XIV); or

(vi) such information is reasonably necessary in connection with the enforcement or defense of any rights or remedies hereunder or arising out of the Transaction Documents or the transactions contemplated hereby.

(f) Notwithstanding Section 14.1(b), (c) or (d), a Receiving Party (and its Affiliates) may disclose the Confidential Information of the Disclosing Party if it is legally required or compelled to do so by any Governmental Authority (including by oral questions, interrogatories, requests for confidential information or documents, subpoenas, civil investigative demands or otherwise). In any such case, but in any event excluding any disclosures pursuant to Section 14.1(e), the Receiving Party will, if legally permissible, provide the Disclosing Party with prior, if practicable, or if not practicable, prompt written notice of same so that the Disclosing Party may seek a protective order or other appropriate remedy, if available. If such protective order or remedy is not obtained, the Receiving Party (and its Affiliates) will furnish only that portion of the Confidential Information that it is legally required, or that it is requested, to disclose and will, unless notice of such investigation is not otherwise required to be disclosed to the Disclosing Party as set forth above, at the request of the Disclosing Party, use its good faith efforts, at the Disclosing Party's expense, to obtain reliable assurance that the Confidential Information will be accorded confidential treatment.

(g) Notwithstanding the restrictions set forth in Section 14.1(b), (c) and (d), the Company and each Member may disclose the Confidential Information to its Representative (to the extent such disclosure reasonably relates to the administration of the investment represented by its Interest and such Persons agree to comply with the terms of this Article XIV). Each

Receiving Party will be responsible for violations of this Article XIV by its Representative regardless of whether the Company or any Member has rights against the Representative.

(h) The Company, NYSE Euronext and each Member recognize that the breach of any provisions set forth in this Article XIV could result in irreparable damage and harm to the Company and/or other Members (and their Affiliates) and such Person may be without an adequate remedy at law in the event of any such breach. Therefore, the Company, NYSE Euronext and each Member agrees that, if any of the foregoing provisions of this Article XIV is breached or is threatened to be breached, each Member and/or each of their Affiliates and/or the Company may:

(i) seek to obtain specific performance;

(ii) seek to enjoin any Person that has breached, or threatens to breach, any provision of this Article XIV from engaging in any activity restricted by this Article XIV; and

(iii) pursue any one or more of the foregoing or any other remedy available to it under applicable Laws.

A Person seeking or obtaining any such relief will not be precluded from obtaining any other relief to which that Person may be entitled.

(i) The obligations in this Article XIV will be effective from the Effective Date and will continue to apply (A) with respect to the Company, after dissolution or termination of the Company pursuant to Article XII for a period of three (3) years, (B) with respect to any Member, for a period of three (3) years after the date on which such Member ceases to be a Member of the Company and (C) with respect to NYSE Euronext, for a period of three (3) years after the date on which NYSE Amex ceases to be a Member of the Company. Upon the effective date of dissolution or termination of the Company pursuant to Article XII, the Company, NYSE Euronext, and each Member shall promptly return to the Disclosing Party all the Disclosing Party's Confidential Information (including any copies, extracts, and summaries thereof, in whatever form and medium recorded) upon written request from the Disclosing Party (provided that no Member shall be obligated to return or destroy the Confidential Information of the Company) or, with the Disclosing Party's prior written consent, shall promptly destroy it and provide the Disclosing Party with written certification of such destruction. Notwithstanding the foregoing, subject to the terms of this Agreement, the Receiving Party shall not be obligated to destroy any portion of the Confidential Information to the extent that (A) it or its Agents are required to retain such Confidential Information by any applicable Law, or under any internal policy subject to review by any regulator; (B) Confidential Information has been disclosed in a disclosure required under applicable Law; (C) such Confidential Information has been provided to its or its Affiliate's board of directors; (D) such Confidential Information is contained in any database maintained primarily for data security or backup purposes; or (E) a copy of such Confidential Information is maintained with its internal legal counsel subject to the terms of this Agreement for the purpose of addressing claims under this Agreement; or (F) for other bona fide business or legal purposes.

(j) All Confidential Information pertaining to the self-regulatory function of NYSE Amex (including but not limited to disciplinary matters, trading data or information about trading practices and audit information) contained in the books and records of the Company shall: (i) not be made available to any Persons other than to those officers, directors, employees and agents of the Company that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Company and their respective officers, directors, employees and agents; and (iii) not be used for any non-regulatory purposes. For the sake of clarity, this provision shall not limit a Founding Firm's ability to use its own trading data.

(k) Nothing in this Agreement shall be interpreted to limit or impede the rights of the SEC or NYSE Amex to access and examine Confidential Information of the Company pursuant to U.S. federal securities laws and the rules and regulations promulgated thereunder, or, subject to the notice requirements of this Section 14.1, to limit or impede the ability of a member of the Board, Member, officer, director, agent or employee of a Member or of the Company to disclose Confidential Information of the Company to the SEC or NYSE Amex. The provisions of this Section 14.1 shall survive termination of this Agreement.

