
**FIFTH AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT**

OF

DIRECT EDGE HOLDINGS LLC

Dated as of June 12, 2010

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**FIFTH AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT
OF DIRECT EDGE HOLDINGS LLC**

This Fifth Amended and Restated Limited Liability Company Operating Agreement is made as of July 12, 2010 (the “Effective Date”), by and among Citadel Derivatives Group LLC (“Citadel”), The Goldman Sachs Group, Inc. (“Goldman”), Knight/Trimark, Inc. (“Knight”), International Securities Exchange Holdings, Inc. (“ISE Holdings”), DB US Financial Markets Holding Corporation (“DB”), LabMorgan Corporation (“JPMorgan”), Merrill Lynch L.P. Holdings, Inc. (“Merrill”), Nomura Securities International, Inc. (“Nomura”), and Sun Partners LLC (“Sun”, and together with DB, JPMorgan, Merrill and Nomura, the “ISE Stock Exchange Consortium Members”), and all other Persons (as defined in Section 1.1) who become parties hereto as Members (as defined in Section 1.1) of Direct Edge Holdings LLC (the “Company”), in accordance with the terms hereof, for purposes of recording their agreement regarding the affairs of the Company and the conduct of its business.

Recitals

WHEREAS, on June 5, 2007, Knight formed the Company as a limited liability company pursuant to the Act (as defined in Section 1.1), by causing to be filed a Certificate of Formation of the Company, attached hereto as Exhibit A (the “Certificate”), with the office of the Secretary of State of the State of Delaware, and entered into the Limited Liability Company Operating Agreement of the Company as the sole member (the “Initial Agreement”);

WHEREAS, the Company was formed for the purpose of operating an ECN (as defined in Section 1.1) through its ownership of 100% of the ownership interest in Direct Edge ECN LLC, a Delaware limited liability company (“Direct Edge”);

WHEREAS, on July 23, 2007, Citadel purchased Units (as defined in Section 1.1) representing a [REDACTED] ownership interest in the Company pursuant to that certain Purchase Agreement, dated as of June 12, 2007, as amended pursuant to the Amendment to Purchase Agreement, dated as of July 23, 2007, among the Company, Citadel and solely with respect to certain sections thereof, Knight Capital Group, Inc. (the “Citadel Purchase Agreement”);

WHEREAS, on July 23, 2007, Citadel and Knight amended and restated the Initial Agreement in its entirety to reflect the issuance of Units to Citadel pursuant to the Citadel Purchase Agreement and the admission of Citadel as a Member of the Company (the “First Amended Agreement”);

WHEREAS, the Company issued to Citadel a Warrant, dated as of July 23, 2007 (the “Warrant”), pursuant to which Citadel exercised in full its right to purchase up to [REDACTED] Units from the Company on September 28, 2007;

WHEREAS, on September 28, 2007, Goldman purchased Units from Knight and Citadel representing a [REDACTED] ownership interest in the Company pursuant to that certain Purchase Agreement, dated as of August 10, 2007, among the Knight Capital Group, Inc., Citadel and Goldman (the “Goldman Purchase Agreement”);

WHEREAS, on September 28, 2007, Citadel, Goldman and Knight amended and restated the First Amended Agreement in its entirety to reflect the purchase of Units by Goldman from Knight and Citadel pursuant to the Goldman Purchase Agreement and the admission of Goldman as a Member of the Company (the “Second Amended Agreement”);

WHEREAS, on December 23, 2008 and immediately prior to the execution and delivery of the Third Amended Agreement (as defined below), ISE Holdings purchased (i) all of the Class B limited liability company membership interests of ISE Exchange from Knight and Citadel representing in the aggregate a [REDACTED] ownership interest in ISE Stock Exchange, LLC, a Delaware limited liability company (“ISE Exchange”), and (ii) Units from Citadel, Goldman and Knight representing a [REDACTED] ownership interest in the Company (the “ISE Purchases”), in each case pursuant to that certain Transaction Agreement, dated as of August 22, 2008 (the “Transaction Agreement”), among Citadel, Goldman, Knight, the Company, ISE Holdings, ISE Exchange, International Securities Exchange, LLC, a Delaware limited liability company (“ISE LLC”), and Maple Merger Sub, LLC, a Delaware limited liability company and wholly owned subsidiary of the Company (“Merger Sub”);

WHEREAS, immediately following the ISE Purchases, ISE Holdings and the ISE Stock Exchange Consortium Members owned in aggregate 100% of the ownership interest in ISE Exchange;

WHEREAS, on December 23, 2008 (i) immediately following the ISE Purchases, ISE Exchange merged with and into Merger Sub pursuant to the Transaction Agreement (the “Merger”), with Merger Sub surviving the merger as a wholly owned subsidiary of the Company (the “Surviving Company”), as a result of which Merger, the ownership interests in ISE Exchange owned by ISE Holdings and the ISE Stock Exchange Consortium Members were converted into Units; and (ii) immediately following the Merger, ISE Holdings made a capital contribution to the Company pursuant to the Transaction Agreement (the “ISE Capital Contribution”);

WHEREAS, as a result of the ISE Purchases and the Merger, Knight, Citadel and Goldman each owned Units representing a [REDACTED] ownership interest in the Company, ISE Holdings owned Units representing a [REDACTED] ownership interest in the Company and the ISE Stock Exchange Consortium Members owned Units representing a 9.42% ownership interest in the Company, in aggregate;

WHEREAS, on December 23, 2008, (A) simultaneous with the effectiveness of the Merger, the Second Amended Agreement was amended and restated in its entirety (the “Third Amended Agreement”) to reflect (i) the purchase of Units by ISE Holdings from Citadel, Goldman and Knight pursuant to the Transaction Agreement, (ii) the admission of ISE Holdings as a Member of the Company, (iii) the Merger, (iv) the admission, pursuant to Section 18-301(b)(3) of the Act, of the ISE Stock Exchange Consortium Members as Members of the Company as a result of the Merger, and (v) the current requirements applicable to national securities exchanges; and (B) immediately following the amendment and restatement of the Second Amended Agreement in its entirety, Exhibit B and Exhibit C of the Third Amended Agreement were deemed amended to reflect the ISE Capital Contribution, as a result of which, Knight, Citadel and Goldman each owned Units representing a 19.9% ownership interest in the

Company, ISE Holdings owned Units representing a 31.54% ownership interest in the Company and the ISE Stock Exchange Consortium Members owned Units representing a 8.76% ownership interest in the Company, in aggregate;

WHEREAS, the Company expects to form EDGX Exchange, Inc., a Delaware corporation (“EDGX”), and EDGA Exchange, Inc., a Delaware corporation (“EDGA”), and transfer to each of EDGX and EDGA certain assets of the Company;

WHEREAS, the Company expects to file a Form 1 Application for Registration as a national securities exchange with the United States Securities and Exchange Commission (the “SEC”) to register each of EDGX and EDGA as a national securities exchange (each, a “Form 1”);

WHEREAS, prior to the Merger, the ISE Stock Exchange operated a marketplace for the trading of U.S. cash equity securities by equity electronic access members of ISE LLC under the rules of the ISE as a Facility of ISE LLC (the “ISE Exchange”);

WHEREAS, after the Merger, Merger Sub, as successor in interest to ISE Stock Exchange, operates the ISE Exchange as a Facility of ISE LLC;

WHEREAS, the ISE Exchange will cease operations if the Commission approves the EDGX and EDGA Form I applications;

WHEREAS, pursuant to Section 18-101(7) of the Act, the ISE Stock Exchange Consortium Members are bound by this Agreement as Members of the Company as if signatories hereto;

WHEREAS, the Members previously amended and restated the Third Amended Agreement in its entirety (the “Fourth Amended Agreement”) to modify certain management rights set forth therein; and

WHEREAS, the Members desire to amend and restate the Fourth Amended Agreement in its entirety to permit the issuance of options for membership interests to certain of its officers and employees in conjunction with the Equity Plan adopted by the Members and the Board.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby continue the Company without dissolution, amend and restate the Fourth Amended Agreement in its entirety and agree as follows:

Article I **Defined Terms**

1.1 **Definitions.** The following terms shall have the following meanings as used in this Agreement:

“AAA” shall have the meaning set forth in Section 15.8.

“Act” shall mean the Delaware Limited Liability Company Act, 6 Del. C. § 18-101 et seq., as amended and in effect from time to time, and any successor statute.

“Additional Capital Contribution” shall have the meaning set forth in Section 5.2(b).

“Affiliate” shall have the meaning set forth in Rule 12b-2 under the Exchange Act.

“Agreement” shall mean this fifth amended and restated limited liability company operating agreement, including all exhibits hereto, as amended, restated or supplemented from time to time.

“Annual Budget” shall have the meaning set forth in Section 11.4.

“Arbitrator Panel” shall have the meaning set forth in Section 15.8.

“Associated Businesses” shall have the meaning set forth in Section 7.15(b).

“Bankruptcy” shall have the meaning ascribed thereto in Sections 18-101(1) and 18-304 of the Act.

“Bankruptcy Code” shall mean the Bankruptcy Reform Act of 1978, 11 U.S.C. § 101 et seq., as amended and in effect from time to time, and any successor statute.

“beneficially owned” shall have the meaning set forth in Rule 13d-3 under the Exchange Act. “owned beneficially” and similar formulations shall have correlative meanings.

“Board” shall have the meaning set forth in Section 7.1(a).

“Business Day” shall mean a day other than a Saturday or a Sunday on which commercial banks in New York are not required or permitted under applicable laws or regulations to close.

“Capital Account” shall mean a capital account maintained for each Member in accordance with the principles and requirements set forth in Section 704(b) of the Code.

“Capital Call Amount” shall have the meaning set forth in Section 5.2(b).

“Capital Call Notice” shall have the meaning set forth in Section 5.2(b).

“Capital Call Response Date” shall have the meaning set forth in Section 5.2(b).

“Capital Contribution” shall mean the amount of all capital contributions, including Additional Capital Contributions, contributed by a Member in its capacity as such at any point in time.

“Capital Contribution Date” shall have the meaning set forth in Section 5.2(d).

“Capital Contribution Shortfall” shall have the meaning set forth in Section 5.2(c).

“Certificate” shall have the meaning set forth in the recitals.

“Citadel” shall have the meaning set forth in the preamble.

“Citadel Confidentiality Agreement” shall mean the confidentiality agreement among Knight Capital Group, Inc., Direct Edge ECN LLC and Citadel Limited Partnership, dated February 22, 2007.

“Citadel Purchase Agreement” shall have the meaning set forth in the recitals.

“Client” shall have the meaning set forth in Section 7.15(c).

“Code” shall mean the United States Internal Revenue Code of 1986, as amended and in effect from time to time.

“Company” shall have the meaning set forth in the preamble.

“Company BFO” shall have the meaning set forth in Section 6.5(a).

“Company-Related SRO” shall mean (i) any Exchange Subsidiary of the Company that is registered with the SEC as a national securities exchange, as provided in Section 6 of the Exchange Act, and (ii) ISE SRO.

“Company Sale” shall have the meaning set forth in Section 6.5(a).

“Company’s business” shall mean the business of the Company and its subsidiaries.

“Compelled Members” shall have the meaning set forth in Section 6.3(a).

“Compellers” shall have the meaning set forth in Section 6.3.

“Competing Prospective Licensee” shall have the meaning set forth in Section 10.7(b).

“Confidential Information” shall have the meaning set forth in Section 7.15(b).

“Consortium Units” shall have the meaning set forth in Section 6.2(a).

“Controlling Units” shall have the meaning set forth in Section 6.3.

“Conversion” shall have the meaning set forth in Section 7.19(a).

“Covered Persons” shall have the meaning set forth in Section 15.1(a).

“DB” shall have the meaning set forth in the preamble.

“Delaware UCC” shall have the meaning set forth in Section 4.2.

“Direct Edge” shall have the meaning set forth in the recitals.

“Distributable Cash” shall have the meaning set forth in Section 8.1.

“Distribution Plan” shall mean a capital spending and distribution plan adopted pursuant to Section 7.7(c)(5) or Section 7.7(f)(3).

“Drag-Along Offer” shall have the meaning set forth in Section 6.3.

“Drag-Along Notice” shall have the meaning set forth in Section 6.3(b).

“ECN” shall mean an “electronic communications network” as defined in Rule 600(b) of Regulation NMS of the Exchange Act.

“EDGA” shall have the meaning set forth in the recitals.

“EDGX” shall have the meaning set forth in the recitals.

“Effective Date” shall have the meaning set forth in the preamble.

“Eligible Subsidiary” shall have the meaning set forth in Section 7.18.

“Eligible Units” shall have the meaning set forth in Section 6.2(f).

“Ending Date” shall have the meaning set forth in Section 6.4(b).

“Equity Plan” shall mean the Direct Edge Holdings 2010 Equity Incentive Plan.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended and in effect from time to time, and any successor statute.

“Exchange Member” shall mean (i) any registered broker or dealer, as defined in Section 3(a)(48) of the Exchange Act, that is registered with the SEC under the Exchange Act and that has been admitted to membership in the national securities exchange operated by a Company-Related SRO other than ISE SRO, (ii) any associated person of any registered broker or dealer (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act) that has been admitted to membership in the national securities exchange operated by a Company-Related SRO other than ISE SRO, or (iii) for so long as ISE Exchange is a Facility of ISE LLC, (a) any holder of Electronic Access Member Rights, as defined in the Second Amended and Restated Limited Liability Company Agreement of ISE LLC, and (b) any associated person of any holder of Electronic Access Member Rights (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act).

“Exchange Subsidiaries” shall mean (i) EDGX, (ii) EDGA, (iii) any subsidiary of the Company that is registered with the SEC as a national securities exchange, and (iv) Merger Sub (including the ISE Exchange), for so long as ISE Exchange is a Facility of a national securities exchange.

“Excluded Units” shall have the meaning set forth in Section 6.4(c).

“Exempt Person” shall have the meaning set forth in Section 7.15(c).

“Facility” shall have the meaning set forth in Section 3(a)(2) of the Exchange Act.

“Fill-Up Amount” shall have the meaning set forth in Section 5.2(c).

“Fill-Up Member” shall have the meaning set forth in Section 5.2(c).

“Fill-Up Notice” shall have the meaning set forth in Section 5.2(c).

“Fill-Up Response Date” shall have the meaning set forth in Section 5.2(c).

“Final Contribution Notice” shall have the meaning set forth in Section 5.2(d).

“FINRA” shall mean the Financial Industry Regulatory Authority.

“First Amended Agreement” shall have the meaning set forth in the recitals.

“First Fill-Up Amount” shall have the meaning set forth in Section 5.2(c).

“First Fill-Up Member” shall have the meaning set forth in Section 5.2(c).

“First Option Period” shall have the meaning set forth in Section 6.2(c).

“Fiscal Year” shall mean the calendar year.

“Form 1” shall have the meaning set forth in the recitals.

“Fourth Amended Agreement” shall have the meaning set forth in the recitals.

“Fully Participating Members” shall have the meaning set forth in Section 5.2(c).

“Goldman” shall have the meaning set forth in the preamble.

“Goldman Confidentiality Agreement” shall mean the Reciprocal Non-Disclosure and Non-Promotion Agreement between Direct Edge and Goldman dated February 5, 2007.

“Goldman Purchase Agreement” shall have the meaning set forth in the recitals.

“Independent Accountants” shall have the meaning set forth in Section 11.6(a).

“Individual Additional Capital Contribution” shall have the meaning set forth in Section 5.2(b).

“Initial Agreement” shall have the meaning set forth in the recitals.

“Initial Members” shall mean Knight, Citadel, Goldman, ISE Holdings and the ISE Stock Exchange Consortium Members (together, in each case, with Affiliates of such Person to whom Units originally held by such Person have been Transferred and who have been admitted to the Company as Members).

“Initial Public Offering” means the first registered offering of shares of capital stock of the Company or any successor to the Company (whether by merger, conversion, the transfer of all or substantially all of the assets of the Company or otherwise), or a subsidiary of the Company, as the case may be, under the Securities Act pursuant to an effective registration statement.

“Intellectual Property” shall have the meaning set forth in Section 7.15(c).

“IRS” shall have the meaning set forth in Section 7.17(b).

“ISE Capital Contribution” shall have the meaning set forth in the recitals

“ISE Confidentiality Agreement” shall mean the confidentiality agreement among ISE Holdings and the Company, dated December 6, 2007.

“ISE Exchange” shall have the meaning set forth in the recitals.

“ISE Exercise Notice” shall have the meaning set forth in Section 6.5(a).

“ISE Holdings” shall have the meaning set forth in the preamble.

“ISE LLC” shall have the meaning set forth in the recitals.

“ISE LLC Director” shall have the meaning set forth in Section 7.1(d).

“ISE Non-Exercise Notice” shall have the meaning set forth in Section 6.5(a).

“ISE Option Period” shall have the meaning set forth in Section 6.5(a).

“ISE ROFR” shall have the meaning set forth in Section 6.5(a).

“ISE SRO” means ISE LLC for so long as ISE Exchange is a Facility of ISE LLC.

“ISE Stock Exchange Consortium Members” shall have the meaning set forth in the preamble.

“ISE Stock Exchange Consortium Option” shall have the meaning set forth in Section 6.2(b).

“ISE Stock Exchange Consortium Option Period” shall have the meaning set forth in Section 6.2(b).

“Issuance Period” shall have the meaning set forth in Section 6.4(b).

“Issued Price” shall have the meaning set forth in Section 6.4(a).