14.2 Disclosure of Participation.

(a) After the Effective Date, the participation of each of the Members and NYSE Euronext in this Agreement (or in any agreements appurtenant hereto) may be publicly disclosed, without reference to specific financial or economic terms, except to the extent that such reference is required by applicable Law; provided, that disclosure in the form of a press release, public announcement or other widely disseminated written disclosure or announcement is approved in advance by NYSE Euronext and each Member that is specifically identified therein.

(b) Except as specified in the preceding paragraph, neither the Company, NYSE Amex, NYSE Euronext nor any Founding Firm (i) will use any names, trademarks, service marks or trade names of any of the other such party or any of such other party's Affiliates in any form of advertising, publicity or public statements, including press releases, without the prior written consent of such other party, which consent such other party may give or withhold in its sole discretion and (ii) no such party shall have any rights in or to any names, trademarks, service marks or trade names of any such other party or any of its Affiliates.

ARTICLE XV
DISPUTE RESOLUTION

15.1 Dispute Resolution.

(a) Subject to Section 14.1(h), the Members and NYSE Euronext shall try to resolve in a friendly manner any and all disputes, disagreements and misunderstandings connected with their respective rights and obligations under this Agreement, any of the other Transaction Documents (other than the NYSE Euronext Agreement) or any other agreement among the parties hereto that is contemplated by the Transaction Documents (other than the NYSE Euronext Agreement) or with the interpretation of this Agreement or any such other document or agreement or with the resolution of the breach of any term or condition of this Agreement or any such other document or agreement, (each, a "Dispute"), including any amendments hereof or

thereof. Upon the occurrence of a Dispute between Members, between one or more Members and NYSE Euronext, or between one or more Members and the Company and/or NYSE Euronext, any party to the Dispute may by written notice to the other party/parties call for the consideration of such Dispute by the chief executive officer or president of any Member to such dispute (other than NYSE Amex) and NYSE Euronext (or such other member of senior management appointed by such party with cross-departmental or executive officer responsibilities as well as authority to resolve the matter at issue), who shall meet to discuss, review and attempt to resolve the Dispute; provided that any Member that is a party to a Dispute may elect to be represented by the chief executive officer or other senior member appointee of any other Member that is a party to such Dispute. Upon the occurrence of a Dispute between the Founding Firms and NYSE Amex and/or NYSE Euronext, the Founding Firms shall appoint the chief executive officers or presidents, as applicable, of two of the Founding Firms (or, in each case, such other member of senior management appointed by such Founding Firm with cross-departmental or executive officer responsibilities as well as authority to resolve the matter at issue), who shall meet with the chief executive officer of NYSE Euronext (or such other member of senior management appointed by NYSE Euronext with cross-departmental or executive office responsibilities as well as authority to resolve the matter at issue) to discuss, review and attempt to resolve the Dispute. The officers attempting to resolve a Dispute pursuant to this Section 15.1 may be assisted by other advisors, including accountants, attorneys and employees, in his or her discussions and review.

(b) If the chief executive officers (or such other member of senior management appointed by the respective parties with cross-departmental or executive office responsibilities as well as authority to resolve the matter at issue) of the respective parties are unable to resolve the Dispute within thirty (30) days from the date a party first refers such Dispute to the chief executive officers in accordance with Section 15.1(a), then the Dispute will be finally resolved by binding arbitration administered by the American Arbitration Association (the "AAA") in accordance with the Commercial Rules of Arbitration of the AAA (the "AAA Rules") as are in effect at the time of the arbitration, except as they may be modified herein or by agreement of the parties. The place of arbitration shall be New York City and the proceedings shall be conducted using the English language.

(i) The arbitration shall be conducted by three arbitrators (the "Tribunal"). The petitioning party or parties (the "Petitioning Party"), on the one side, and the party or parties defending the arbitration (the "Defending Party"), on the other side, shall each nominate one arbitrator within thirty (30) days after delivery of the demand for arbitration. If there are more than two parties involved in an arbitration, whether under the initial demand for arbitration, by intervention of one or more interested parties, or by consolidation of arbitrations, the arbitrating parties shall in good faith attempt to group themselves into a Petitioning Party and a Defending Party for purposes of selecting arbitrators pursuant to this Section 15.1(b)(i), and each of the Petitioning Party and the Defending Party shall attempt to make its selection.

(ii) Notwithstanding the foregoing, if it shall not be possible to form a Petitioning Party or a Defending Party, as the case may be, or if the Petitioning Party or the Defending Party, as the case may be, fails to nominate an arbitrator pursuant to this Section 15.1(b)(ii), then the AAA may appoint each member of the Tribunal. In the event that the Petitioning Party or the Defending Party is composed of only one party, and the Petitioning Party

or the Defending Party, as the case may be, fails to nominate an arbitrator pursuant to this Section 15.1(b)(ii), upon request of any other party to the arbitration, such arbitrator shall instead be appointed by the AAA within thirty (30) days of receiving such request.

(iii) Unless the Tribunal is appointed by the AAA, the first two appointed arbitrators shall nominate the third arbitrator within thirty (30) days of their appointment. If the first two appointed arbitrators fail to nominate a third arbitrator, then, upon request of any party to the arbitration, the third arbitrator shall be appointed by the AAA within thirty (30) days of receiving such request. The third arbitrator shall serve as the chairman of the Tribunal.

(iv) When a Member, the Company or NYSE Euronext submits a demand for arbitration in connection with a Dispute in respect of which arbitration proceedings between the parties to the same or another Transaction Document are already pending under the AAA Rules (an "Already Pending Proceeding"), any party may submit a request to include such claims (the "New Claims") in the Already Pending Proceeding. If the Tribunal has not been fully constituted, such request shall be submitted to the AAA. If the Tribunal has been fully constituted, such request shall be submitted to the Tribunal. The AAA or the Tribunal in the Already Pending Proceeding, as the case may be, shall determine whether to include the New Claims in the Already Pending Proceeding by considering such factors as the stage of the Already Pending Proceeding and the relatedness of the subject matter of the Already Pending Proceeding and the New Claims. For the avoidance of doubt, two or more arbitration proceedings may be consolidated in accordance with this Section 15.1(b)(iv), even if the parties to such arbitration proceedings are not identical.

(v) A demand for arbitration may not be made after the date when institution of legal proceedings based upon such Dispute would be barred by the applicable statute of limitations under the Laws of the State of Delaware, and the parties expressly waive any causes of action relating to any Dispute not brought within the period specified therein. The decision or award of the arbitrators will be final and binding, and judgment on the award may be entered and the award may be enforced in any court of competent jurisdiction. The award shall be in writing, shall be signed by a majority of the arbitrators, and shall include a written decision setting out the reasons for the disposition of any claim. Without limiting any other remedies that may be available under applicable Law or applicable rules of the AAA, the arbitrators shall have no authority to award punitive damages. The parties to the Dispute shall share equally the fees and expenses of the arbitrators and the arbitration proceedings charged by the arbitrator(s), but each party will otherwise bear its own costs (including attorneys' fees) relating to the arbitration.

(vi) Notwithstanding anything to the contrary herein, the arbitration provisions specified herein, and any arbitration conducted hereunder, shall be governed exclusively by the Federal Arbitration Act, Title 9 United States Code, to the exclusion of any state or municipal Law of arbitration.

ARTICLE XVI
MISCELLANEOUS

16.1 Regulatory Approvals and Compliance.

(a) Notwithstanding anything contained in this Agreement to the contrary, so long as the Company is a facility of NYSE Amex, in the event that NYSE Amex, in its sole discretion, determines that any action, transaction or aspect of an action or transaction, is necessary or appropriate for, or interferes with, the performance or fulfillment of NYSE Amex's regulatory functions, its responsibilities under the Exchange Act or as specifically required by the SEC, NYSE Amex shall have the sole and exclusive authority to direct that any such required, necessary or appropriate action, as it may determine in its sole discretion, be taken or transaction be undertaken by or on behalf of the Company without regard to the vote, act or failure to vote or act by any other party in any capacity.

(b) The Company will use commercially reasonable efforts to obtain such regulatory approval(s) as may be necessary for the Company to engage in the Company's Purposes on such schedule as shall be reasonably determined by the Board to be in the best interests of the Company. The Founding Firms hereby agree to cooperate with the Company as reasonable and necessary to obtain and maintain all regulatory approvals.

(c) The Company shall provide each Member with reasonable prior notice of the Company's intent to make a material rule filing with the SEC. Absent exigent circumstances, the Members shall have a period of not less than two (2) Business Days to review and comment on any such material rule filing.

(d) The Company, NYSE Euronext, NYSE Group, each Member and the officers, directors, agents and employees of the Company, NYSE Euronext, NYSE Group and each Member irrevocably submit to the jurisdiction of the U.S. federal courts, the SEC and NYSE Amex (in its capacity as SRO) for purposes of any suit, action or proceeding pursuant to U.S. federal securities laws, and the rules and regulations promulgated thereunder, arising out of, or relating to, activities of the Company and hereby waive, and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claims that they are not personally subject to the jurisdiction of the SEC, that the suit, action or proceeding is an inconvenient forum or that the venue of the suit, action or proceeding is improper, or that the subject matter thereof may not be enforced in or by such courts or agency.