“Issued Terms” shall have the meaning set forth in Section 6.4(a).

“Issued Units” shall have the meaning set forth in Section 6.4(a).

“JPMorgan” shall have the meaning set forth in the preamble.

“Knight” shall have the meaning set forth in the preamble.

“Knight Capital” means Knight Capital Group, Inc., a Delaware corporation.

“Liquidator” shall have the meaning set forth in Section 13.2(b).

“Manager” shall have the meaning set forth in Section 7.1(a).

“Management Units” shall have the meaning set forth in Section 6.4(c)(2).

“Member” shall mean any Person (i) executing this Agreement as a member of the Company as of the Effective Date, (ii) admitted as a Member of the Company as of the Merger Date upon the effectiveness of the Merger pursuant to Sections 18-301(b)(3) and 18-101(7) of the Act, or (iii) hereafter admitted to the Company as an additional or substitute member of the Company as provided in this Agreement, each in its capacity as a member of the Company, and shall have the same meaning as the term “member” under the Act, but does not include any Person who has ceased to be a member of the Company.

“Member BFO” shall have the meaning set forth in Section 6.2(a).

“Merger” shall have the meaning set forth in the recitals.

“Merger Date” shall mean December 23, 2008.

“Merger Sub” shall have the meaning set forth in the recitals.

“Merrill” shall have the meaning set forth in the preamble.

“New Members” shall have the meaning set forth in Section 6.6(d).

“Nomura” shall have the meaning set forth in the preamble.

“Non-Fully Participating Member” shall have the meaning set forth in Section 5.2(c).

“Non-recourse Debt” shall mean a non-recourse liability as defined in Treasury Regulation § 1.752-1(a)(2).

“Non-Selling ISE Stock Exchange Consortium Member” shall have the meaning set forth in Section 6.2(b).

“Non-Selling Notice” shall have the meaning set forth in Section 6.2(e).

“Non-Selling Member Option” shall have the meaning set forth in Section 6.2(e).

“Non-Selling Member Option Period” shall have the meaning set forth in Section 6.2(e).

“Non-Selling Members” shall have the meaning set forth in Section 6.2(a).

“Notice” shall have the meaning set forth in Section 6.2(a).

“Offered Price” shall have the meaning set forth in Section 6.2(a).

“Offered Terms” shall have the meaning set forth in Section 6.2(a).

“Offered Units” shall have the meaning set forth in Section 6.2(a).

“Options” shall have the meaning set forth in Section 4.1(c).

“Other State UCC” shall have the meaning set forth in Section 4.2.

“Ownership Limitations” shall mean the ownership limitations set forth in Section 12.1(a)(1) and Section 12.1(a)(2).

“Percentage Interest” shall mean, with respect to a Member, the ratio of the number of Units held by the Member to the total of all of the issued and outstanding Units, expressed as a percentage. For purposes of Article XII and any references to Article XII, Percentage Interest shall also include Units owned, directly or indirectly, of record or beneficially, by a Person, either alone or together with its Related Persons.

“Permitted Person” shall have the meaning set forth in Section 10.7.

“Permitted Transferee” shall have the meaning set forth in Section 6.6(c).

“Person” shall mean any individual, partnership, joint stock company, corporation, entity, association, trust, limited liability company, joint venture, unincorporated organization, and any government, governmental department or agency or political subdivision of any government.

“Potential Purchaser” shall have the meaning set forth in Section 6.2(a).

“Purchase Period” shall have the meaning set forth in Section 6.4(a)(1).

“Purchase Right” shall have the meaning set forth in Section 6.4(a)(1).

“Purchase Right Notice” shall have the meaning set forth in Section 6.4(a).

“Purchasing Member” shall have the meaning set forth in Section 6.4(a)(1).

“Regulatory Funds” shall mean fees, fines or penalties derived from the regulatory operations of a Company-Related SRO, provided that Regulatory Funds shall not include revenues derived from listing fees, market data revenues, transaction revenues or any other aspect of the commercial operations of such Company-Related SRO, even if a portion of such revenues are used to pay costs associated with the regulatory operations of such Company-Related SRO.

“Related Persons” shall mean with respect to any Person: (A) any Affiliate of such Person; (B) any other Person with which such first Person has any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of Units; (C) in the case of a Person that is a company, corporation or similar entity, any executive officer (as defined under Rule 3b-7 under the Exchange Act) or director of such Person and, in the case of a Person that is a partnership or limited liability company, any general partner, managing member or manager of such Person, as applicable; (D) in the case of any Exchange Member, any Person that is associated with the Exchange Member (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act); (E) in the case of a Person that is a natural person and an Exchange Member, any broker or dealer that is also an Exchange Member with which such Person is associated; (F) in the case of a Person that is a natural person, any relative or spouse of such Person, or any relative of such spouse who has the same home as such Person or who is a director or officer of the Company or any of its parents or subsidiaries; (G) in the case of a Person that is an executive officer (as defined under Rule 3b-7 under the Exchange Act) or a director of a company, corporation or similar entity, such company, corporation or entity, as applicable; and (H) in the case of a Person that is a general partner, managing member or manager of a partnership or limited liability company, such partnership or limited liability company, as applicable.

“Remaining Issued Units” shall have the meaning set forth in Section 6.4(b).

“Representatives” shall have the meaning set forth in Section 7.15(b).

“Restricted Entity” shall have the meaning set forth in Section 7.18.

“ROFR Ending Date” shall have the meaning set forth in Section 6.2(i).

“ROFR Purchasing Member” shall have the meaning set forth in Section 6.2(e).

“Rules” shall have the meaning set forth in Section 3(a)(27) of the Exchange Act, with respect to a Company-Related SRO; provided that for purposes of this

Agreement, it shall not include the certificate of formation, certificate of incorporation, by-laws, operating agreement or constitution of such Company-Related SRO.

“Sale Notice” shall have the meaning set forth in Section 6.5(a).

“Sale Price” shall have the meaning set forth in Section 6.5(a).

“SEC” shall have the meaning set forth in the recitals.

“Second Amended Agreement” shall have the meaning set forth in the recitals.

“Securities Act” shall mean the Securities Act of 1933, as amended and in effect from time to time, and any successor statute.

“Selling Member” shall have the meaning set forth in Section 6.2(a).

“Services Agreements” shall mean the Transition Services Agreement between Knight Capital and the Company, dated as of July 23, 2007, the Amended and Restated Cross License Agreement among Knight Equity Markets, L.P., Direct Trading Institutional, L.P., Knight Capital, Direct Edge and the Company, dated as of September 28, 2007, the Regulatory Services Agreement between ISE LLC and the Surviving Company, dated as of December 23, 2008, the License Agreement between ISE LLC and the Company, dated as of August 22, 2008, and the Facilities Management Agreement between ISE LLC and the Company, dated as of August 22, 2008.

“Shortfall Amount” shall have the meaning set forth in Section 8.1(a).

“Specified Transferee” shall mean with respect to any Member, (i) any Affiliate of such Member, (ii) any Person that acquires substantially all of the assets of such Member, so long as such Member has, immediately prior to such acquisition, material assets and/or operations other than its Units, (iii) any Person that, through a merger, consolidation, recapitalization, sale of equity interests or other transaction or series of transactions involving such Member, owns in the surviving entity after the closing of such transaction a majority of the outstanding equity interests when it did not own a majority of the equity interests in such Member immediately prior to such transaction, so long as such Member or the other Affiliates of such Member involved in such transactions and which such Person controls after the closing had material assets and/or operations other than its Units immediately prior to such closing, and (iv) until December 23, 2010, a Strategic Investor.

“SRO” shall mean a “self-regulatory organization” as defined in Section 3(a)(26) of the Exchange Act.

“Strategic Investor” shall mean a firm reasonably determined by a majority of all the Managers of the Board to have demonstrated the ability to direct significant

order flow to the Company; provided that for any determination prior to December 23, 2010, a firm shall only be deemed to be a Strategic Investor so long as the aggregate number of Units issued by the Company, or Transferred by the Members, to all Strategic Investors (in one or more tranches or transactions), which issuances or Transfers were made in accordance with the provisions of this Agreement, does not exceed 15% of the number of Units outstanding as of the Merger Date. For illustrative purposes only, if each of two Strategic Investors is issued 7% of the number of Units outstanding as of the Merger Date for an aggregate of 14%, another firm could be issued or have Transferred to it only up to 1% of the number of Units outstanding as of the Merger Date in order to satisfy the definition of and be considered a Strategic Investor.

“Sun” shall have the meaning set forth in the preamble.

“Surviving Company” shall have the meaning set forth in the recitals.

“Surviving Corporation Shares” shall have the meaning set forth in Section 7.19(b).

“Tax Amount” of a Member for a Fiscal Year or other period shall mean the product of (a) the Tax Rate for such Fiscal Year or other period, and (b) the Member’s Tax Amount Base for such Fiscal Year or other period.

“Tax Amount Base” of a Member for a Fiscal Year or other period shall mean the product of (a) the taxable income (for U.S. federal income tax purposes) of the Company determined without regard to any adjustments under §743 of the Code or as a result of the application of §704 of the Code with respect to any variation between the fair market value and tax basis of any assets at the time such assets were contributed to the Company and (b) the Member’s Percentage Interest.

“Tax Distributions” shall have the meaning set forth in Section 8.1(a).

“Tax Matters Partner” shall have the meaning set forth in Section 7.17(a).

“Tax Rate” of a Member for a Fiscal Year or other period shall mean the highest effective marginal combined United States federal, state and local income tax rate applicable during such Fiscal Year to a corporation doing business exclusively in New York City, giving proper effect to the federal deduction for state and local income taxes.

“Third Amended Agreement” shall have the meaning set forth in the recitals.

“Transaction Agreement” shall have the meaning set forth in the recitals.

“Transfer” shall mean, (i) when used as a verb, to sell, transfer, assign, encumber or otherwise dispose of, directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and (ii) when used as a noun, a direct or indirect,

voluntary or involuntary, sale, transfer, assignment, encumbrance or other disposition by operation of law or otherwise.

“Treasury Regulations” shall mean the regulations promulgated by the United States Department of the Treasury pursuant to the Code.

“Units” shall mean the units of interest in the ownership and profits and losses of the Company and such Member’s right to receive distributions in its capacity as a Member.

“Unit Holders List” shall have the meaning set forth in Section 6.8.

“Unrestricted Period” shall have the meaning set forth in Section 6.2(i).

“Using Member” shall have the meaning set forth in Section 10.8(a).

“Vendor” shall have the meaning set forth in Section 7.15(c).

“Voting Limitations” shall mean the voting limitations set forth in Section 12.1(a)(3).

“Warrant” shall have the meaning set forth in the recitals.

1.2 Rules of Construction. Unless the context otherwise requires, definitions in this Agreement apply equally to both the singular and plural forms of the defined terms. The terms “include” and “including” and other words of similar import shall be deemed to be followed by the phrase “without limitation.” The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular section or subsection. The headings appear as a matter of convenience only and shall not affect the interpretation of this Agreement. All section, subsection, clause and exhibit references not attributed to a particular document shall be references to such parts of this Agreement.

1.3 Effectiveness; Fourth Amended Agreement.

(a) This Agreement shall become effective on the Effective Date and shall continue until terminated. Notwithstanding any provision in this Agreement and the Fourth Amended Agreement and without the consent of any Person being required, the Transaction Agreement, the formation of EDGX and EDGA, the filing of each Form 1 and the Company’s execution, delivery and performance of this Agreement are hereby authorized, approved, and ratified in all respects.

(b) The Members hereby irrevocably and unconditionally agree that the Fourth Amended Agreement is hereby amended and restated in its entirety as set forth herein.

Article II
Organization

2.1 Formation of Direct Edge. The Members hereby: (a) ratify the formation of the

Company as a limited liability company under the Act, the execution of the Certificate by Steven J. Wright as an “authorized person” of the Company within the meaning of the Act, and the filing of the Certificate with the office of the Secretary of State of the State of Delaware; and (b) agree that the rights, duties and liabilities of the Members shall be as provided in the Act, except as otherwise provided herein.

2.2 Name. The name of the Company shall be Direct Edge Holdings LLC. However, the business of the Company may be conducted, upon compliance with all applicable laws, under any other name selected by the Board from time to time.

2.3 Registered Office; Registered Agent; Principal Office; Other Offices. The registered office of the Company required by the Act to be maintained in the State of Delaware shall be the office of the initial registered office named in the Certificate or such other registered office (which need not be a place of business of the Company) as the Board may designate from time to time in the manner provided by the Act. The registered agent of the Company required by the Act to be maintained in the State of Delaware shall be The Corporation Trust Company, which is located at 1209 Orange Street in the City of Wilmington, County of New Castle, Delaware, or such other Person or Persons as the Board may designate from time to time in the manner provided by the Act. The principal office of the Company on the date hereof is 545 Washington Boulevard, Jersey City, New Jersey 07310, and the Company shall maintain there the records required to be maintained under Section 18-305 of the Act. In addition, the Company may maintain such other offices as the Board may deem advisable at any other place or places within or without the State of Delaware.

2.4 Intent. The Members intend that (a) the Company shall always be operated in a manner consistent with its treatment as a partnership for United States federal income tax purposes (and, to the extent possible, for state income tax purposes) within the United States and the Members be treated as partners for United States federal income tax purposes (and to the extent possible, for state income tax purposes), and (b) the Company, to the extent not inconsistent with the foregoing clause (a), shall not be operated or treated as a partnership for purposes of Section 303 of the Bankruptcy Code. Neither the Company nor any Member shall take any action or fail to take any action (including the making of, or failure to make, appropriate tax elections) inconsistent with the express intent of the parties hereto as set forth in the immediately preceding sentence.

2.5 Interests; Property of Company. Units held by a Member shall be personal property of such Member for all purposes. All real and other property owned by the Company shall be deemed property of the Company that is owned by the Company as an entity, and no Member shall own such property in an individual capacity. No Member shall be entitled to interest on or with respect to any Capital Contribution. Except as provided in this Agreement, no Member shall be entitled to withdraw any part of such Member’s Capital Contribution or to receive distributions from the Company.

2.6 Limited Liability. Except as otherwise expressly required by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither any Member nor any Manager shall be obligated personally for any such debt, obligation or liability of the Company

solely by reason of being a Member or Manager of the Company.

Article III **Purpose**

3.1 **Purpose.** Subject to the provisions of this Agreement, the purpose of the Company is (a) to operate one or more national securities exchanges, (b) to operate one or more facilities of a national securities exchange, (c) to operate one or more SROs, and (d) to engage in any other business or activity in which a limited liability company organized under the laws of the State of Delaware may lawfully engage.

Article IV **Equity Interests**

4.1 **Units; Options.**

(a) The Company's equity interests shall be represented by the Units and Options.

(b) All Units are identical to each other and accord the holders thereof the same obligations, rights, and privileges as are accorded to each other holder thereof.

(c) Any option granted under the Equity Plan will have a per Unit exercise price determined from time to time by the Board, which shall not be less than the fair market value of a Unit on the date of grant (each such option, an "Option").

(d) Upon the exercise of any Option by a holder thereof in accordance with the terms of the Option and the Equity Plan, the Company shall issue a number of Units to such exercising holder as provided for in such Option and the exercising holder shall be admitted to the Company as a Member upon the execution of a counterpart signature page to this Agreement.

(e) The Company is authorized to issue certificates to represent any or all of the Units. In the event the Company issues certificates evidencing the Units issued by the Company, the certificates shall bear the following restrictive legends (in addition to any legend restrictions required under applicable state securities laws):

“THE RIGHTS, POWERS, PREFERENCES, RESTRICTIONS (INCLUDING TRANSFER RESTRICTIONS) AND LIMITATIONS OF THE LIMITED LIABILITY COMPANY INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SET FORTH IN, AND THIS CERTIFICATE AND THE LIMITED LIABILITY COMPANY INTERESTS REPRESENTED HEREBY ARE ISSUED IN ACCORDANCE WITH AND SHALL IN ALL RESPECTS BE SUBJECT TO, THE TERMS AND PROVISIONS OF THE FIFTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF DIRECT EDGE HOLDINGS LLC, DATED AS OF MAY [___], 2010, AS THE SAME MAY BE AMENDED AND/OR RESTATED FROM TIME TO TIME (THE “AGREEMENT”). THE TRANSFER, SALE, ASSIGNMENT, ENCUMBRANCE OR DISPOSITION IN ANY MANNER, WHETHER DIRECT OR INDIRECT, VOLUNTARY OR INVOLUNTARY, BY OPERATION OF LAW OR OTHERWISE, OF THIS CERTIFICATE AND THE LIMITED

LIABILITY COMPANY INTERESTS REPRESENTED HEREBY ARE RESTRICTED AS DESCRIBED IN THE AGREEMENT.

EACH LIMITED LIABILITY COMPANY INTEREST REPRESENTED HEREBY SHALL CONSTITUTE A “SECURITY” WITHIN THE MEANING OF, AND GOVERNED BY, (I) ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE (INCLUDING SECTION 8-102(A)(15) THEREOF) AS IN EFFECT FROM TIME TO TIME IN THE STATE OF DELAWARE (THE “DELAWARE UCC”) AND (II) THE CORRESPONDING PROVISIONS OF THE UNIFORM COMMERCIAL CODE OF ANY OTHER APPLICABLE JURISDICTION THAT NOW OR HEREAFTER SUBSTANTIALLY INCLUDES THE 1994 REVISIONS TO ARTICLE 8 THEREOF AS ADOPTED BY THE AMERICAN LAW INSTITUTE AND THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND APPROVED BY THE AMERICAN BAR ASSOCIATION ON FEBRUARY 14, 1995 (EACH, AN “OTHER STATE UCC”). FOR ALL PURPOSES OF ARTICLE 8 OF THE DELAWARE UCC AND ANY OTHER STATE UCC AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE LAWS OF THE STATE OF DELAWARE SHALL CONSTITUTE THE LOCAL LAW OF DIRECT EDGE HOLDINGS LLC IN ITS CAPACITY AS THE ISSUER OF THE LIMITED LIABILITY COMPANY INTERESTS REPRESENTED HEREBY.”

In addition, unless counsel to the Company has advised the Company that such legend is no longer needed, each certificate evidencing Units issued by the Company shall bear a legend in substantially the following form:

“THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), OR ANY STATE SECURITIES LAWS, AND SUCH SECURITIES MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR OTHERWISE DISPOSED OF UNLESS THEY ARE REGISTERED AND QUALIFIED IN ACCORDANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, OR AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION SHALL APPLY.”

4.2 Article 8 Opt-In. Each limited liability company interest in the Company (including each Unit and Option) shall constitute a “security” within the meaning of, and governed by, (a) Article 8 of the Uniform Commercial Code (including Section 8-102(a)(15) thereof) as in effect from time to time in the State of Delaware (the “Delaware UCC”) and (b) the corresponding provisions of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995 (each, an “Other State UCC”). For all purposes of Article 8 of the Delaware UCC and any Other State UCC and to the fullest extent permitted by law, the laws of the State of Delaware shall constitute the local law of the Company in the Company’s capacity as the issuer of Units and Options.

4.3 Transfer Books. The Company shall maintain books for the purpose of registering the Transfer of Units, and, upon any Transfer of Units, the Company shall notify the

registered owner of any applicable restrictions on the Transfer of limited liability company interests in the Company. If Units are represented by certificates, in connection with a Transfer in accordance with this Agreement of any certificated Units, the endorsed certificate(s) evidencing the Units shall be delivered to the Company for cancellation, and the Company shall thereupon issue a new certificate to the transferee evidencing the Units that were Transferred and, if applicable, the Company shall issue a new certificate to the transferor evidencing any Units registered in the name of the transferor that were not Transferred.

4.4 Certificate Signature. If Units are represented by certificates, each such certificate shall be executed by manual or facsimile signature of an officer on behalf of the Company.

Article V **Contributions of Members**

5.1 Capital Contributions.

(a) Each Member's Capital Account is set forth opposite its name on Exhibit B, as amended from time to time.

(b) The value assigned to any Capital Contribution shall be equal to the amount of cash and the fair market value of all other assets and/or properties contributed by such Member. In the event of any exercise of Option in accordance with Section 4.1(c) hereof, the following shall be deemed to occur for the purposes of this Agreement and U.S. federal income tax purposes:

(i) the Company shall be deemed to have paid, as compensation, to the Person exercising such Option an amount equal to the excess of (A) the fair market value (as determined by the Board) of the Units issued by the Company to such Person on the date of the exercise over (B) the exercise price paid by such Person in respect of such Option; and

(ii) such Person shall be deemed to have contributed to the Company, as a Capital Contribution, an amount equal to the sum of (A) the amount of compensation income recognized by such Person pursuant to clause (i) above and (B) the exercise price paid by such Person in respect of such Option.

(c) The number of Units held by, and Percentage Interest of, each Member is set forth on Exhibit C, as amended from time to time.

(d) In the event of any dispute as to the fair market value of any Capital Contribution made through the provision of services or the contribution of assets or property, the fair market value of such Capital Contribution shall be finally determined by nationally recognized, independent certified public accountants chosen by the Board that have no current business relationship with any of the disputing Members or the Company or as the Members shall otherwise agree.

5.2 Additional Capital Contributions.

(a) The provisions of this Section 5.2 are subject to Article XII, including Section 12.1.

(b) If the Board from time to time, by a majority of the Managers then serving on the Board, authorizes the Company to call for additional capital contributions from the Members (each, an “Additional Capital Contribution”), the Company shall deliver a written request (a “Capital Call Notice”) to each Member to make such Additional Capital Contributions. The Capital Call Notice shall specify (i) the aggregate amount of Additional Capital Contributions to be raised by all of the Members (the “Capital Call Amount”), (ii) the Percentage Interest of each Member, (iii) the maximum amount of Additional Capital Contribution that the Company requests from each Member, which amount shall be equal to the Capital Call Amount multiplied by the Percentage Interest of each Member, expressed in decimals (each, an “Individual Additional Capital Contribution”), and (iv) the date on or prior to which each Member must inform the Company as to its election to contribute capital and the amount thereof (the “Capital Call Response Date”), which date shall be at least 15 calendar days after the date of the Capital Call Notice. Subject to the limitations set forth in Article XII, each Member shall have the right, but not the obligation, to contribute cash to the capital of the Company in an amount up to or equal to its Individual Additional Capital Contribution by delivering a written notice to the Company of the amount it elects to contribute on or before the Capital Call Response Date. If any Member timely elects to contribute an amount that is less than its Individual Additional Capital Contribution, then such amount shall be accepted by the Company, but such Member shall be deemed to have declined to exercise its right to make its full Individual Additional Capital Contribution.

(c) If a Member fails to elect to make its full Individual Additional Capital Contribution pursuant to Section 5.2(b) or elects not to make any Additional Capital Contribution (a “Non-Fully Participating Member”) by the Capital Call Response Date, then the Company shall deliver to each of the Members who did elect to contribute their full Individual Additional Capital Contributions (the “Fully Participating Members”) a notice (the “Fill-Up Notice”) specifying (i) the difference between the Capital Call Amount and the aggregate contributions elected to be made by all Members prior to or on the Capital Call Response Date (the “Capital Contribution Shortfall”), (ii) that each of the Fully Participating Members may elect to contribute an additional amount of capital up to and including the Capital Contribution Shortfall, provided, that the aggregate amount that any Member may elect cannot (A) exceed the Capital Contribution Shortfall, or (B) result in such Member’s Percentage Interest violating the limitations set forth in Article XII, and (iii) the date on or before when such Member must inform the Company that it elects to make such an additional capital contribution and the amount thereof (such Member’s “Fill-Up Amount”), which date shall be at least seven calendar days after the date of the Fill-Up Notice (the “Fill-Up Response Date”). In the event that the Fully Participating Members elect to make contributions pursuant to this Section 5.2(c) in excess of the Capital Contribution Shortfall (such Fully Participating Members, the “Fill-Up Members”), then, first, each Fill-Up Member (a “First Fill-Up Member”) whose Fill-Up Amount is equal to or less than its pro rata portion of the Capital Contribution Shortfall, based on the ratio of the Percentage Interest of such Fill-Up Member to the aggregate of the Percentage Interests of all of the Fill-Up Members, shall be entitled, subject to the limitations set forth in Article XII, to contribute its Fill-Up Amount (such Fill-Up Amount, the “First Fill-Up Amount”), and, second, each other Fill-Up Member shall be entitled, subject to the limitations set forth in Article XII, to contribute a pro

rata portion, based on the ratio of the Percentage Interest of such Fill-Up Member to the aggregate of the Percentage Interests of all of the Fill-Up Members other than First Fill-Up Members, of an amount that is equal to the amount of the Capital Contribution Shortfall, less the aggregate of the First Fill-Up Amounts.

(d) The Company shall, promptly after the Fill-Up Response Date, deliver to each of the Members a notice (the “Final Contribution Notice”) confirming (i) the amount of capital such Member has elected to contribute pursuant to Section 5.2(b), (ii) the amount of capital such Member will contribute pursuant to Section 5.2(c), after taking into account the last sentence thereof, and (iii) the date by which such capital must be contributed to the Company (the “Capital Contribution Date”), which date shall be at least seven calendar days after such notice. The Final Contribution Notice shall also contain the instructions for the Members to make the Additional Capital Contributions. Any election by a Member to make a contribution pursuant to Section 5.2(b) or Section 5.2(c) shall constitute a binding agreement by such Member to contribute capital to the Company in the amount specified (and adjusted pursuant to the last sentence of Section 5.2(c), if applicable) on or before the Capital Contribution Date.

(e) Promptly following the Capital Contribution Date, or upon the exercise of an Option, as the case may be, the Board shall amend Exhibit B to reflect the amount of any Additional Capital Contribution and any other Capital Contribution deemed to be made pursuant to Section 5.1 by each Member and Exhibit C to reflect the new number of Units, if any, and Percentage Interest of each Member, which Percentage Interest shall be a percentage derived by dividing the amount in the Capital Account of each Member, as adjusted to reflect any Additional Capital Contribution made by such Member and adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f), by the aggregate amount in all of the Capital Accounts of all of the Members, by the aggregate amount in all of the Capital Accounts of all of the Members, in each case as adjusted to reflect any Additional Capital Contributions or other Capital Contribution deemed to be made pursuant to Section 5.1 by all of the Members; provided, that in no event shall the sum of the Percentage Interests of all of the Members exceed one hundred percent.

Article VI **Transferability**

6.1 Transfer Generally.

(a) Until December 23, 2010, the Members shall not Transfer any Units except in accordance with requirements set forth in Section 7.7(c)(3) or Section 7.7(d), as applicable. On or after December 23, 2010, the Members shall not Transfer any Units except in accordance with the requirements set forth in Section 7.7(b)(8) or Section 7.7(f)(4), as applicable.

(b) Subject to Section 6.1(a), a Member shall not be permitted to Transfer all or a portion of its Units except subject to, and in compliance with this Section 6.1 and Sections 6.2, 6.3, 6.5 and 6.6. For the avoidance of doubt, Transfers of Units to a Specified Transferee of a Member shall not be subject to Sections 6.2, 6.3 or 6.5.

6.2 Right of First Refusal.

(a) If a Member receives a bona fide written offer (“Member BFO”, which, if the Member BFO relates to a Company Sale, shall also be a Company BFO) to purchase Units (whether solicited or unsolicited) from any Person other than a Specified Transferee (a “Potential Purchaser”), including a letter of intent or similar document, and such Member desires to Transfer all or a portion of its Units to such Potential Purchaser, such Member (the “Selling Member”) shall first deliver written notice of its desire to do so (the “Notice”, which, if the Member BFO relates to a Company Sale, shall also be a Sale Notice) to the Company, to each of the Initial Members (together with the Company, the “Non-Selling Members”) and, if (x) the Selling Member is an ISE Stock Exchange Consortium Member, and (y) the aggregate Percentage Interest of all of the ISE Stock Exchange Consortium Members is at least 5%, to the ISE Stock Exchange Consortium Members. The Notice must specify: (i) the Selling Member’s bona fide intention to Transfer the Units, (ii) the number of Units that the Selling Member proposes to Transfer (the “Offered Units”), (iii) the proposed consideration per Unit (expressed as a value in cash, the “Offered Price”) for which the Selling Member proposes to Transfer the Units, (iv) the identity of the Potential Purchaser, and (v) all other material terms and conditions of the proposed transaction (the “Offered Terms”). Each Notice shall constitute an irrevocable and binding offer by the Selling Member to Transfer the Offered Units in accordance with the Notice and this Section 6.2.

(b) If the Selling Member is an ISE Stock Exchange Consortium Member and the aggregate Percentage Interest of all of the ISE Stock Exchange Consortium Members is at least 5%, then each non-selling ISE Stock Exchange Consortium Member (“Non-Selling ISE Stock Exchange Consortium Member”) not then in material breach of this Agreement, subject to such Non-Selling ISE Stock Exchange Consortium Member’s right, if any, to cure, shall have an option (the “ISE Stock Exchange Consortium Option”) to purchase up to such number of Offered Units as would enable the Non-Selling ISE Stock Exchange Consortium Members to maintain collectively their then current Percentage Interest, but such purchase right shall not exceed their aggregate Percentage Interest of [REDACTED] (such specified number of Offered Units, the “Consortium Units”), for the Offered Price and on the Offered Terms. A Non-Selling ISE Stock Exchange Consortium Member must exercise such option, if it so desires, no later than 30 calendar days after the Notice has been delivered to it in accordance with Section 6.2(a) or the Non-Selling Notice has been delivered to it in accordance with Section 6.2(d) (such 30 calendar day period, the “ISE Stock Exchange Consortium Option Period”). The ISE Stock Exchange Consortium Option and all rights associated with it shall be subject to Sections 6.2(c) and (d) and the limitations set forth in Article XII.

(c) If the Transfer of Units contemplated by the Member BFO would constitute a Company Sale, ISE Holdings shall have the first option to purchase all of the Offered Units pursuant to Section 6.5, subject to the limitations set forth in Article XII.

(d) The Company shall have the option to purchase all or a portion of the Offered Units for the Offered Price and on the Offered Terms, unless to the extent applicable, ISE Holdings exercises its option to purchase such Offered Units pursuant to Section 6.5; provided, however, that a purchase of Offered Units by the Company shall be void to the extent it would result in a violation by any Member of the limitations set forth in Article XII. The

Company must exercise such option, if it so desires, no later than 30 calendar days after the Notice has been delivered to the Company in accordance with Section 6.2(a) or, if the Transfer of Units is subject to Section 6.5, 30 calendar days after the earlier of (i) the date of delivery of the ISE Non-Exercise Notice and (ii) the expiration of the ISE Option Period (the “First Option Period”) in each case by written notice to the Selling Member. Any written notice delivered by the Company to the Selling Member exercising the option set forth under this Section 6.2(d) shall constitute an irrevocable commitment by the Company to purchase the number of Offered Units for which the Company has indicated its intention to purchase in such written notice in accordance with the Notice and this Section 6.2. If the Company fails to provide such written notice to the Selling Member prior to the expiration of the First Option Period, then the Company shall forfeit its right to purchase any of the Offered Units.

(e) The Company shall, no later than the last calendar day of the First Option Period, deliver written notice to the Non-Selling Members and, if the Selling Member is an ISE Stock Exchange Consortium Member, to the Non-Selling ISE Stock Exchange Consortium Members (the “Non-Selling Notice”) specifying the number, if any, of Offered Units that it does not intend to purchase pursuant to Section 6.2(d). If the Selling Member is an ISE Stock Exchange Consortium Member, the provisions of Section 6.2(b) shall apply. If (i) the Selling Member is not an ISE Stock Exchange Consortium Member, or (ii) there are remaining Offered Units after the application of Section 6.2(b), then each Non-Selling Member that is not then in material breach of this Agreement, subject to such Non-Selling Member’s right, if any, to cure, shall have an option (the “Non-Selling Member Option”) to purchase all or a portion of the remaining Offered Units eligible for purchase by the Non-Selling Members for the Offered Price and on the Offered Terms, subject to the limitations set forth in Article XII. Each such Non-Selling Member must exercise the Non-Selling Member Option, if it so desires, no later than 30 calendar days after one of the following applicable times (the “Non-Selling Member Option Period”): (x) if the Selling Member is not an ISE Stock Exchange Consortium Member, from the earlier of (i) the date of delivery of the Non-Selling Notice and (ii) the expiration of the First Option Period or (y) if the Selling Member is an ISE Stock Exchange Consortium Member, the expiration of the ISE Stock Exchange Consortium Option Period.

(f) The ISE Stock Exchange Consortium Option or the Non-Selling Member Option, as the case may be, shall be exercised by delivery by such Non-Selling ISE Stock Exchange Consortium Member or Non-Selling Member (a “ROFR Purchasing Member”) of written notice to the Selling Member, which shall state the number of Offered Units eligible for purchase by the ROFR Purchasing Member pursuant to the applicable option (in each case, the “Eligible Units”) that such ROFR Purchasing Member intends to purchase pursuant to the applicable option and shall include a representation of such ROFR Purchasing Member that it is an “accredited investor” within the meaning of Rule 501 under the Securities Act. Any written notice delivered by a ROFR Purchasing Member to the Selling Member exercising the option set forth under Sections 6.2(b) or (e), as applicable, shall constitute an irrevocable and binding commitment by such ROFR Purchasing Member to purchase the number of Offered Units for which such ROFR Purchasing Member has indicated its intention to purchase in such written notice in accordance with the Notice and this Section 6.2. Any Non-Selling ISE Stock Exchange Consortium Member and any Non-Selling Member that fails to provide such written notice to the Selling Member prior to the expiration of the ISE Stock Exchange Consortium Option Period or the Non-Selling Member Option Period, as applicable, shall forfeit its right to purchase any of

the Eligible Units under the applicable option.

(g) In the event that the number of Eligible Units that the ROFR Purchasing Members elect to purchase is greater than the actual number of Eligible Units, then each ROFR Purchasing Member shall be entitled to purchase a pro rata portion of the Eligible Units, based on the ratio of the number of Units owned by such ROFR Purchasing Member to the total number of Units owned by all ROFR Purchasing Members, for the Offered Price and on the Offered Terms, subject to the limitations set forth in Article XII.