(e) The Company, NYSE Euronext, NYSE Group, each Member and the officers, directors, agents and employees of the Company, NYSE Euronext, NYSE Group and each Member agree to comply with the federal securities laws and the rules and regulations promulgated thereunder and shall cooperate with NYSE Amex pursuant to its regulatory authority and the provisions of this Agreement and with the SEC; and to engage in conduct that fosters and does not interfere with the Company's and NYSE Amex's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities; to remove

impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest.

(f) The Company, NYSE Euronext, NYSE Group and each Member shall take such action as is necessary to ensure that the officers, directors, agents, and employees of the Company, NYSE Euronext, NYSE Group and such Member who are involved in the activities of the Company or the Exchange consent in writing to the application to them of Section 13.2(c), Sections 16.1(d) and (e), the final sentence of Section 8.1(d)(iv), Section 8.1(m), Section 14.1(i) and Section 14.1(j), as applicable, with respect to their activities relating to the Company or the Exchange.

16.2 Incentive Structure. The Board shall establish as soon as reasonably practicable after the Effective Date a long-term market maker incentive structure, which may be implemented, among other potential methods, by having the Company, on an annual basis, provide a rebate to market makers (whether or not such market makers are equity owners) based on profitability and other metrics.

16.3 Company Payments and Available Cash. For three (3) months following the Effective Date, NYSE Euronext shall cause the scheduling of the invoicing of payments to be made by the Company pursuant to the NYSE Euronext Agreement to coincide with the receipt by the Company of cash flows from operations adequate to service such invoices; provided that the parties shall negotiate in good faith an appropriate limited extension to such period if necessary to address the Company's cash flow needs.

16.4 Investment Banking. The Company shall, in good faith, provide each Founding Firm with an opportunity to bid on any investment banking business arising out of the operation of the Company or the Exchange, which opportunity will be provided to each Founding Firm simultaneously and at a time and in a manner that will not disadvantage the Founding Firms vis-à-vis the other Persons that are offered such an opportunity to bid.

16.5 Survival of Obligations. The provisions of Article XIV, Article XV, Section 16.14 and this Section 16.5 shall survive any termination of this Agreement.

16.6 Notice. Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been delivered, given, and received for all purposes (i) if delivered personally to the Person or to an officer of the Person to whom the same is directed or (ii) when the same is actually received, if sent either by express delivery service or registered or certified mail, postage and charges prepaid and return receipt requested, or by facsimile, if such facsimile is followed by a hard copy of the facsimile communication sent promptly thereafter by registered or certified mail, postage and charges prepaid, addressed as follows or to such other address as such Person may from time to time specify, by notice to the Members, the Company and the Board:

If to the Company, at:

NYSE Amex Options LLC
11 Wall Street
New York, NY 10006

Attention: Chief Executive Officer
Facsimile: Steve Crutchfield

with a copy to each Member of the Company at its address specified on Annex A to Schedule A (and a copy to NYSE Euronext at the address specified for NYSE Amex on such Annex A to Schedule A).

If to any Member, at its address specified on Annex A to Schedule A.

If to NYSE Euronext, at the address specified for NYSE Amex on Annex A to Schedule A.

If to NYSE Group, at:

NYSE Group, Inc.
10 Wall Street
New York, New York 10005
Attention: Joseph M. Mecane, EVP and Chief Administration Officer
Facsimile: (212) 656-5111

With respect to NYSE Group, NYSE Amex or NYSE Euronext, with a copy to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Attention: Edward J. Rosen, Esq.
Facsimile: (212) 225-3999

With respect to any Founding Firm, with a copy to:
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Attention: Mitchell L. Rabinowitz, Esq.
Richard B. Holbrook, Esq.
Facsimile: (202) 628-5116

16.7 Binding Effect. Except as otherwise provided in this Agreement every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of NYSE Euronext, the Members and their respective successors, Transferees and assigns.

16.8 No Third Party Beneficiaries. This Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the parties hereto. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of NYSE Euronext, the Members and their respective successors, Transferees and assigns.

16.9 Merger of Prior Agreements and Understandings. This Agreement and the other documents incorporated herein by reference supersede all prior written agreements or understandings and all prior or contemporaneous oral agreements or understandings among the parties hereto with respect to the matters contemplated herein.