(h) Neither the Company nor the ROFR Purchasing Members (other than Non-Selling ISE Stock Exchange Consortium Members) shall have any right to purchase any of the Offered Units hereunder unless all of the Offered Units are purchased pursuant to this Section 6.2. If the Company and/or the ROFR Purchasing Members exercise their option or options to purchase all of the Offered Units, any Person that elects, pursuant to this Section 6.2, to purchase any Offered Units from the Selling Member shall, following delivery of written notice to the Selling Member for such election, cooperate with the Selling Member, and the Selling Member shall cooperate with such Person, and each of them shall use commercially reasonable efforts, to consummate the purchase and sale of the Offered Units that such Person has elected to purchase, as promptly as practicable, for the Offered Price and on the Offer Terms. If the Company, the Non-Selling ISE Stock Exchange Consortium Members and the Non-Selling Members do not exercise their option or options to purchase all of the Offered Units within the time periods described in Section 6.2(b) through Section 6.2(e), then all options of the Company, the Non-Selling ISE Stock Exchange Consortium Members and the Non-Selling Members to purchase the Offered Units, whether exercised or not, shall terminate. Notwithstanding anything to the contrary herein, if the consideration to be provided pursuant to the Member BFO is other than for all cash, the right to purchase the Offered Units hereunder may be exercisable in cash at the fair market value of the securities or other property which constitute the Member BFO.

(i) Upon the earlier of (i) the expiration of the Non-Selling Member Option Period in which period the Non-Selling Members do not deliver written notices indicating their intent, in the aggregate, to purchase all of the Eligible Units, and (ii) delivery of written notices to the Selling Member from all the Non-Selling Members indicating their intent, in the aggregate, to purchase less than all of the Eligible Units (the date of such earlier occurrence, the “ROFR Ending Date”), the Selling Member shall have the right, exercisable for a period of 60 calendar days from the ROFR Ending Date (the “Unrestricted Period”), and subject to the limitations set forth in Article XII, to Transfer all or a portion of the Offered Units to any Person for a price per Unit that is not less than the Offered Price and on material terms and conditions that are not more favorable than the Offered Terms; provided, that a Selling Member shall be deemed to have Transferred its Offered Units during the Unrestricted Period if it, during the Unrestricted Period, has irrevocably entered into a bona fide binding agreement to Transfer the Offered Units to any Person; provided further, that the closing of such Transfer must occur within 60 calendar days of the execution of such bona fide binding agreement, which period may be extended by the Selling Member by up to an additional 60 calendar days as required to obtain regulatory approvals. If the Selling Member ever wishes to Transfer the Offered Units for a price per Unit that is less than the Offered Price or on material terms and conditions that are more favorable than the Offered Terms, or if the Selling Member wishes to Transfer the Offered Units following the expiration of the Unrestricted Period, the Selling Member shall be required

to first comply with this Section 6.2 anew.

(j) This Section 6.2 shall terminate effective as of and not apply to Transfers of Units made pursuant to the Initial Public Offering of the Company.

6.3 Drag-Along Right. In the event that the Company and the Non-Selling Members do not exercise their right to purchase all of the Offered Units pursuant to Section 6.2, and subject to the terms of Sections 6.6(b), 6.6(c), 6.6(e) and Section 7.7(f)(4), if applicable, and notwithstanding the requirements that would otherwise apply pursuant to Section 6.6(a), if, (i) at any time prior to December 23, 2010, Initial Members owning at least 70% of the Percentage Interests held by all of the Initial Members as of the Merger Date, or (ii) at any time on or after December 23, 2010, Members holding greater than 50% of the Percentage Interests, (such Initial Members or such Members, the “Compellers”) shall, in any transaction or series of related transactions, directly or indirectly, propose to sell for value all Units held by them (the “Controlling Units”) to a Potential Purchaser (the “Drag-Along Offer”), the provisions set forth in this Section 6.3 shall apply at the option of the Compellers.

(a) The Compellers may, at their option, require the other Members (the “Compelled Members”) to sell all Units owned or held by them to such third party or parties for the same consideration and otherwise on the same terms and conditions upon which the Compellers sell their Units, subject to this Section 6.3.

(b) (i) The Compellers shall provide a written notice (the “Drag-Along Notice”) of such Drag-Along Offer to each of the Compelled Members, with a copy to the Company, not later than the date of acceptance of the Drag-Along Offer by the Potential Purchaser. The Drag-Along Notice shall contain written notice of the exercise of the rights of the Compellers pursuant to Section 6.3(a), setting forth the consideration to be paid by the third party or parties and all other material terms and conditions of the Drag-Along Offer, as well as a copy of the Drag-Along Offer, if available. Within ten Business Days following the date the Drag-Along Notice is given, each of the Compelled Members shall deliver to the Compellers a special irrevocable power-of-attorney authorizing the Compellers, on behalf of such Compelled Member, to sell or otherwise dispose of such Units pursuant to the terms of the Drag-Along Offer and to take all such actions as shall be necessary or appropriate in order to consummate such sale or disposition.

(ii) Promptly after the consummation of the sale of Units of the Compellers and the Compelled Members to the Potential Purchaser pursuant to the Drag-Along Offer, but in no event more than two Business Days thereafter, the Compellers shall remit to the Compelled Members the total sales price of the Units of the Compelled Members sold pursuant thereto less a pro rata portion of the expenses (including, without limitation, reasonable legal expenses) incurred by the Compellers in connection with such sale.

(iii) If, at the end of the 270-day period following the giving of the Drag-Along Notice, the Compellers shall not have completed the sale of all the Controlling Units and the Units delivered to the Compellers pursuant to Section 6.3(b)(i), then no Member shall

have any obligation with respect to such Drag-Along Offer; provided, that the provisions of this Section 6.3 shall apply to any subsequent Drag-Along Offer.

(iv) Except as expressly provided in this Section 6.3, the Compellers shall have no obligation to any Compelled Member with respect to the sale or other disposition of any Units owned by the Compelled Member, and in particular, the Compellers shall have no obligation to any Compelled Member to consummate any Drag-Along Offer (it being understood that any and all such decisions shall be made by the Compellers in their sole discretion). In the event that the Drag-Along Offer is not consummated by the Compellers, the Compelled Members shall not be entitled to sell or otherwise dispose of Units directly to any third party or parties pursuant to such Drag-Along Offer (it being understood that all such sales and other dispositions shall be made only on the terms and pursuant to the procedures set forth in this Article VI).

(c) In furtherance of, and not in limitation of the foregoing, in connection with any compelled sale, each Member will (i) to the fullest extent permitted by law, raise no objections in its capacity as a Member of the Company, against the compelled sale or the process pursuant to which it was arranged, and (ii) execute all documents containing such terms and conditions as those executed by other Members that are reasonably necessary to effect the transaction; provided, however, that (A) no Compelled Member shall be required to enter into a non-compete or non-solicitation or no-hire provision, an exclusivity provision, a provision providing for the licensing of intellectual property or the delivery of any products or services, including support arrangements, or any other provision that is not a strictly financial term related directly to the sale of the Units, subject to ISE LLC's obligations set forth in Section 6.3(e), (B) the liability of the Members is several and not joint, (C) no Compelled Member shall have any liability to the Company or any other Member for any breaches of the representations, warranties or covenants of any other Member, (D) any obligations of a Compelled Member under the agreement governing such transaction and any related escrow agreement shall be borne pro rata among the Members based on the proceeds and assets payable to such Members in such transaction (other than any such obligations that relate specifically to a particular Member's Units, which obligations shall be borne solely by such Member) and shall in no event exceed the actual proceeds and assets received by such Compelled Member in such transaction, (E) no Compelled Member shall be required to make any representations or warranties or covenants in connection with such transaction except with respect to (1) such Compelled Member's ownership of its Units, (2) subject to the provisions of clauses (B) and (C) above, customary security holder indemnities for breaches of such Compelled Member's representations, warranties and covenants, (3) such Compelled Member's ability to convey title to its Units free and clear of liens, (4) such Compelled Member's ability to enter into the transaction and such Compelled Member's power and organization and (5) customary and reasonable covenants regarding confidentiality, publicity and similar matters, (E) if any Member is given an option as to the form of consideration to be received, all other Members shall be given the same option on the same terms, and (F) if the form of consideration to be received by any Compelled Member is other than cash, such Compelled Member shall have the right to receive cash in lieu of such other consideration.

(d) Notwithstanding anything in this Section 6.3 to the contrary, if the Compellers or any of their respective Representatives, directly or indirectly, receive any

consideration from the acquiror or any of the acquiror's Affiliates in connection with a compelled sale other than (i) the consideration that is received by all the Members on a pro rata basis as part of the compelled sale, and (ii) consideration that is received by any Member for bona fide services rendered to the Company following the closing of a compelled sale, then the Compellers shall cause each of the Compelled Members to receive their pro rata share, determined by reference to the respective amounts of consideration otherwise payable to each Member (including the Compellers) as part of the compelled sale, of such securities or other cash consideration.

(e) For a period up to nine months following the consummation of the sale of Units of the Compellers and the Compelled Members to the Potential Purchaser pursuant to the Drag-Along Offer (or for such other period as the parties may otherwise agree), ISE LLC shall provide transition support and services to such Potential Purchaser (the "Successor") consistent with the services ISE LLC provided to the Company pursuant to the Services Agreements immediately prior to delivery of the Drag-Along Notice. During the period in which ISE LLC provides such transition support and services to the Successor, notwithstanding any duty otherwise existing at law or in equity, ISE Holdings and any Person employed by, related to or in any way affiliated with ISE Holdings may have other business interests and 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 Successor), 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.

(f) This Section 6.3 shall terminate effective as of and not apply to Transfers of Units made pursuant to the Initial Public Offering of the Company.

6.4 Preemptive Rights.

(a) If the Company proposes to issue or sell any Units (including any securities exchangeable or exercisable for, or convertible into, Units) (other than Excluded Units), which proposal has been approved pursuant to Sections 7.7(c)(2) or 7.7(f)(2), as applicable, the Company shall first deliver written notice of its proposal to do so (the "Purchase Right Notice") to each of the Members. The Purchase Right Notice must: (i) identify the name and address of each Person (if known) to which the Company proposes to issue or sell Units, (ii) specify the number of Units (other than Excluded Units) that the Company proposes to issue or sell (the "Issued Units"), (iii) describe the consideration per Unit for the Issued Units (expressed as a value in cash, the "Issued Price"), (iv) describe the material terms and conditions upon which the Company proposes to issue or sell the Issued Units (the "Issued Terms"), and (v) irrevocably offer to issue or sell to each Member any number of Issued Units up to a pro rata portion of the Issued Units, based on the ratio of the number of Units held by such Member to the number of Units held by all the Members, and subject to the limitations set forth in Article XII, for the Issued Price and on the Issued Terms and in accordance with this Section 6.4(a).

- (1) Each Member shall have an option, exercisable for a period of 30 calendar days from the date of delivery of the Purchase Right Notice (the "Purchase Period"), to purchase any number of Issued

Units up to a pro rata portion of the Issued Units, based on the ratio of the number of Units held by such Member to the number of Units held by all the Members, subject to the limitations set forth in Article XII, for the Issued Price and on the Issued Terms (the “Purchase Right”). The Purchase Right shall be exercised by delivery by such Member (a “Purchasing Member”) of written notice to the Secretary of the Company, which shall state the number of Issued Units to be purchased by such Member and shall include a representation letter certifying that such Member is an “accredited investor” within the meaning of Rule 501 under the Securities Act. Any written notice delivered by a Purchasing Member to the Company exercising the option set forth under this Section 6.4(a)(1) shall constitute an irrevocable commitment by such Purchasing Member to purchase the number of Issued Units specified in such written notice in accordance with the Purchase Right Notice and this Section 6.4.

- (2) If a Member does not exercise its Purchase Right during the Purchase Period, then such Member’s Purchase Right with respect to such Issued Units shall terminate.
- (3) Subject to the limitations set forth in Article XII, each Purchasing Member shall purchase from the Company, and the Company shall issue or sell to such Purchasing Member, the number of Issued Units that such Purchasing Member elected to purchase in accordance with this Section 6.4 for the Issued Price and on the Issued Terms on (i) the date of the closing of the issuance of the Issued Units described in the Purchase Right Notice delivered by the Company pursuant to Section 6.4(a) or (ii) such other date as may be agreed in writing by the Company and such Purchasing Member. Notwithstanding anything to the contrary herein, if the consideration per Unit for the Issued Units is other than for all cash, the Purchase Right hereunder may be exercisable in cash at the fair market value of the securities or other property that constitute such consideration.

(b) Upon the earlier of (i) the expiration of the Purchase Period and (ii) delivery of written notices to the Company from all the Members indicating their intent, in the aggregate, to purchase less than all of the Issued Units (the date of such earlier occurrence, the “Ending Date”), the Company shall have the right, exercisable for a period of 90 calendar days from the Ending Date (the “Issuance Period”), to issue or sell all or a portion of the Issued Units that the Members have elected not to purchase (the “Remaining Issued Units”) to any Person for a price per Unit that is not less than the Issued Price and on material terms and conditions that are not more favorable to such other Person than the Issued Terms; provided, that (i) the Company shall be deemed to have issued or sold Remaining Issued Units during the Issuance Period if it, during the Issuance Period, has irrevocably entered into a bona fide binding agreement to issue or sell the Remaining Issued Units to any Person; (ii) the closing of such

Transfer must occur within 60 calendar days after the execution of such bona fide binding agreement, which period may be extended by the Company by up to an additional 60 calendar days as required to obtain regulatory approvals, and (iii) the Company shall not issue or sell the Remaining Issued Units to any Person to the extent such issuance or sale would result in such Person's Percentage Interest violating the limitations set forth in Article XII. If the Company ever wishes to issue or sell the Remaining Issued Units for a price per Unit that is less than the Issued Price or on material terms and conditions that are more favorable than the Issued Terms, or if the Company wishes to issue or sell the Remaining Issued Units following the expiration of the Issuance Period, the Company shall be required first to comply with this Section 6.4 anew.

(c) The Purchase Rights established by this Section 6.4 shall have no application to any of the following Unit issuances (collectively, the "Excluded Units"):

- (1) Units issued in connection with any Unit split, Unit dividend, Unit division or recapitalization by the Company, pursuant to which all holders of Units are treated similarly;
- (2) Units or Options to purchase Units up to the number of Units representing [five] percent ([5]%) of all the outstanding Units of the Company as of the Merger Date (the "Management Units") in connection with employee compensation, hiring and retention arrangements approved by the Board;
- (3) Units issued pursuant to an Initial Public Offering of the Company;
- (4) Units issued to a Strategic Investor;
- (5) Units issued for consideration other than cash in connection with business acquisitions, mergers or strategic partnerships or alliances approved by the Board pursuant to Section 7.7(b)(7) or (c)(4), as applicable; or
- (6) Units issued to ISE Holdings in connection with the ISE Capital Contribution.

(d) This Section 6.4 shall terminate immediately prior to the successful completion of the Initial Public Offering of the Company.

6.5 ISE Holdings Right of First Refusal

(a) If the Company or any Member receives a bona fide written offer ("Company BFO") (whether solicited or unsolicited) from a Potential Purchaser, including a letter of intent or similar document, regarding a proposed (i) merger, consolidation or similar transaction involving the Company, other than a merger, consolidation or similar transaction in which the Company is the surviving entity and the Units are not converted into or exchanged for any other securities or property, (ii) disposition (whether a Transfer, lease or otherwise and whether in a single transaction or series of related transactions) of all or substantially all of the assets of the Company, or (iii) acquisition by any unrelated third party or group of third parties in

concert (within the meaning of Section 13(d)(3) under the Exchange Act) of voting equity of the Company, the result of which is that immediately after the acquisition the then current equity holders and their Affiliates own or have the power to direct the vote of collectively less than a majority of the outstanding voting power of the Company (each, a “Company Sale”), and the Company has a bona fide intention to enter into the Company Sale, the Company shall first deliver written notice of its desire to do so (the “Sale Notice”) to the Initial Members, which Sale Notice must specify: (i) the Company’s bona fide intention to enter into the Company Sale, (ii) the proposed aggregate consideration (as expressed as a value in cash, the “Sale Price”), (iii) the identity of the Potential Purchaser, and (iv) all other material terms and conditions of the Company Sale. ISE Holdings shall have the option to enter into the Company Sale in place of the Potential Purchaser on substantially similar terms and conditions as set forth in the Company BFO and for █████ of the Sale Price if the Sale Notice is delivered during the █████ years immediately following the Merger Date (the “ISE ROFR”); provided, that consummation of the ISE ROFR shall not result in a violation of the limitations set forth in Article XII. ISE Holdings must exercise such option if it so desires, no later than 30 calendar days after the date of the Sale Notice (the “ISE Option Period”), by written notice to the Company and the other Initial Members (the “ISE Exercise Notice”). An ISE Exercise Notice shall constitute an irrevocable and binding commitment by ISE Holdings to enter into an agreement to effectuate the Company Sale in accordance with the Company BFO and this Section 6.5. ISE Holdings shall, no later than the last calendar day of the ISE Option Period, deliver written notice to the Company and the other Initial Members (the “ISE Non-Exercise Notice”) if it does not intend to exercise the ISE ROFR. If ISE Holdings fails to provide such written notice to the Company prior to the expiration of the ISE Option Period, then ISE Holdings shall forfeit its right to exercise the ISE ROFR with respect to the proposed Company Sale. Notwithstanding anything to the contrary herein, if the consideration to be provided pursuant to the Company BFO is other than for all cash, the right to enter into the Company Sale hereunder may be exercisable in cash at the fair market value of the securities or other property which constitute the Company BFO.

(b) During the ISE Option Period, the Company shall provide ISE Holdings access to the Company books and records in accordance with Section 11.1. If ISE Holdings exercises the ISE ROFR, the Company and ISE Holdings shall have (i) 30 calendar days from the date of the ISE Exercise Notice to negotiate in good faith and enter into a definitive agreement as contemplated by the ISE Exercise Notice, and (ii) 60 calendar days from the execution of such definitive binding agreement to close the Company Sale; provided that such period may be extended by either the Company or ISE Holdings by up to three 60 calendar day periods as required to obtain regulatory approvals. The Company and ISE Holdings shall use reasonable best efforts to apply for and obtain all necessary regulatory approvals as soon as practicable after execution of the definitive agreement and to consummate the transaction contemplated by the definitive agreement promptly following receipt of such regulatory approvals.

(c) If ISE Holdings fails to consummate the Company Sale following delivery of the ISE Exercise Notice and within the period described in Section 6.5(b) for any reason other than a prohibition on the consummation of the Company Sale by ISE Holdings by a governmental entity or any SRO, (i) ISE Holdings shall forfeit its right to exercise the ISE ROFR with respect to any such Company Sale or any future Company Sales, (ii) ISE Holdings shall pay all fees and expenses, including attorneys and advisors fees, of the Company and the other

Members incurred in connection with the ISE ROFR, subject to a maximum of \$1,500,000, and an additional fee to the Company representing 3% of the Sale Price, such fees and expenses to be the sole and exclusive remedy of the Company and the Members (other than the other remedies set forth in this Section 6.5(c)) for ISE Holdings' failure to consummate the Company Sale, provided that the limitations set forth in this Section 6.5(c)(ii) shall not apply in the case of fraud, and (iii) the Company shall have the right, subject to the limitations set forth in Article XII, to consummate the Company Sale with a third party without first complying with this Section 6.5 anew.

(d) This Section 6.5 shall terminate as of the earliest to occur of (i) the Initial Public Offering of the Company, (ii) the forfeiture of the ISE ROFR pursuant to Section 6.5(c), and (iii) December 23, 2011.

6.6 General Restrictions on Transfer; Admission of New Members.

(a) Any Person acquiring one or more Units from the Company or from any Member in accordance with this Agreement shall, unless such acquiring Person is a Member as of immediately prior to such acquisition or is a Specified Transferee of a Member transferring Units to such Person, be admitted to the Company as a Member only following the Board's or Members' approval pursuant to Section 7.7(b)(8), 7.7(c)(2), 7.7(c)(3), 7.7(d), 7.7(f)(2), or 7.7(f)(4), as applicable, and upon execution of a counterpart signature page to this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement, no Transfer of Units by a Member or issuance of Units by the Company shall be made if such Transfer or issuance (i) would violate any state or U.S. federal securities laws, (ii) would require the Company to register as an investment company under the Investment Company Act of 1940, as amended, (iii) would require the Company to register as an investment adviser under state or U.S. federal securities laws, (iv) would result in a termination of the Company under Section 708 of the Code, (v) would result in the treatment of the Company as an association taxable as a corporation or a "publicly-traded partnership" for tax purposes, or (vi) would result in a violation of the limitations set forth in Article XII.

(c) Notwithstanding anything to the contrary contained in this Agreement, no Member may Transfer any Units to a transferee as permitted by this Agreement (a "Permitted Transferee") unless such Permitted Transferee agrees in writing to be bound by the terms of this Agreement, to the same extent, and in the same manner, as the Member proposing to Transfer such Units, which writing shall be reasonably satisfactory in form and substance to the Company and shall include the address of such Permitted Transferee to which notices given pursuant to this Agreement may be sent.

(d) Additional Units may be issued to Persons other than Initial Members ("New Members") only with the Board's or Members' approval pursuant to Section 7.7(c)(2), 7.7(d) or 7.7(f)(2), as applicable.

(e) If any Member purports to Transfer Units to any Person in a transaction that would violate the provisions of this Article VI or the limitations in Article XII, including for the avoidance of doubt a Transfer to the Company pursuant to Section 6.2(c), such Transfer shall

be void as to such Units that violate the provisions of Article VI or Article XII, and the Company shall record on the books of the Company the Transfer of only that number of Units (if any) that would not violate the provisions of Article VI or Article XII and shall treat the remaining Units as owned by the purported transferor for all purposes.

6.7 Resignation. No Member shall have the right or power to resign, withdraw or retire from the Company, except upon a Transfer of all of such Member's Units in compliance with, and subject to, the provisions of this Article VI.

6.8 Record of Unit Holders. The Board shall be responsible for maintaining, at the Company's principal place of business, an up-to-date list of all Unit holders ("Unit Holders List"), which shall reflect the name of each Member and the number of Units and Percentage Interest held by that Member. The Board shall be required to update the Unit Holders List and Exhibit C of this Agreement from time to time so as to accurately reflect the information contained thereon upon (a) the resignation of a Member, (b) the admission of a new Member or (c) any change in the number of Units owned by a Member.

Article VII **Governance**

7.1 Board of Managers.

(a) The Board of Managers of the Company (the "Board"), from time to time, shall consist of the number of managers (the "Managers") equal to the sum of the number of Managers entitled to be appointed at such time pursuant to this Section 7.1(a) plus the then-current Chief Executive Officer of the Company. Each Manager is hereby designated as a "manager" of the Company within the meaning of the Act. The then-current Chief Executive Officer of the Company shall serve at all times as a Manager.

- (1) As of the date of this Agreement, the Board shall be comprised of a total of eleven Managers based on the following: (i) ISE Holdings shall be entitled to designate three Managers (subject to Section 7.1(d)), (ii) each of Goldman, Knight and Citadel shall be entitled to designate two Managers, (iii) the ISE Stock Exchange Consortium Members shall collectively be entitled to designate one Manager, and (iv) the Chief Executive Officer shall serve at all times as a Manager.
- (2) As long as each Member (including its Affiliates) attains or maintains a Percentage Interest of: (i) at least 40%, it shall have the right to designate four Managers; (ii) at least 25% but less than 40%, it shall have the right to designate three Managers; (iii) at least 15% but less than 25%, it shall have the right to designate two Managers; or (iv) at least 5% but less than 15%, it shall have the right to designate one Manager, in each case subject to Article XII, including any requisite approval of the SEC with respect to Percentage Interests that exceed the 20% or 40% limitations. If the

Percentage Interest owned by a Member (including its Affiliates) is less than 5%, it shall not have the right to designate any Managers. For purposes of this Section 7.1(a)(2) only, the ISE Stock Exchange Consortium Members shall be deemed to be Affiliates of each other, except to the extent an ISE Stock Exchange Consortium Member, independent of the other ISE Stock Exchange Consortium Members, has the right to designate a Manager pursuant to this Section 7.1(a)(2), in which case such ISE Stock Exchange Consortium Member shall not be deemed an Affiliate of any other ISE Stock Exchange Consortium Member.

- (3) The number of Managers that the Initial Members may designate as of the Merger Date pursuant to Section 7.1(a)(1) shall not be in addition to or in duplication of the number of Managers that the Initial Members may be able designate after the Merger Date pursuant to Section 7.1(a)(2).
- (4) In the event that ISE Holdings attains a Percentage Interest of greater than 50%, subject to Section 12.1(b), the designation rights set forth in Section 7.1(a)(1) and (2) shall terminate, and ISE Holdings shall have the right to designate the number of Managers equal to the product of (a) the total number of Managers and (b) ISE Holdings' Percentage Interest, rounded to the nearest whole number.

(b) Each Manager, other than the Chief Executive Officer of the Company, shall serve solely in the discretion of the Member (or Members in the case of the ISE Stock Exchange Consortium Members) that designated such Manager. Subject to the terms of Section 7.1(a) and this Section 7.1(b), (i) a Manager, other than the Chief Executive Officer, may be replaced only by the Member or Members that designated such Manager, in the discretion of such Member or Members from time to time, and (ii) any vacancy on the Board resulting from the death, disability, retirement, resignation, disqualification or removal of such Manager shall be filled only by the Member or Members that designated such Manager. Each Member shall notify the Company and the other Members in writing of its designation of any individual to serve as a Manager or to replace another individual as a Manager. Notwithstanding anything in this Article VII to the contrary, the Board shall have the right to remove any Manager upon the unanimous vote of all Managers (other than the vote of the Manager subject to removal), for cause, including the violation of any provision of this Agreement, the Act or any U.S. federal or state securities law. A Member or Members whose designated Manager is removed pursuant to this Section 7.1(b) shall, subject to the terms of Section 7.1(a), have the right to appoint a replacement for such removed Manager.

(c) To the extent Section 7.1(a)(2) applies to all or some of the ISE Stock Exchange Consortium Members, and subject to the terms of Section 7.1(a), such ISE Stock Exchange Consortium Members shall designate a Manager by a vote of the ISE Stock Exchange Consortium Members holding Units representing greater than 50% of the aggregate Percentage Interests held by all of the ISE Stock Exchange Consortium Members.

(d) For so long as ISE Exchange remains a Facility of ISE LLC, one of the Managers designated by ISE Holdings shall be a member of ISE LLC's Board of Directors or an officer or employee of ISE LLC nominated by the ISE LLC Board of Directors (an "ISE LLC Director"), and if at any time there is not an ISE LLC Director on the Board, the Board shall appoint a Manager nominated by the ISE LLC Board of Directors, which Manager shall be deemed designated by ISE Holdings for purposes of Section 7.1(a)(2). Nothing in this Section 7.1(d) shall increase the number of Managers that ISE Holdings is entitled to designate pursuant to Section 7.1(a).

(e) No Person may serve as a Manager hereunder if such Person is subject to a "statutory disqualification" (as defined in Section 3(a)(39) of the Exchange Act) and if a Manager becomes subject to a "statutory disqualification" such Manager shall be removed from the Board of Managers without any further action required by the Board.

(f) Each Person serving as a Manager shall execute an acknowledgement of this Agreement in substantially the form attached hereto as Schedule A.

7.2 Authority and Duties of the Board and Board Committees.

(a) Authority; Duties. Except as otherwise specifically set forth in this Agreement and subject to Article XIV, the Board acting in accordance with the terms of this Agreement shall have the right, power and authority to oversee the business and affairs of the Company and its subsidiaries and to do all things necessary to manage the business of the Company and its subsidiaries, and the Board is hereby authorized to take any action of any kind and to do anything and everything the Board deems necessary or appropriate in accordance with the provisions of this Agreement and applicable law. Notwithstanding anything in the foregoing to the contrary, the day to day management of the Company shall be delegated to the Chief Executive Officer of the Company, subject to oversight by the Board and subject to Section 7.7 and Article XIV.

(b) Committees. The Board may, from time to time, designate one or more committees by resolution or resolutions of the Board adopted in accordance with Section 7.7(a)(10); provided that the Board may not delegate to a committee the authority to take any of the actions set forth in Section 7.7. The Board shall appoint the members of each committee, consistent with this Section 7.2(b). Subject to Section 7.1(a), each committee shall consist of at least one Manager appointed by each Member who owns at least 15% of the Percentage Interests. Except as otherwise required by the Board, all acts of a committee of the Board shall require the approval of a majority of the Managers serving on such committee. To the extent authorized by the Board and permitted by this Agreement and applicable law, a committee shall have and may exercise specific powers of the Board in the management of the business and affairs of the Company. Vacancies in the membership of any committee of the Board shall be filled by the Board in accordance with this Section 7.2(b) at a regular meeting of the Board or at a special meeting of the Board called for that purpose.

7.3 Subsidiaries.

(a) Subject to Sections 7.3(b), (c), (d) and (e) the Board may constitute any officer of the Company as the Company's proxy, with power of substitution, to vote the equity of any subsidiary of the Company and to exercise, on behalf of the Company, any and all rights and powers incident to the ownership of that equity, including the authority to execute and deliver proxies, waivers and consents. Subject to Sections 7.3(b), (c), (d), (e) and Section 7.7, in the absence of specific action by the Board, the Chief Executive Officer shall have authority to represent the Company and to vote, on behalf of the Company, the equity of other Persons, both domestic and foreign, held by the Company. Subject to Sections 7.3(b), (c), (d), (e) and Section 7.7, the Chief Executive Officer shall also have the authority to exercise any and all rights incident to the ownership of that equity, including the authority to execute and deliver proxies, waivers and consents.

(b) At any meeting of the equity holders of an Exchange Subsidiary held for the purpose of electing directors (other than the Chief Executive Officer of EDGA or EDGX, as applicable and other than Owner Directors as defined in the governance documents of EDGA and EDGX, as applicable) or members of the Nominating Committee or Exchange Member Nominating Committee of such Exchange Subsidiary, as applicable, or in the event written consents are solicited or otherwise sought from the equity holders of an Exchange Subsidiary with respect thereto, the Company shall cause all outstanding equity of such Exchange Subsidiary owned by the Company and entitled to vote with respect to such election to be voted in favor of the election of only those directors nominated by the Nominating Committee of such Exchange Subsidiary and those nominees for the Nominating Committee and those nominees for the Exchange Member Nominating Committee nominated in accordance with the governance documents of such Exchange Subsidiary, and, with respect to any such written consents, shall cause to be validly executed only such written consents electing only such directors nominated by the Nominating Committee of such Exchange Subsidiary, such members of the Nominating Committee of such Exchange Subsidiary and such members of the Exchange Member Nominating Committee of such Exchange Subsidiary.

(c) With respect to Owner Directors as defined in the governance documents of EDGA and EDGX, as applicable, the Company shall take all actions in its capacity as a stockholder of EDGA and EDGX, as applicable, to vote or consent with respect to matters concerning an Owner Director according to the written instructions of the Member that is entitled to nominate such Owner Director. Without limiting the generality of the foregoing, at any meeting of the equity holders of EDGA or EDGX held for the purpose of electing or removing and/or replacing Owner Directors of such Exchange Subsidiary, or in the event written consents are solicited or otherwise sought from the equity holders of EDGA or EDGX with respect thereto, the Company shall cause all outstanding shares of such Exchange Subsidiary owned by the Company and entitled to vote to be voted, or, in the event written consents are solicited or otherwise sought from the equity holders of an Exchange Subsidiary, shall cause to be validly executed only such written consents, (i) electing each Owner Director nominated by the Designating Owner (as defined in the governance documents of EDGA and EDGX, as applicable) or (ii) removing and/or replacing each Owner Director who had been nominated by the Designating Owner in accordance with the governance documents of such Exchange Subsidiary. The Company shall not vote or execute a consent to effectuate the matters in clauses (i) or (ii) unless and until the Designating Owner has provided written notice to the Company of such Designating Owner's designation of an individual to serve as an Owner Director, to be

removed as an Owner Director or to replace another individual as an Owner Director, as applicable.

(d) With respect to the chief executive officer of each of EDGA and EDGX, the Company shall take all actions in its capacity as a stockholder of EDGA and EDGX, as applicable, to vote or consent with respect to the election of such chief executive officer as a member of the board of directors of EDGA and EDGX, as applicable. With respect to an Exchange Member Director as defined in the governance documents for EDGA and EDGX, as applicable, the Company shall take all actions in its capacity as a stockholder of EDGA and EDGX, as applicable, to remove an Exchange Member Director from the board of directors of EDGA or EDGX, as applicable, only for cause. With respect to a director of EDGA or EDGX that the board of directors of EDGA or EDGX, as applicable, determines that (i) such director no longer satisfies the classification for which the director was elected, (ii) the director's continued service as such would violate the compositional requirements of the board of directors of EDGA or EDGX as set forth in its governance documents, or (iii) the director becomes subject to statutory disqualification, the Company shall take all actions in its capacity as a stockholder of EDGA and EDGX, as applicable, to remove such director from the board of directors of EDGA or EDGX, as applicable.

(e) At any meeting of the equity holders of a subsidiary, other than an Exchange Subsidiary, held for the purpose of electing or removing and/or replacing any director designated by any Member who is entitled to designate or remove one or more directors of such subsidiary in accordance with the governance document of such subsidiary, or, in the event written consents are solicited or otherwise sought from the equity holders of such subsidiary, the Company shall cause all outstanding equity of such subsidiary owned by the Company and entitled to vote to be voted, or in the event written consents are solicited or otherwise sought from the equity holders of such subsidiary, shall cause to be validly executed only such written consents, (i) electing each director nominated by such Member or (ii) removing and/or replacing such director who had been nominated by such Member in accordance with the governance documents of such subsidiary.

7.4 Meetings.

(a) The Board and any committee thereof may hold regular or special meetings within or outside of the State of Delaware. Regular or special meetings of the Board may be held from time to time, each time at such time and at such place as may be determined by a majority of all the Managers serving on the Board. Regular or special meetings of any committee of the Board may be held from time to time, each time at such time and at such place as may be determined by a majority of all the Managers serving on such committee. The Chief Executive Officer of the Company may call special meetings of the Board on notice of not less than two Business Days to all the Managers of the Board, and shall call special meetings of the Board in accordance with this Section 7.4(a) on the written request of any Manager. Any Manager serving on a committee of the Board may call a special meeting of such committee on notice of not less than two Business Days to all the other Managers serving on such committee. Any notice of a special meeting of the Board or a committee thereof shall be given in writing to each Manager in the case of a special meeting of the Board, or each Manager serving on such committee in the case of a special meeting of a committee, at the address provided by such

Manager to the Board or at such other address that such Manager shall have advised the Company to use for the purpose of delivering notice. Any such notice provided shall be deemed to be given when delivered in accordance with this Section 7.4(a).

(b) Any Manager that is entitled to notice of a meeting of the Board or any committee thereof may waive such notice in writing, whether before or after the time of such meeting. Attendance by a Manager at a meeting of the Board or any committee thereof shall constitute a waiver of notice of such meeting by such Manager, except when such Manager attends such meeting for the express purpose of objecting, at the beginning of such meeting, to the transaction of any business at such meeting because such meeting is called or convened in violation of this Agreement or any applicable law.