16.10 Amendment. Unless the contrary is otherwise specifically stated in this Agreement, this Agreement may be amended by Supermajority Vote of the Board; provided, that: (i) Section 8.1(d)(ii) and Article XIV may not be materially amended and Section 13.8 may not be amended without the prior written consent of each Member; (ii) any amendment that would have a disproportionate, material and adverse effect on the rights of one or more Members (other than amendments of the type described in clause (iii) below) shall require such Member's prior written consent; (iii) any amendment that would have a material adverse effect on the rights of the Members of a class of Interests (irrespective of whether such amendment has a material adverse effect on the rights of NYSE Amex) shall require the prior written consent of Members (other than NYSE Amex) representing two thirds (2/3) of the Interests held by such Members; (iv) any amendment that would impose a new and material obligation or liability applicable by its terms to any Member or materially increase any existing material obligation or liability of any Member shall require the prior written consent of such Member and (v) any matter specified in this Agreement as subject to agreement by the Members may be modified by Supermajority Vote of the Board if so agreed by the Members, provided that this clause (v) does not apply to the matters addressed in clause (i) above and the application of this clause (v) shall nevertheless be subject to the application of clauses (ii), (iii) and (iv) above. Notwithstanding any of the foregoing, for so long as the Company operates a facility of NYSE Amex or a successor of NYSE Amex that is an SRO, any proposed amendment or repeal of any provision of this Agreement shall be submitted to the board of directors of NYSE Amex and, if such amendment or repeal is required, under Section 19 of the Exchange Act and the rules promulgated thereunder, to be filed with, or filed with and approved by, the SEC before such amendment or repeal may be effective, then such amendment or repeal shall not be effective until filed with, or filed with and approved by, the SEC, as the case may be.

16.11 Waiver. No waiver of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each party. Any waiver of any term or condition shall not be construed as a waiver of any other term or condition of this Agreement. One or more waivers of any covenant, term or condition of this Agreement by a party shall not be construed by a party as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval of a party to or of any act by a party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. The failure of a party to insist on the strict performance of any covenant or duty required by the Agreement, or to pursue any remedy under the Agreement, shall not constitute a waiver of the breach or the remedy. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any such rights. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

16.12 Severability. If any provision of this Agreement is held invalid, illegal or unenforceable in any jurisdiction by a Governmental Authority, to the extent permitted by applicable Law, such provision shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability without invalidating the remaining provisions of this Agreement

or affecting the validity or enforceability of that provision in any other jurisdiction. The parties shall use all reasonable endeavors to agree to replace the invalid, illegal or unenforceable provision with a valid and enforceable provision the effect of which is the closest possible to the intended effect of the invalid, illegal or unenforceable provision.

16.13 No Assignment. Any purported assignment of this Agreement, or any rights hereunder, other than to a Permitted Transferee and otherwise in accordance with the provisions of this Agreement applicable to the Transfer of Interests shall be void and of no force or effect.

16.14 Governing Law. It is the intent of the parties hereto that all issues and questions concerning the construction, validity, interpretation and enforceability of this Agreement and the exhibits and schedules hereto shall be construed in accordance with, the Laws of the State of Delaware.

16.15 Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument.

16.16 Other States. If the business of the Company is carried on or conducted in states other than Delaware, the Board shall execute documents as may be required or requested so that the Board may legally qualify the Company in such state(s). The Board shall have the authority to designate a Company's office or principal place of business in any other state.

16.17 No Effect Upon Lender Relationship. Notwithstanding anything herein to the contrary, nothing contained in this Agreement shall affect, limit or impair the rights and remedies of a Member or NYSE Euronext in its capacity as a lender to the Company or any of its Subsidiaries pursuant to any agreement under which the Company or any of its Subsidiaries has borrowed money. Without limiting the generality of the foregoing, any such Person, in exercising its rights as a lender, including making its decision on whether to foreclose on any collateral security, will have no duty to consider (a) its status or the status of any of its Affiliates as a direct or indirect Member or equityholder of the Company or any of its Subsidiaries, (b) the interests of the Company or any of its Subsidiaries or (c) any duty it may have to any other direct or indirect Member or equityholder of the Company or any of its Subsidiaries, except as may be required under the applicable loan documents or by commercial Law applicable to creditors generally.

16.18 Remedies Cumulative. The remedies of the parties under this Agreement are cumulative and shall not exclude any other remedies to which the parties may be lawfully entitled. Each of the parties confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other suitable remedy, but nothing herein contained is intended to or shall limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other parties for a breach or threatened breach of any provision hereof, it being the intention by this Section 16.18 to make clear the agreement of the parties that the respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