(c) Notwithstanding anything in this Agreement to the contrary, in the event that a Member has a conflict of interest with respect to a matter to be voted at a meeting of the Board or committee thereof because the matter to be voted is a proposed transaction or action that involves an agreement, arrangement or understanding between the Company or any of its subsidiaries, on the one hand, and such Member or an Affiliate of such Member, on the other hand (other than any such matter relating to a Transfer of any Units of a Member or the admission of a new Member in connection with a Transfer of any Units of a Member to such potential new Member) then such Member shall cause the Manager designated by it to disclose such conflict to the Board or committee thereof, as applicable, and such Manager shall not be entitled to vote on such matter. Notwithstanding anything in this Agreement to the contrary, all determinations of the requirements for quorum and voting under Section 7.5 and Section 7.7 shall be recalculated by disregarding, for purposes of any matter, any Manager that shall not be entitled to vote in respect of such matter pursuant to this Section 7.4(c). In a matter involving an issuer of a security listed or to be listed on the securities exchange operated by a Company-Related SRO other than ISE SRO, a Manager shall be deemed to have a conflict of interest if he or she is a director, officer or employee of the issuer of that security and shall not participate in a decision relating to such matter.

(d) In the event that a Manager is unable to attend or participate in any meeting of the Board or any committee thereof, the Member that designated such Manager may appoint an alternate to attend such meetings and to participate in the deliberations of such meetings. Such alternate will be permitted to vote in the place of the absent Manager and will be considered an attendee of any meetings for the purposes of constituting a quorum.

7.5 Quorum; Acts of the Board and Board Committees; Telephonic Meetings.

(a) At all meetings of the Board, a majority of the Managers then serving on the Board and then entitled to vote on a matter shall constitute a quorum for the transaction of business by the Board. Except as otherwise required by the Board, at all meetings of any committee of the Board, a majority of the Managers then serving on such committee and then entitled to vote on a matter shall constitute a quorum for the transaction of business by such committee. Each Manager, whether in respect of matters brought before the Board or any committee thereof, shall have one vote, and no Manager shall be entitled to any casting vote. Except as otherwise provided in this Agreement or required by applicable law, the approval of a majority of the Managers present at any meeting of the Board at which there is a quorum shall be

required for any act of the Board. Except as otherwise provided in this Agreement or required by the Board or applicable law, the approval of a majority of the Managers present at any meeting of a committee of the Board at which there is a quorum shall be required for any act of such committee. If a quorum shall not be present at any meeting of the Board or any committee thereof, the Managers present at such meeting may adjourn the meeting from time to time, with notice of the time and place of the adjourned meeting provided to any Manager who is not in attendance at the meeting, until a quorum shall be present. Each Member shall use commercially reasonable efforts to ensure that any Manager designated by such Member attend all meetings of the Board and all meetings of any committee of the Board on which such Manager serves.

(b) Managers may participate in and hold a meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting by such means shall constitute presence in person at the meeting, except where a Manager participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) Any action required or permitted to be taken at any meeting of the Board or any action that may be taken at a meeting of a committee of the Board may be taken without a meeting if the action is taken in writing (including by electronic transmission) by all of the Managers of the Board or of such committee, as the case may be, who are entitled to vote on such action and the writing or writings are filed with the minutes of proceedings of the Board or such committee.

7.6 Chairman. The Board may elect a Chairman of the Board from among the Managers of the Company to preside at all meetings of the Board. The Chairman also shall have such other duties, authority and obligations as may be given to him or her by the unanimous approval of all the Managers serving on the Board.

7.7 Special Board and Member Approval Requirements.

(a) Supermajority Board Approval. Except as otherwise provided in this Agreement, the following actions shall require the approval of, and shall be authorized upon obtaining the approval of more than 2/3 of all of the Managers of the Board (and to the extent any such provision below applies to any of the Company's subsidiaries, the Company shall ensure that no such action is taken by any such subsidiary without such approval):

- (1) To the fullest extent permitted by law, taking any action to effect the voluntary, or any action that would precipitate an involuntary, resolution, dissolution or winding-up of the Company or any of its subsidiaries, including liquidations or dissolutions;
- (2) Materially amending this Agreement, including creating new classes of limited liability company interests in the Company superior to the Units, subject to the rights of the Members pursuant to Section 15.2, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or

responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

- (3) Undertaking reorganizations or recapitalizations of the Company or any of its subsidiaries, including pursuant to Section 7.19;
- (4) The issuance of any equity securities (including any securities exchangeable or exercisable for, or convertible into, equity securities) by any of the Company's subsidiaries;
- (5) Distributing Distributable Cash at any time on or after December 23, 2010 other than pursuant to a Distribution Plan, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (6) Entering, or causing any subsidiary of the Company to enter, into a new line of business requiring investment over \$2 million in the aggregate or exiting or materially changing a current line of business of the Company or any of its subsidiaries, subject to Section 7.7(a)(16), (c)(7), (c)(8), (g), (h)(1) and (h)(2), as applicable, and except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (7) Incurring, or causing any subsidiary of the Company to incur, debt, including any guarantee of debt, over \$2,000,000, individually or in the aggregate (other than in the ordinary course), except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (8) Making, or causing any subsidiary of the Company to make, any capital expenditures over \$2,000,000, individually or in the aggregate, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (9) Except as expressly contemplated by this Agreement, and except for the Services Agreements, entering, or causing any subsidiary of

the Company to enter, into any transaction or transactions with a Member or any Affiliate of a Member, which would, individually or in the aggregate, involve a value of over \$1,000,000, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;

- (10) Establishing committees of the Board, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (11) Entering into, amending, terminating or waiving any material term or condition of any of the Services Agreements or a material license or other technology or service agreement, involving a value over \$1,000,000, to which the Company or any of its subsidiaries, on the one hand, and Knight or any Affiliate of Knight (other than the Company and its subsidiaries), on the other hand, are party, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (12) Granting registration rights or benefits to a third party more favorable than the rights and benefits conferred upon the Members in Exhibit D hereto;
- (13) Creating or acquiring any direct or indirect subsidiary of the Company, other than any direct or indirect subsidiary of an Exchange Subsidiary or Facility thereof, or acquiring any equity securities (including any securities exchangeable or exercisable for, or convertible into, equity securities) in any other Person, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (14) Entering, or causing any subsidiary of the Company to enter, into partnerships, joint ventures or similar transactions or arrangements involving investment by the Company or any subsidiary of the Company of over \$2,000,000, individually or in the aggregate;

- (15) Entering, or causing any subsidiary of the Company to enter, into contractual arrangements over \$2,000,000, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO; and
- (16) Entering, or causing any subsidiary of the Company to enter, into a new line of business requiring regulatory approval and investment over \$1 million in the aggregate or exiting or materially changing a current line of business of the Company or any of its subsidiaries, subject to Section 7.7(c)(7), (c)(8), (g), (h)(1) and (h)(2), as applicable, and to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(b) Majority Board Approval. Except as otherwise provided in this Agreement, the following actions shall require the approval of, and shall be authorized upon obtaining the approval of, a majority of all the Managers of the Board (and to the extent any such provision below applies to any of the Company's subsidiaries, the Company shall ensure that no such action is taken by any such subsidiary without such approval):

- (1) Entering, or causing any subsidiary of the Company to enter, into a new line of business requiring investment over \$500,000 up to \$2,000,000 in the aggregate or exiting or materially changing a current line of business of the Company or any of its subsidiaries, subject to Sections 7.7(b)(13) and 7.7(i) and except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (2) Entering, or causing any subsidiary of the Company to enter, into contractual arrangements over \$1,000,000 (but less than or equal to \$2 million), except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (3) Entering, or causing any subsidiary of the Company to enter, into partnerships, joint ventures or similar transactions or arrangements involving investment by the Company or such subsidiary of the Company of over \$1,000,000 (but less than or equal to \$2,000,000), individually or in the aggregate;

- (4) Incurring, or causing any subsidiary of the Company to incur, debt, including any guarantee of debt, over \$500,000 (but less than or equal to \$2,000,000), individually or in the aggregate, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (5) Making, or causing any subsidiary of the Company to make, any unbudgeted capital expenditures over \$500,000 (but less than or equal to \$2,000,000), individually or in the aggregate, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (6) Changing the auditors or the accounting policies, practices or procedures, other than in accordance with changes in generally accepted accounting principles in the United States of America, of the Company or any of its subsidiaries, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (7) Entering into an agreement for (i) a merger, consolidation or similar transaction involving the Company or any of its subsidiaries, other than a merger, consolidation or similar transaction in which the Company is the surviving entity and the Units are not converted into or exchanged for any other securities or property, (ii) an acquisition or disposition (whether a transfer, lease or otherwise and whether in a single transaction or series of related transactions) of all or substantially all of the assets of (x) an unrelated third party, with respect to an acquisition, or (y) the Company or any of its subsidiaries, with respect to a disposition, or (iii) the acquisition by any unrelated third party or group of third parties in concert (within the meaning of Rule 13d-3 under the Exchange Act) of voting equity of the Company or any of its subsidiaries, the result of which is that immediately after the acquisition the then current equity holders and their Affiliates own or have the power to direct the vote of collectively less than a majority of the outstanding voting power of the Company or the applicable subsidiary, subject to Section 7.7(c)(4), as applicable; provided that for as long as ISE Exchange operates as a Facility of ISE LLC, if any such merger, consolidation, similar transaction, acquisition or disposition is with a national securities exchange, ATS or similar Facility not contemplated in the Company's

business plan, such transaction shall require the approval of ISE Holdings, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;

- (8) The Transfer of Units by a Member, other than a Transfer to a Specified Transferee of such Member, and the admission to the Company of such transferee as a Member at any time on or after December 23, 2010, subject to Section 7.7(f)(4) and Section 7.7(i) and except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (9) Amending the constitutive documents of any subsidiaries of the Company, other than the Rules or constitutive documents of an Exchange Subsidiary or Facility thereof, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (10) Approving or materially amending the Annual Budget pursuant to Section 11.4, subject to Section 7.7(i);
- (11) Authorizing a call for Additional Capital Contributions pursuant to Section 5.2, subject to Section 7.7(i).
- (12) Selecting, appointing or removing the Chief Executive Officer, Controller, General Counsel, Secretary or other Board appointed officers of the Company; provided that the Chief Executive Officer shall not be entitled to vote on the selection, appointment or removal of the Chief Executive Officer, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO; and
- (13) Entering, or causing any subsidiary of the Company to enter, into a new line of business requiring regulatory approval and investment over \$500,000 up to \$1,000,000 in the aggregate or exiting or materially changing a current line of business of the Company or any of its subsidiaries, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or

responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(c) Restricted Period Specified Initial Member Majority Approval. At any time prior to December 23, 2010, the following actions shall require the approval of, and shall be authorized upon obtaining the approval of, (i) a majority of all of the Managers of the Board, and (ii) Initial Members owning a majority of the total number of Units outstanding as of the Merger Date, which must include the approval of ISE Holdings for so long as ISE Holdings is subject to ownership and voting limitations as those set forth in Section 12.1(a) and ISE SRO is a wholly owned subsidiary of ISE Holdings:

- (1) Undertaking an Initial Public Offering of the Company or any of its subsidiaries;
- (2) The issuance of any Units (including any securities exchangeable or exercisable for, or convertible into, Units) by the Company to one or more third parties, other than a Strategic Investor, and the admission to the Company of the Person to whom such Units or other securities are issued as a Member;
- (3) The Transfer of Units by a Member, other than a Transfer to a Specified Transferee of such Member, and the admission to the Company of such transferee as a Member, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (4) Entering into an agreement for (i) a merger, consolidation or similar transaction involving the Company, other than a merger, consolidation or similar transaction in which the Company is the surviving entity and the Units are not converted into or exchanged for any other securities or property, (ii) an acquisition or disposition (whether a transfer, lease or otherwise and whether in a single transaction or series of related transactions) of all or substantially all of the assets of (x) an unrelated third party, with respect to an acquisition, or (y) the Company, with respect to a disposition, or (iii) the acquisition by any unrelated third party or group of third parties in concert (within the meaning of Rule 13d-3 under the Exchange Act) of voting equity of the Company, the result of which is that immediately after the acquisition the then current equity holders and their Affiliates own or have the power to direct the vote of collectively less than a majority of the outstanding voting power of the Company;

- (5) Approving the adoption of, or materially amending, the Distribution Plan for the two years immediately following the Merger Date, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (6) Expanding the scope of the Company's business to include U.S. equity options except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (7) Expanding the scope of the Company's business from trading U.S. cash equities, exchange traded funds and structured products to include other asset classes (excluding options), except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (8) Expanding the scope of the Company's business from trading U.S. cash equities, exchange traded funds and structured products to include similar non-U.S. securities, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO; and
- (9) To the fullest extent permitted by law, taking any action to effect the voluntary, or any action that would precipitate an involuntary, resolution, dissolution or winding-up of the Company or any of its subsidiaries, including liquidations or dissolutions.

(d) Restricted Period Initial Member Majority Approval. Except as otherwise provided in this Agreement, at any time prior to December 23, 2010, the issuance of any Units (including any securities exchangeable or exercisable for, or convertible into, equity securities) by the Company, or the Transfer of Units by a Member, to a Strategic Investor and the admission to the Company of such Strategic Investor as a Member shall require the approval of, and shall be authorized upon obtaining the approval of, (i) a majority of all of the Managers of the Board and (ii) Initial Members owning a majority of the total number of Units outstanding as of the Merger Date, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(e) Restricted Period Member Majority Approval. Except as otherwise provided in this Agreement, at any time prior to December 23, 2010, taking any action to implement a Distribution Plan shall require the approval of, and shall be authorized upon obtaining the approval of, (i) a majority of all of the Managers of the Board and (ii) Members owning a majority of the total number of Units outstanding as of the Merger Date, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(f) Post-Restricted Period Member Majority Approval. Except as otherwise provided in this Agreement, at any time on or after December 23, 2010, the following actions shall require the approval of, and shall be authorized upon obtaining the approval of, (i) a majority of all the Managers of the Board and (ii) Members owning a majority of the Percentage Interests as of the date such action is taken:

- (1) Undertaking an Initial Public Offering of the Company or any of its subsidiaries;
- (2) The issuance of any Units (including any securities exchangeable or exercisable for, or convertible into, Units) by the Company to one or more third parties and the admission to the Company of such Person to whom such Units or other securities are issued as a Member;
- (3) Renewing or extending the Distribution Plan, adopting a new Distribution Plan, materially amending the Distribution Plan or taking any actions to implement the Distribution Plan, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO; and
- (4) The Transfer of Units by a Member, other than a Transfer to a Specified Transferee of such Member, representing greater than 50% of the Percentage Interests, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(g) Specified Initial Member Majority Approval. Except as otherwise provided in this Agreement, expanding the scope of the Company's business to include U.S. equity options shall require the approval of, and shall be authorized upon obtaining the approval of, (i) a majority of all of the Managers of the Board, and (ii) Initial Members owning a majority of the total number of Units outstanding as of the Merger Date, which must include the approval of ISE Holdings, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such

Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(h) Specified Member Majority Approval. Except as otherwise provided in this Agreement, the following actions shall require the approval of, and shall be authorized upon obtaining the approval of, (i) a majority of all of the Managers of the Board, and (ii) Members owning at least a majority of the Percentage Interests, which must include the approval of ISE Holdings; provided that Units held by ISE Holdings shall be excluded from the determination of the number of Units outstanding in the calculation of Percentage Interest for Sections 7.7(h)(3) and (4), and the approval of ISE Holdings shall not be required for Sections 7.7(h)(3) and (4):

- (1) Expanding the scope of the Company's business from trading U.S. cash equities, exchange traded funds and structured products to include other asset classes (excluding options), subject to Section 7.7(c)(7) and Section 7.7(i) and except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (2) Expanding the scope of the Company's business from trading U.S. cash equities, exchange traded funds and structured products to include similar non-U.S. securities, subject to Section 7.7(c)(8) and except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO;
- (3) Permitting ISE Holdings or any of its subsidiaries to grant a license for the software supporting the core matching engine technology to a Competing Prospective Licensee, except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO; and
- (4) Permitting ISE Holdings or any of its subsidiaries to operate a Facility, alternative trading system or similar facility for the trading of U.S. cash equities, which subsidiaries for the avoidance of doubt shall not include Deutsche Börse AG or any Affiliates of Deutsche Börse AG, Eurex or any of the Initial Members or Affiliates of the Initial Members (in each case, other than ISE Holdings and its subsidiaries), except to the extent otherwise required by a Company-Related SRO to fulfill its regulatory functions or responsibilities or to oversee the structure of the market that such Company-Related SRO regulates as determined by the board of such Company-Related SRO.

(i) Nothing contained in Section 7.7 shall be applicable where the application of such provision or provisions would interfere with the effectuation of any decisions by the board of directors of a Company-Related SRO relating to its regulatory functions (including disciplinary matters) or the structure of the market that a Company-Related SRO regulates, or would interfere with the ability of a Company-Related SRO to carry out its responsibilities under the Exchange Act or to oversee the structure of the market that a Company-Related SRO regulates, in each case as determined by the board of directors of such Company-Related SRO, which functions or responsibilities shall include the ability of a Company-Related SRO as a SRO 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. Notwithstanding the requirements set forth in this Section 7.7 regarding Transfers, a Member shall be entitled to Transfer Units without the approval of the Board or any of the Members, if such Transfer is required to comply with the requirements of a governmental entity or any SRO.

The approval requirements with respect to Transfers and issuances set forth in this Section 7.7 are summarized on Exhibit G hereto, provided that in the case of any inconsistency between this Section 7.7 and Exhibit G, this Section 7.7 shall control.

7.8 Voting Trusts. Each of the Members is prohibited from entering into voting trust agreements with respect to its Units.

7.9 Managers as Agents. To the extent of their powers set forth in this Agreement, the Managers are agents of the Company for the purpose of the Company's business, and the actions of the Managers, through the Board and taken in accordance with such powers set forth in this Agreement, shall bind the Company. Except as provided in this Agreement or pursuant to an authorization from the Board, an individual Manager may not bind the Company.

7.10 No Duties. No Member or Manager, other than the Chief Executive Officer, to the fullest extent permitted by applicable law, shall have any duty (fiduciary or otherwise) to the Company or to any other Member otherwise existing at law or in equity. Notwithstanding anything to the contrary in this Agreement, to the extent that, at law or in equity, a Member or Manager has duties (including fiduciary duties) and liabilities relating thereto to the Company, any Member or any other Person, such Member or Manager acting under this Agreement shall not be liable to the Company, any Member or any other Person that is a party to or is otherwise bound by this Agreement for breach of fiduciary duty for its good faith reliance on the provisions of this Agreement, and the provisions of this Agreement, to the extent that they restrict or eliminate the duties (including fiduciary duties) and liability of a Member or Manager to the Company or any other Person who is bound by this Agreement otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Member or Manager. The foregoing provisions of this Section 7.10 shall not limit in any way a Member's or Manager's duties or obligations under any of the provisions of Section 11.2, Article XII or Article XIV.

7.11 Officers. The Chief Executive Officer shall be appointed by the Board pursuant

to Section 7.7(b)(12). Upon accepting the position of Chief Executive Officer of the Company, the Chief Executive Officer shall not receive any further compensation from any Member of the Company or Affiliate of any such Member. Subject to the Board's oversight and consent and approval rights set forth in this Agreement, the Chief Executive Officer of the Company shall be responsible for the day to day management of the business of the Company, and shall see that all orders and resolutions of the Board are carried into effect. To the extent that any certificate is required to be filed with the Delaware Secretary of State, the Chief Executive Officer is designated as an "authorized person" of the Company within the meaning of the Act. The Chief Executive Officer of the Company as of the Effective Date is William O'Brien. Subject to Section 7.7(b)(12), the Chief Executive Officer shall appoint such other officers and agents of the Company as he or she shall from time to time deem necessary and may assign any title to such officer or agent as he or she deems appropriate. Such officers and agents shall have such terms of employment, shall receive such compensation and shall exercise such powers and perform such duties as the Board shall from time to time determine. Any number of offices may be held by the same person. The Chief Executive Officer shall have the authority to remove any officers or agents, provided that the Chief Executive Officer shall not have the authority to remove any members of senior level management of the Company selected and appointed by the Board in accordance with Section 7.7(b)(12). No person subject to a "statutory disqualification" (as defined in Section 3(a)(39) of the Exchange Act) may serve as an officer of the Company. [The officers of the Company as of the Effective Date are listed on Exhibit F.]¹

7.12 Officers as Agents. The officers, to the extent of their powers set forth in this Agreement or otherwise vested in them by action of the Board not inconsistent with this Agreement, are agents of the Company for the purpose of the Company's business, and the actions of the officers taken in accordance with such powers shall bind the Company.

7.13 Duties of Officers. Except to the extent otherwise provided herein, each officer shall have fiduciary duties identical to those of officers of business corporations organized under the General Corporation Law of the State of Delaware

7.14 Powers of Members. Except as otherwise specifically provided by this Agreement or as required by the Act, no Member shall have the power to act for or on behalf of, or to bind, the Company.

7.15 Non-Solicitation; Confidentiality.

(a) To the fullest extent permitted by law, each Member (other than Knight, Citadel, Goldman and the ISE Stock Exchange Consortium Members) shall not, and each of Knight, Citadel and Goldman shall cause the electronic agency options trading business and the electronic agency equities trading business of it and any of its majority-owned subsidiaries not to, directly or indirectly, solicit for employment, employ, engage or retain, any Person who is or was an employee of the Company or Direct Edge for at least three (3) months and provided a majority of his or her time to matters relating to the Company or Direct Edge, as applicable,

¹ Note to DEH – Please confirm whether this schedule needs to be updated.

without the prior consent of the Board, unless (i) such employee shall have ceased to be an employee of the Company or Direct Edge for a period of at least six (6) months, or (ii) such employee shall have responded to any general mass solicitation of employment not specifically directed toward employees of the Company or Direct Edge; provided that a Member shall be deemed not to be in breach of the prohibition not to solicit for employment of this Section 7.15 (but all remaining prohibitions of this Section 7.15 not to employ, engage or retain shall continue to apply) if a search firm engaged by or on behalf of such Member contacts an employee of the Company or Direct Edge but was not directed to do so by such Member. To the fullest extent permitted by law, neither the Company nor Direct Edge shall, directly or indirectly, solicit for employment, employ, engage or retain, any Person who is or was an employee of a Member or any of its Affiliates, unless (i) such employee shall have ceased to be an employee of such Member or its Affiliates for a period of at least six (6) months, (ii) such employee shall have responded to any general mass solicitation of employment not specifically directed toward employees of such Member or (iii) such employee shall have initiated discussions with the Company or Direct Edge regarding employment without having first been solicited by the Company or Direct Edge or an agent of the Company or Direct Edge. The obligations of any Member under this Section 7.15 shall survive until the one year anniversary of the first date on which such Member no longer has a Manager designated to sit on the Board pursuant to this Agreement and has less than a 5% Percentage Interest; provided, that the obligations under this Section 7.15(a) shall be reinstated in accordance with the terms herein if such Member thereafter has and exercises the right to designate a Manager on the Board pursuant to Section 7.1 or thereafter has at least a 5% Percentage Interest. The obligations of the Company and Direct Edge under this Section 7.15 shall survive, with respect to any Member, for a period of one (1) year from the date such Member ceases to be a member of the Company.

(b) Each Member, during the period starting from the date on which such Member became a member of the Company through and ending on the date that is the one year anniversary of the date on which such Member shall have ceased to be a member of the Company, shall not, without the Company's prior written consent, disclose to any Person other than an Exempt Person (as defined below) of such Member any confidential, non-public information obtained from the Company or one of its Affiliates concerning the following: (1) any Intellectual Property (as defined below) owned or used by the Company or any of its subsidiaries, (2) any dealings between the Company or any of its subsidiaries, on the one hand, and any Client or Vendor (as those terms are defined below) or any employee, director, officer, manager or member of the Company or any of its subsidiaries, on the other hand; (3) any financial information or results of operations of the Company or any of its subsidiaries; or (4) any business plans, pricing information, customer information or regulatory information of the Company or any of its subsidiaries (collectively, "Confidential Information"); provided, however, that, notwithstanding anything to the contrary in the foregoing, Confidential Information shall not include, with respect to any Person, any information that: (A) is or becomes generally available to the public other than as a result of a disclosure directly or indirectly by such Person or any of its Affiliates or any of their respective directors, officers, managers, employees, advisors or other representatives (collectively, "Representatives") in breach of this Section 7.15(a); (B) is disclosed by another Person not known by the recipient to be under a confidentiality agreement or obligation to the Company or any of its subsidiaries not to disclose such information; or (C) is independently developed by such Person or any of its Affiliates or any of their respective Representatives without derivation from, reference to or

reliance upon any Confidential Information; provided, further, that, notwithstanding anything to the contrary in this Agreement, (A) any Member may disclose any Confidential Information to the extent required by any applicable law, statute, rule or regulation or any request, order or subpoena issued by any court or other governmental entity or any SRO (including FINRA), and (B) nothing herein shall be interpreted to limit or impede the rights of the SEC or any Company Related SRO to access or examine any Confidential Information, or to limit or impede the ability of any Member or any of its Representatives to disclose to the SEC as the SEC may request, order or demand any Confidential Information, in each case pursuant to Section 11.2, Article XIV or the U.S. federal securities laws and rules and regulations thereunder. Each Member shall be responsible for any breach of this Section 7.15(a) by any of its Representatives and agrees to use commercially reasonable efforts to cause its Representatives to treat all Confidential Information in the same manner as such Member would generally treat its own confidential, non-public information. Each of the Members acknowledges and agrees that other Members may operate businesses or have interests in businesses (including having representatives of such other Members who serve as directors, managers or officers of entities engaging in such businesses) that compete with, or that otherwise are associated with or complementary to, the operations of the Company (such competing, associated, and complementary businesses, “Associated Businesses”) and that Confidential Information may be disclosed to Exempt Persons who are involved with such Associated Businesses. Nothing in this Agreement shall preclude (i) any such Exempt Person from continuing to be involved with any Associated Business or (ii) any such Member or such Exempt Person from operating in the best interests of and satisfying their obligations to such Associated Business, provided that neither such Member nor Exempt Person discloses any Confidential Information in violation of this Section 7.15(a). It is further acknowledged and agreed that such Member and such Exempt Person may have benefit and use Confidential Information in the course of their involvement with such Associated Business and that such benefit and use shall not be precluded under this Agreement so long as no such Confidential Information is disclosed by such Member or Exempt Person in violation of this Section 7.15(a) and subject to the last sentence of this Section 7.15(a).

(c) For purposes of Section 7.15(b):

- (1) “Exempt Person” means, with respect to any Person, any Affiliate of such Person or any Representative of the Company, such Person or such Person’s Affiliate, in each case, who (a) has a reasonable need to know the contents of the Confidential Information, (b) is informed of the confidential nature of the Confidential Information and (c) agrees to keep such information confidential in accordance with the terms of this Agreement.
- (2) “Intellectual Property” means (a) inventions and discoveries (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, all patents, registrations, invention disclosures and applications therefor, including divisions, revisions, supplementary protection certificates, continuations, continuations-in-part and renewal applications, and including renewals, extensions, reissues and re-examinations thereof; (b) published and unpublished works of authorship,

whether copyrightable or not (including without limitation databases and other compilations of information, mask works and semiconductor chip rights), copyrights therein and thereto, and registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof; and (c) trade secrets and other technical information (which may include ideas, research and development, know-how, formulae and other processes, business methods, customer lists and supplier lists).

- (3) “Client” means any Person to whom the Company or Direct Edge provides services under any agreement, lease, license, contract, note, mortgage, indenture, arrangement or other obligation.
- (4) “Vendor” means any Person from whom the Company or Direct Edge receives material services under any agreement, lease, license, contract, note, mortgage, indenture, arrangement or other obligation.

7.16 Reliance by Third Parties. Any Person dealing with the Company or the Board may rely upon a certificate signed by a Manager or such officer of the Company designated by the Board, as to:

- (a) the identities of the Managers serving on the Board or any committee thereof, any officer or agent of the Company, or any Member;
- (b) the existence or non-existence of any fact or facts that constitute a condition precedent to acts by the Board or in any other manner germane to the affairs of the Company; or
- (c) the Persons who are authorized to execute and deliver any instrument or document of or on behalf of the Company.

7.17 Tax Matters Partner.

(a) ISE Holdings shall be the “tax matters partner” of the Company as defined in Section 6231 of the Code and shall act in any similar capacity under applicable state, local or foreign law (in such capacity, the “Tax Matters Partner”). If necessary to have Subchapter C of Chapter 63 of the Code apply to the Company, the Company shall make an election pursuant to Section 6231(a)(1)(B)(ii) of the Code.

(b) Each Member shall be considered to have retained such rights (and obligations, if any) as are provided for under the Code or any other applicable law with respect to any examination, proposed adjustment or proceeding relating to Company tax items (including its rights under Section 6224(c) of the Code and its right to notice of any proposed tax settlements in any court case involving the Company). The Tax Matters Partner agrees that it shall not bind the Members to any tax settlement without the unanimous approval of all the Members. The Tax Matters Partner shall notify the other Members, within 30 calendar days after it receives notice from the United States Internal Revenue Service (“IRS”), of any

administrative proceeding with respect to an examination of, or proposed adjustment to, any Company tax items. The Tax Matters Partner shall provide the other Members with notice of its intention to extend the statute of limitations or file a tax claim in any court at least ten calendar days before taking such action and shall not extend such statute of limitations or file such tax claim without the unanimous approval of all the Members. In the event that the other Members notify the Tax Matters Partner of their intention to represent themselves, or to obtain independent counsel and other advisors to represent them, in connection with any such examination, proceeding or proposed adjustment, the Tax Matters Partner agrees to supply the other Members and their counsel and other advisors, as the case may be, with copies of all written communications received by the Tax Matters Partner with respect thereto, together with such other information as they may reasonably request in connection therewith. The Tax Matters Partner further agrees, in that event, to cooperate with the other Members and their counsel and other advisors, as the case may be, in connection with their separate representation, to the extent reasonably practicable and at the sole cost and expense of such other Members. In addition to the foregoing, the Tax Matters Partner shall notify the other Members prior to submitting a request for administrative adjustment on behalf of the Company and shall not submit such request without the unanimous approval of all the Members. Nothing contained in this Section 7.17 shall affect the authority of the Board provided for in Section 11.6 as to tax matters; any action by the Tax Matters Partner shall be consistent with the direction of the Board pursuant to its authority thereunder.

7.18 Restriction on Foreign Operations. None of (i) the Company, (ii) Direct Edge, (iii) any “disregarded entity” owned by the Company or Direct Edge, or (iv) any other entity treated for U.S. federal income tax purposes as a division of either the Company or Direct Edge shall ever have a permanent establishment or branch outside the United States or conduct business outside the United States in such a way that it is deemed to have a permanent establishment or a foreign branch, as that term is defined in Temporary Treasury Regulation § 1.367(a)-6T(g)(1). Accordingly, any entity described in (i) through (iv) above (each, a “Restricted Entity”) shall not:

- (a) maintain or conduct business through a fixed place of business outside the United States, including a place of management, a branch, or an office;
- (b) maintain a separate set of books and records outside of the United States;
- (c) hold a meeting (whether formal or informal) of the board or of any committee of the board (1) outside of the United States or (2) at which fewer than two members of the board or such committee, as the case may be, are not physically present at the place designated as the location for the board meeting;
- (d) send an employee to work at a fixed location outside the United States for a period of time sufficient to constitute a branch or permanent establishment;
- (e) conduct business (including the solicitation of customers, the negotiation of prices and other material terms and conditions, and the performance of other activities incidental to the origination or continuance of a transaction) outside the United States through a dependent agent or employee;

(f) enter into binding contracts outside the United States, or give an agent or employee the authority to enter into such contracts outside the United States; or

(g) own any real estate outside the United States, or own tangible personal property outside the United States.

Nothing in this Section 7.18 or elsewhere in this Agreement shall be deemed to prohibit or restrict in any way any Restricted Entity from conducting business outside the United States through any direct or indirect subsidiary that is treated as a corporation for United States federal income tax purposes (an “Eligible Subsidiary”). If any Restricted Entity wishes to change the classification of an Eligible Subsidiary for U.S. federal tax purposes pursuant to Treas. Reg. § 301.7701-3, then it must first obtain the consent of each Initial Member that is or will be a Member as of the effective date of such change in classification, which consent can be given in each such Initial Member’s sole discretion. The Company shall ensure that Restricted Entities subject to this Section 7.18 shall comply with the requirements of this Section 7.18.

7.19 Conversion to Corporation; Registration Rights; Initial Public Offering.

(a) In the event that the Board determines that conducting the business of the Company in a corporate rather than in a limited liability company form would be necessary to allow an offering of equity interests in the Company or a successor through an Initial Public Offering, then the Board, in accordance with Section 7.7(a)(3), shall have the power to convert the Company to a corporation or take such other action as it may deem advisable in light thereof, including (A) dissolving the Company, creating one or more subsidiaries of a newly formed corporation and, subject to the Act, transferring to such subsidiaries any or all of the assets of the Company (including by merger) or (B) causing the Members to, and the Members agree to, exchange their Units for shares of a newly formed corporation; provided, that the Company shall first obtain an opinion of counsel reasonably acceptable to each of the Initial Members that is or will be a Member as of the effective date of such conversion or other action (unless such opinion requirement is waived by each of such Initial Members) that any such action will be tax-free to the Members (such conversion to a corporation or other action, the “Conversion”). Notwithstanding the foregoing, for so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, before any Conversion may be effected, the proposal regarding such Conversion shall be filed with, or filed with and approved by, the SEC pursuant to Section 19 of the Exchange Act and the rules and regulations thereunder, as the case may be.

(b) The Members shall receive, in exchange for their respective Units, shares of capital stock or other interests of such corporation or its subsidiaries having the same relative economic interest and other rights and obligations in such corporation or its subsidiaries as is set forth in this Agreement, subject to any modifications deemed appropriate by the Board, in accordance with Section 7.7(a)(3), as a result of the Conversion to corporate form (the “Surviving Corporation Shares”).

(c) At the time of such Conversion and subject to any legal, regulatory, stock exchange or other similar requirements, the Members shall, and hereby agree to take all actions reasonably requested by the Board in connection with the Conversion and to cause the resulting corporation to be governed substantially as provided herein, including entering into a

stockholders' agreement providing for an agreement to vote all shares of capital stock or other interests held by them to elect the board of directors of such resulting corporation in accordance with the substance of Section 7.1; provided, that such governance provisions and such stockholders' agreement shall terminate effective as of the Initial Public Offering of the Company.