16.19 Guaranty. NYSE Euronext hereby absolutely, unconditionally and irrevocably guarantees the timely performance by NYSE Amex (including any direct or indirect Permitted Transferee of NYSE Amex) of its obligations under this Agreement, other than its obligations as the SRO of the Exchange, and any direct or indirect Permitted Transferee to whom NYSE Amex or its Transferee assigns its obligations and rights pursuant to Section 4.9(c) or 11.5(g) or as otherwise agreed by the Members, and hereby waives: (A) diligence, promptness, notice, presentment, demand, protest, acceleration and dishonor of any kind; (B) filing of claims with a court in the event of insolvency or bankruptcy of NYSE Amex or any direct or indirect Permitted Transferee of NYSE Amex; (C) all defenses based on laws of suretyship, other than fraud in the inducement; (D) all demands whatsoever, except to the extent required to be made upon NYSE Amex or any direct or indirect Permitted Transferee of NYSE Amex; and (E) any right to require a proceeding or any other action first against or with respect to NYSE Amex, any direct or indirect Permitted Transferee of NYSE Amex or any other Person. No amendment, modification or waiver of any of the terms, covenants or conditions of this Agreement shall operate to discharge NYSE Euronext from any of its obligations under this Section 16.19. NYSE Euronext's guaranty under this Section 16.19 will not be discharged until all obligations of NYSE Amex (including any direct or indirect Permitted Transferee of NYSE Amex) under this Agreement have been fully performed. NYSE Euronext's obligations pursuant to this Section 16.19 shall not be affected by (i) the existence of any claim, set-off or other rights which NYSE Euronext may have against any other Person (other than a Member that is a beneficiary of this Section 16.19), (ii) the occurrence of a default by NYSE Amex (or any direct or indirect Permitted Transferee of NYSE Amex), (iii) the existence of any bankruptcy, insolvency, reorganization or similar proceedings involving NYSE Amex (or any direct or indirect Permitted Transferee of NYSE Amex), (iv) any other circumstance (other than full performance) that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor; or (v) any other event, change or circumstance that would not operate to discharge NYSE Euronext of its obligations were NYSE Euronext the principal obligor hereunder.

* * * * *

IN WITNESS WHEREOF, NYSE Euronext and all of the Members of NYSE Amex Options LLC, a Delaware limited liability company, have executed this Agreement, effective only as of the Effective Date.

NYSE Euronext

By:_____
Name: _____
Its: _____

NYSE Amex LLC

By: _____
Name: _____
Its: _____

NYSE Group Inc., solely with respect to the provisions of Sections 16.1(d), 16.1(e), 16.1(f) and 16.6.

By: _____
Name:_____
Its:_____

Citadel Securities LLC

By:_____
Name: _____
Its: _____

Goldman, Sachs & Co.

By:_____
Name: _____
Its: _____

Banc of America Strategic Investments Corporation

By:_____
Name: _____
Its: _____

Citigroup Financial Strategies, Inc.

By:_____
Name: _____
Its: _____

Datek Online Management Corp.

By:_____
Name: _____
Its: _____

UBS Americas Inc.

By:_____
Name: _____
Its: _____

By:_____
Name: _____
Its: _____

Barclays Electronic Commerce Holdings Inc.

By:_____
Name: _____
Its: _____

Schedule A – Members' Interest Allocations

Member's Name	Preferred Interests	Common Interests						
		Class A Common Interests			Class B Common Interests			
		Class A Common Interests	Class A Voting Allocation	Class A Economic Allocation	Class B Common Interests		Class B Voting Allocation	Class B Economic Allocation
					Voting	Non-Voting		
Class A Members								
NYSE Amex	100	47.2	47.2%	47.2%	0	0	0	0
Aggregate Class A Allocation:			47.2%	47.2%				
Class B Members								
Citadel	0	N/A	N/A	N/A	14.95	0	14.95%	14.95%
Goldman Sachs	0	N/A	N/A	N/A	14.95	0	14.95%	14.95%
BAML	0	N/A	N/A	N/A	5.0	0	5.0%	5.0%
Citigroup	0	N/A	N/A	N/A	5.0	0	5.0%	5.0%
TD Ameritrade	0	N/A	N/A	N/A	5.0	0	5.0%	5.0%
UBS	0	N/A	N/A	N/A	4.9	0	4.9%	4.9%
Barclays	0	N/A	N/A	N/A	3.0	0	3.0%	3.0%
Aggregate Class B Allocation:							52.8%	52.8%

Annex A to SCHEDULE A – MEMBER ADDRESSES

If to NYSE Amex

11 Wall Street
New York, NY 10006
Attention: John K. Halvey
Facsimile: (212) 656-2025

If to Citadel:

Citadel Securities LLC
C/o Citadel Investment Group LLC
131 South Dearborn Street
Chicago, IL 60603
Attention: Adam Cooper
Facsimile: (312) 267-7444

If to Goldman Sachs:

Goldman, Sachs & Co.
200 West Street
New York, NY 10282
Attention: Darren Cohen
Facsimile: (646) 835-8714

and

Goldman, Sachs & Co.
Legal Department
200 West Street
New York, NY 10282
Attention: Deirdre Harding
Facsimile: (212) 256-5392

If to BAML:

BAML Global Strategic Capital Group
One Bryant Park, 17th Floor
New York, NY 10036
Attention: Sam Nayden
Facsimile: (646) 855-4866

and

BAML Global Strategic Capital Group
One Bryant Park, 17th Floor
New York, NY 10036
Attention: Richard Feldman
Facsimile: (212) 548-8938

and

Bank of America Merrill Lynch
One Bryant Park, 17th Floor
New York, NY 10036
Attention: Global Principal Investments Counsel
Facsimile: (646) 855-5782

If to Citigroup:

130 Cheshire Lane, Suite 202
Minnetonka, MN 55305
Attention: Charles Mogilevsky
Facsimile: (952) 475-5700

and

130 Cheshire Lane, Suite 202
Minnetonka, MN 55305
Attention: Patricia Cerny, Compliance Officer
Facsimile: (952) 475-5700

If to TD Ameritrade:

TD Ameritrade Holding Corporation
6940 Columbia Gateway Dr., Suite 200
Columbia, MD 21046
Attention: General Counsel
Facsimile: (443) 539-2209

and

TD Ameritrade, Inc.
1005 N. Ameritrade Place
Bellevue, NE 68005
Attention: Christopher Nagy
Facsimile: (402) 970-8383

If to UBS:

677 Washington Blvd.
Stamford, Connecticut 06901

Attention: David Kelly
Facsimile: (203) 719-5627

If to Barclays:

745 Seventh Avenue
New York, NY 10019
Attention: Joseph Corcoran and Jason Kunreuther
Facsimile: (646) 885-9141

and

745 Seventh Avenue
New York, NY 10019
Attention: The Office of the General Counsel
Facsimile: (646) 758-5203

SCHEDULE 8.1(d)(i) – DIRECTORS DESIGNATED BY NYSE AMEX

[To come**]**

SCHEDULE 8.1(d)(ii) – DIRECTORS DESIGNATED BY FOUNDING FIRMS

[To Come**]**

SCHEDULE 8.1(i)(v)

SCHEDULE 8.1(i)(v) – BOARD DECISIONS REQUIRING SUPERMAJORITY VOTE

In addition to any provision in this Agreement that requires that an action be approved by Supermajority Vote of the Board, the taking of the actions specified below by the Company or any Subsidiary, as applicable, shall require approval by a Supermajority Vote of the Board:

1. The acquisition, disposition or entering into of any new business or business line, or a material change in the scope of the Company's Purposes or any other business (including the establishment of any direct or indirect Subsidiary of the Company in connection with the foregoing);

2. A Sale of the Company, provided that a Sale of the Company shall also require the approval of 75% of the Common Interests, excluding the Non-voting Common Interests;

3. Liquidation, dissolution, winding up or voluntary bankruptcy of the Company or any Subsidiary;

4. Any decision to commence a Public Offering other than a Qualified Public Offering of the Company's securities;

5. Entering into or termination of any material strategic alliance or joint venture;

6. A material investment in any other entity or the entry into a material partnership or joint venture with any other entity;

7. Establishment of any committee of the Board or of the board of any Subsidiary that is specifically authorized to act or exercise any authority on any matter that requires a Supermajority Vote or the granting of such authority to an existing committee of the Board;

8. Material amendments to or termination of any of the NYSE Euronext Agreement;

9. (i) Voluntary Capital Calls in excess of the Voluntary Capital Call Cap during the first two years following the Effective Date; (ii) after the second-year anniversary of the Effective Date, any Voluntary Capital Calls; and (iii) at any time, Regulatory Capital Calls in excess of the Regulatory Capital Call Cap;

10. The issuance of any rights to Interests (including issuance of any new classes of Interests), additional to those authorized in this Agreement;

11. Any repurchase, cancellation or redemption of Interests (other than pursuant to this Agreement);

12. Material amendments to this Agreement, or any other governing document, of the Company or any Subsidiary (including to increase/decrease the number or makeup of the Directors) other than any such amendment directed by NYSE Amex in its capacity as an SRO in accordance with Section 16.1(a);

13. Approval of either the initial or any future Chief Executive Officer proposed by NYSE Amex in consultation with the Founding Firms and removal of the Chief Executive Officer (absent Cause or as provided in Section 8.4(e));

14. Adoption or material variation of any material bonus, profit-sharing, share option or employee share trust arrangement or plan between the Company or any Subsidiary and any of the executive officers of the Company or any Subsidiary having a value in the aggregate in excess of $3 million in any year, unless such arrangement or plan (or variation thereto) conforms to an arrangement or plan in effect at NYSE Euronext;

15. Approval of any material Related Party Transactions except (i) any transaction or arrangement that has been approved pursuant to a different item on this list or explicitly excluded from approval by any item on this list, (ii) participation in any cash pooling program of NYSE Euronext and any of its Affiliates, or (iii) any transaction or arrangement that requires the Company or any Subsidiary to receive services under the NYSE Euronext Agreement;

16. Approval of any dividend policy and any declaration, allocation or distributions of profits or capital other than a Tax Distribution and other than pursuant to the terms of this agreement or a Board adopted (by Supermajority Vote) dividend policy (and for the avoidance of doubt, other than the payment of the annual coupon on the Preferred Interest);

17. Incurrence of indebtedness pursuant to Section 3.2(a) or otherwise for monies borrowed or the provision of guaranties, in the aggregate in excess of $3 million;

18. Settlement of any material litigation, arbitration or other proceeding involving claims or liabilities in excess of $3 million; provided that any Director with a material interest in the outcome of such matter will not be entitled to vote on such matter and there shall be a corollary reduction in Supermajority Vote requirement;

19. Approval of the Annual Budget of the Company or any Subsidiary, or a material adjustment of the Annual Budget, provided that in the event that the Board fails to adopt an Annual Budget for any calendar year, the Annual Budget for such calendar year shall be the equal to the Annual Budget for the immediately preceding calendar year;

20. Approval of any capital expenditure (other than those approved in connection with the Annual Budget) that in the aggregate would exceed $3 million, except as directed by NYSE Amex, acting in its capacity as an SRO in accordance with Section 16.1(a);

21. Entering into, amending in any material respect or terminating any Material Contract except as may be required by NYSE Amex, acting in its capacity as an SRO in accordance with Section 16.1(a);

22. Appointing an accountant for the Company or any Subsidiary other than a public accounting firm that performs such services for NYSE Euronext;

23. Approving any Independent Directors designated pursuant to Section 8.1(d);

24. Any action that would be likely to result in material change in the legal or tax structure of the Company or any Subsidiary or entering into any new business that would subject the Exchange to a regulatory regime that previously it was not subject to and that would impose on Members, in their capacity as members, material additional regulatory obligations;

25. Any material change to fees charged by the Exchange, other than any change required by NYSE Amex, acting in its capacity as an SRO in accordance with Section 16.1(a), to fund the operations and/or the regulation of the Exchange;

26. Determination that a Point of Contact (as defined in the NYSE Euronext Agreement) position or other key personnel position identified in the NYSE Euronext Agreement should become fully dedicated to supporting the Company;

27. Approval of the composition of the board of directors (or similar governing body) of any Subsidiary unless such board of directors mirrors the composition of the Board;

28. Approval of notices and other disclosures concerning the Transaction Documents to third parties (unless such notices or disclosures are expressly permitted by Article XIV; and

29. Approval of any agreement, contract or understanding between the Company and a third party that would (i) specifically and directly restrict or (ii) contain financial covenants that would restrict the Company from making, or that would be violated by the Company making, Distributions or Tax Distributions; provided that no approval shall be required under this Item 29 for restrictions required by a Governmental Entity or Self-Regulatory Organization.

SCHEDULE 8.3(b) – REPRESENTATIVES TO FOUNDING FIRM ADVISORY COMMITTEE

[To come.**]**

EXHIBIT A – FORM OF SUPPLEMENT

SUPPLEMENT NO. _____ dated as of _____ ____, 20__ (the "Supplement") to the First Amended and Restated Limited Liability Company Agreement of NYSE Amex Options, LLC, dated as of _____, 2011 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), by and among the Members party thereto (individually, a "Member" and collectively, the "Members").

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

Section 10.4 of the Agreement provides that additional Members of NYSE Amex Options, LLC, a Delaware limited liability company (the "Company") may become Members under the Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned new Member of the Company (the "New Member") is executing this Supplement in accordance with the requirements of the Agreement to become a Member under the Agreement.

Accordingly, the Company and the New Member agree as follows:

SECTION 1. In accordance with Section 10.4 of the Agreement, the New Member by its signature below becomes a Member under the Agreement with the same force and effect as if originally named therein as a Member, and the New Member hereby agrees to be bound by and subject to all of the terms and conditions specified in the Agreement as a Member thereunder. Each reference to a "Member" in the Agreement shall be deemed to include the New Member. The Agreement is hereby incorporated herein by reference.

[SECTION 2. The Company shall issue to the New Member the number and type of Interests specified opposite such New Member's name, in exchange for the Capital Contribution specified for the New Member under the column "Capital Contribution," on a Members' Schedule updated pursuant to Article X of the Agreement.][2]

SECTION 3. The New Member represents and warrants to the Company and the other Members that this Supplement and the Agreement constitute the legal, valid and binding obligation of the New Member, enforceable against the New Member in accordance with its terms.

SECTION 4. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Company shall have received counterparts of this Supplement that, when taken together, bear the signatures of the New Member and the Company.

SECTION 5. Except as expressly supplemented hereby, the Agreement shall remain in full force and effect.

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[2] This section is only applicable for primary issuances of Interests by the Company.

SECTION 6. THIS SUPPLEMENT SHALL BE GOVERNED AS TO VALIDITY, CONSTRUCTION AND IN ALL OTHER RESPECTS BY THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 16.6 of the Agreement.

SECTION 8. The Members shall be deemed to be third party beneficiaries of this Supplement.

IN WITNESS WHEREOF, the New Member and the Company have duly executed this Supplement to the Agreement as of the day and year first above written.

NYSE Amex LLC

By:_____
Name: _____
Its: _____

[NEW MEMBER**]**

By:_____
Name: _____
Its: _____

New Member Address

_____
_____
Attention: _____
Facsimile: _____