(d) If the Board elects to undertake an Initial Public Offering of the Company in accordance with Section 7.7(c)(1) or 7.7(f)(1), as applicable, within 60 days after such approval, the Company and the Members shall engage one or more investment bankers and shall use commercially reasonable efforts to complete the Initial Public Offering within 180 days after such approvals; provided that the Company may defer the Initial Public Offering if the Board determines that market conditions are sufficiently adverse to consummate the Initial Public Offering within such period. At the time an Initial Public Offering of the Company is consummated, each Member shall have registration rights with respect to its Surviving Corporation Shares pursuant to the terms attached as Exhibit D.

Article VIII **Distributions**

8.1 Current Distributions. If at any time and from time to time the Board determines that the Company has cash that is not required for the operations of the Company, the payment of liabilities or expenses of the Company, or the setting aside of reserves to meet the anticipated cash needs of the Company during the upcoming Fiscal Year ("Distributable Cash"), then:

(a) Within 15 calendar days after the end of each fiscal quarter, the Company shall make distributions ("Tax Distributions") to the Members of their respective Tax Amounts for such fiscal quarter (or, in the event that Distributable Cash is less than the total of all such Tax Amounts, the Company shall distribute the Distributable Cash in proportion to such Tax Amounts). If after the end of any Fiscal Year it is determined that a Member's Tax Amount for the Fiscal Year exceeds the sum of the Tax Distributions made to the Member hereunder and the distributions made to such member under Section 8.1(b) for such Fiscal Year (any such excess, a "Shortfall Amount"), then the Company shall, on or before the 75th calendar day of the next Fiscal Year, make an additional Tax Distribution to the Members of their respective Shortfall Amounts (or, in the event that Distributable Cash is less than the total of all Shortfall Amounts, the Company shall distribute the Distributable Cash in proportion to such Shortfall Amounts). If the aggregate Tax Distributions to any Member pursuant to this subsection for a Fiscal Year exceed the Member's Tax Amount for such Fiscal Year, such excess shall be deducted from the Member's Tax Amount when calculating the Tax Distributions to be made to such Member for each subsequent Fiscal Year until the excess has been fully accounted for. All Tax Distributions to a Member shall be treated as advances against any subsequent distributions to be made to such Member under Section 8.1(b) or Section 13.3. Subsequent distributions made to the Member pursuant to Section 8.1(b) and Section 13.3 shall be adjusted so that when aggregated with all prior distributions to the Member pursuant to those provisions, and with all prior Tax Distributions to the Member, the amount distributed shall be equal, as nearly as possible, to the aggregate amount that would have been distributable to such member pursuant to Section 8.1(b) and Section 13.3 if this Agreement contained no provision for Tax Distributions. The Board shall undertake best efforts to cause the Company to distribute the respective Tax Amounts to

each Member each fiscal quarter and after the end of the Fiscal Year pursuant to the terms of this Section 8.1(a).

(b) After taking into account the advance of Tax Distributions pursuant to Section 8.1(a), the Board may, pursuant to the Distribution Plan required to be approved pursuant to Section 11.4 or, at any time after December 23, 2010, pursuant to a Distribution Plan or as otherwise approved pursuant to Section 7.7(a)(5), decide to cause the Company to distribute all or any portion of Distributable Cash to the Members in proportion to their Percentage Interests, unless the distribution is a liquidating distribution, which shall be made in the manner set out in Section 13.2(b).

8.2 Limitation. Notwithstanding any other provision in this Agreement, the Company shall not make a distribution to any Member on account of its interest in the Company (i) if, and to the extent, such distribution would violate the Act or other applicable law or would come from any Regulatory Funds, or (ii) until December 23, 2010, if the Distribution Plan has not been adopted and approved pursuant to Section 7.7(c)(5).

8.3 Withholding Treated as Distributions. Any amount that the Company is required to withhold and pay over to any governmental authority on behalf of a Member shall be treated as a distribution made to such Member pursuant to Section 8.1 or Section 13.3, and shall be deducted from the amounts next distributable to such Member pursuant to any of those provisions until the withholding has been fully accounted for.

Article IX

Capital Accounts; Allocation of Profits and Losses

9.1 Capital Accounts; General. An individual Capital Account shall be established and maintained for each Member in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv). The Capital Account of each Member shall as of the date hereof be deemed to equal the amount set forth for each Member on Exhibit B.

9.2 Calculation of Profits and Losses. For all purposes hereof, the Company's profits and losses shall in accordance with Code Section 703(a) and Treasury Regulation Section 1.703-1 be computed with the following adjustments: (a) items of gain, loss, and deduction shall be computed based upon the book values of the Company's assets (in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g) and/or 1.704-3(d)) rather than upon the assets' adjusted bases for Federal income tax purposes; (b) any tax exempt income received by the Company shall be included as an item of gross income; (c) the amount of any adjustments to the book values of any assets of the Company pursuant to Code Section 743 shall not be taken into account; and (d) any expenditure of the Company described in Code Section 705(a)(2)(B) (including any expenditure treated as being described in Code Section 705(a)(2)(B) pursuant to Treasury Regulations under Code Section 704(b)) shall be treated as a deductible expense.

9.3 Fiscal Periods. Fiscal periods of the Company shall end (a) on the last calendar day of each calendar year and (b) at the close of business on the calendar day before any calendar day on which Percentage Interest change.

9.4 Allocations of Profits and Losses; General. Except as provided in Section 9.6 and

Section 9.7 below, all net profits, losses and credits of the Company (for both accounting and tax purposes) for each fiscal period shall be allocated to the Members in proportion to their respective Percentage Interests as of the end of such fiscal period.

9.5 Terminating Allocations. Notwithstanding the foregoing allocation provisions, any profits or losses resulting from a liquidation, merger or consolidation of the Company, the sale of substantially all the assets of the Company in one or a series of related transactions, or any similar event (and, if necessary, specific items of gross income, gain, loss, or deduction incurred by the Company in the Fiscal Year of such transaction(s)) shall be allocated among the Members so that after such allocations and the allocations required by Section 9.6 and Section 9.7, and immediately before the making of any liquidating distributions to the Members under Section 13.3, the Members' Capital Accounts are in proportion to their respective Percentage Interests.

9.6 Regulatory Allocations. Article IX is intended to comply with Section 704(b) of the Code and the Treasury Regulations thereunder, including the "alternative test for economic effect" under Treasury Regulations Section 1.704-1(b)(ii)(d), and including those proposed Regulations addressing adjustments to capital accounts upon the exercise of non compensatory options. Notwithstanding Section 9.4, the Company shall make any allocations required by such Regulations, including "qualified income offset" and "minimum gain chargeback" allocations and allocations relating to any nonrecourse debt of the Company, prior to making the allocations set forth in Section 9.4. Any amount of Non-recourse Debt of the Company subject to allocation under Treasury Regulations Section 1.752-3(a)(3) shall be allocated to the Members in proportion to their relative holdings of Units.

9.7 Offset of Regulatory Allocations. The allocations required by Section 9.6 are intended to comply with certain requirements of the Treasury Regulations. The Board may, subject to the approval of all the Members and to the extent not inconsistent with Section 704 of the Code, offset any or all such regulatory allocations either with other regulatory allocations or with special allocations of income, gain, loss or deductions pursuant to this section in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the regulatory allocations were not part of this Agreement.

9.8 Section 704(c) and Capital Account Revaluation Allocations. The Members agree that to the fullest extent possible with respect to the allocation of depreciation and gain for U.S. federal income tax purposes, Section 704(c) of the Code shall apply with respect to non-cash property contributed to the Company by any Member and accordingly agree that the Company shall elect the traditional allocation method of Treas. Reg. section 1.704-3(b). For purposes hereof, any allocation of income, loss, gain or any item thereof to a Member pursuant to Section 704(c) of the Code shall affect only its tax basis in its Percentage Interest and shall not affect its Capital Account. In addition to the foregoing, if the Company's assets are reflected in the Capital Accounts of the Members at a book value that differs from the adjusted tax basis of the assets (e.g., because of a revaluation of the Members' Capital Accounts under Treasury Regulations §1.704-1(b)(2)(iv)(f)), allocations of depreciation, amortization, income, gain or loss with respect to such property shall be made among the Members in a manner consistent with the

principles of Section 704(c) of the Code and this Section 9.8.

9.9 Allocation in Case of Transfer. In the event of a transfer of any Units or issuance of Units upon the exercise of an Option during a taxable year of the Company, allocations of income, gain, loss, deductions and other items of the Company between the transferor and the transferee, or the Members in the case of an issuance of Units pursuant to the exercise of an Option, will be based on the portions of such taxable year during which each owned the Units or as the Board may determine in its reasonable discretion.

Article X
Powers, Duties and Restrictions of the Company and the Members;
Other Provisions Relating to the Members

10.1 Powers of the Company. In furtherance of the purposes set forth in Article III, and subject to the provisions of Article VII, the Company will possess the power to do anything not prohibited by the Act, by other applicable law, or by this Agreement, including but not limited to the following powers: (a) to undertake any of the activities described in Article III; (b) to make, perform and enter into any contract, commitment, activity or agreement relating thereto; (c) to open, maintain and close bank and money market accounts, to endorse, for deposit to any such account otherwise, checks payable or belonging to the Company from any other Person, and to draw checks or other orders for the payment of money on any such account; (d) to hold, distribute, and exercise all rights (including voting rights), powers and privileges and other incidents of ownership with respect to assets of the Company; (e) to borrow funds, issue evidences of indebtedness and refinance any such indebtedness in furtherance of any or all of the purposes of the Company; (f) to employ or retain such agents, employees, managers, accountants, attorneys, consultants and other Persons necessary or appropriate to carry out the business and affairs of the Company, and to pay such fees, expenses, salaries, wages and other compensation to such Persons; (g) to bring, defend and compromise actions, in its own name, at law or in equity; and (h) to take all actions and do all things necessary or advisable or incident to carry out the purposes of the Company, so far as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the Company's business, purposes or activities.

10.2 Maintenance of Separate Business.

(a) The Company shall at all times (i) to the extent that any of the Company's offices are located in the offices of one of its Affiliates, pay fair market rent for its office space located therein, (ii) maintain the Company's books, financial statements, accounting records and other limited liability company documents and records separate from those of any of its Affiliates or any other Person, (iii) not commingle the Company's assets with those of any of its Affiliates or any other Person, (iv) maintain the Company's account, bank accounts, and payroll separate from those of any of its Affiliates, (v) act solely in its name and through its own authorized agents, and in all respects hold itself out as a legal entity separate and distinct from any other Person, (vi) make investments directly or by brokers engaged and paid by the Company and its agents, (vii) manage the Company's liabilities separately from those of any of its Affiliates and pay its own liabilities, including all administrative expenses and compensation to employees, consultants or agents, and all operating expenses, from its own separate assets,

except that an Affiliate of the Company may pay the organizational expenses of the Company; provided, however, the foregoing shall not require any Member to make any Additional Capital Contribution; and (viii) pay from the Company's assets all obligations and indebtedness of any kind incurred by the Company; provided, however, the foregoing shall not require any Member to make any Additional Capital Contribution. The Company shall abide by all Act formalities, including the maintenance of current records of the Company's affairs, and the Company shall cause its financial statements to be prepared in accordance with generally accepted accounting principles in a manner that indicates the separate existence of the Company. The Company shall (i) pay all its liabilities; provided, however, the foregoing shall not require any Member to make any Additional Capital Contribution, (ii) not assume the liabilities of any of its Affiliates unless such assumption is approved in accordance with this Agreement and (iii) not guarantee the liabilities of any of its Affiliates unless such assumption is approved in accordance with this Agreement. Subject to Article VII, the Board shall make decisions with respect to the business and daily operations of the Company independent of and not dictated by any of its Affiliates. Failure of the Company, any of the Members or the Board on behalf of the Company to comply with any of the foregoing covenants or any other covenants contained in this Agreement shall not affect the status of the Company as a separate legal entity or the limited liability of the Members or the Managers.

10.3 Purchased Services. Except for the Services Agreements, unless approved by a majority of the Board excluding the Manager designated by the Member to which this Section 10.3 applies, all products and services to be obtained by the Company or any of its subsidiaries and all transactions conducted by the Company and its subsidiaries shall be evaluated by the Company's management with a view to best practices, and all such products and services and all such transactions shall, if obtained from or conducted with any Member or any Affiliate of a Member, be obtained or conducted only on an arm's length basis with terms that are not less favorable to the Company or any of its subsidiaries than those that the Company or any of its subsidiaries might otherwise be able to obtain from an unrelated Person.

10.4 Compensation of the Members and Managers. Except as otherwise specifically provided in this Agreement, the Members shall not be entitled to any compensation for their services hereunder. The Managers may be paid by the Company their reasonable expenses, if any, of attendance at each meeting of the Board and at each meeting of a committee of the Board of which they are members.

10.5 Cessation of Status as a Member. A Member shall cease to be a member of the Company upon the Bankruptcy or involuntary dissolution of such Member or upon the transfer of all of such Member's limited liability company interest in the Company.

10.6 Representations and Warranties. Each Member represents and warrants to the Company and the other Members that such Member is not a foreign partner under Section 1446(e) of the Code.

10.7 Other Activities of the Members.

(a) Notwithstanding any duty otherwise existing at law or in equity, each of the Members and any Person employed by, related to or in any way affiliated with any Member

(the “Permitted Persons”) may have other business interests and 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 or any of its subsidiaries), 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 or any of its subsidiaries. Notwithstanding any duty otherwise existing at law or in equity, without limiting the generality of the foregoing, each Permitted Person (i) may engage in the same or similar activities or lines of business as the Company or any of its subsidiaries or develop or market any products or services that compete, directly or indirectly, with those of the Company or any of its subsidiaries, including owning, operating or investing in electronic trading systems in alternative asset classes or geographies, subject to Section 7.7(h)(4), (ii) 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 or any of its subsidiaries and (iii) may do business with any client or customer of the Company or any of its subsidiaries. Neither the Company nor any Member nor Manager, nor any Affiliate of any thereof, 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 or any of its subsidiaries. Notwithstanding any duty otherwise existing at law or in equity, 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 any of its subsidiaries might reasonably have pursued or had the ability or desire to pursue, in each case, if granted the opportunity to do so, and, to the fullest extent permitted by law, no Permitted Person shall be liable to the Company, any of its subsidiaries or any Member (or any Affiliate thereof) for breach of any fiduciary or other duty relating to the Company (whether imposed by applicable 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.

(b) ISE LLC shall not grant a license for the software supporting the core matching engine technology to a Person that is, or in the determination of the Board is likely to become, a competitor of the Company with respect to the trading of U.S. cash equities, exchange traded funds and structured products (a “Competing Prospective Licensee”), except in accordance with Section 7.7(h)(3).

10.8 Use of Name and Trade Marks.

(a) Each Member (the “Using Member”) shall not, without the prior written consent of the other Member in question for each instance, (i) use in advertising, publicity or otherwise the name of such other Member or its Affiliates or employees, or any trade name, trademark, trade device, logo service mark, symbol or abbreviation, contraction or simulation thereof owned or used by such other Member or its Affiliates, or (ii) represent, directly or indirectly, that any product or any service provided by the Using Member has been approved,

endorsed, recommended or provided by, or in association with, such other Member or its Affiliates.

(b) Each Member shall not, without the prior written consent of the Company, (i) use in advertising, publicity or otherwise the name of the Company or Direct Edge or any of their respective Affiliates (other than, if applicable, such Member) or employees, or any trade name, trademark, trade device, logo service mark, symbol or abbreviation, contraction or simulation thereof owned or used by the Company or Direct Edge or any of their respective Affiliates (other than, if applicable, such Member), or (ii) represent, directly or indirectly, that any product or any service provided by such Member has been approved, endorsed, recommended or provided by, or in association with, the Company or Direct Edge or any of their respective Affiliates (other than, if applicable, such Member).

(c) The Company shall not, and shall cause Direct Edge not to, in each case without the prior written consent of the Member in question for each instance, (i) use in advertising, publicity or otherwise the name of any Member or its Affiliates (other than the Company or Direct Edge) or employees, or any trade name, trademark, trade device, logo service mark, symbol or abbreviation, contraction or simulation thereof owned or used by a Member or its Affiliates (other than the Company or Direct Edge), or (ii) represent, directly or indirectly, that any product or any service provided by the Company or Direct Edge has been approved, endorsed, recommended or provided by, or in association with, any Member or its Affiliates (other than the Company or Direct Edge).

Article XI

Books, Records and Accounting

11.1 Books of Account. The Board shall cause to be entered in appropriate books, kept at the Company's principal place of business, which must be in the United States, all transactions of or relating to the Company. The books and records of the Company shall be made and maintained, and the financial position and the results of operations recorded, at the expense of the Company, in accordance with such method of accounting as is determined by the Board. Each Member, for any purpose reasonably related to such Member's interest as a Member in the Company, or in the case of ISE Holdings in connection with the exercise of the ISE ROFR, shall have access to and the right, at such Member's sole cost and expense, to inspect and copy such books and records during normal business hours; provided, that the inspecting Member shall be responsible for any out-of-pocket costs or expenses incurred by the Company in making such books and records available for inspection.

11.2 Books and Records Relating to the Self-Regulatory Function of the Company-Related SROs.

(a) To the fullest extent permitted by law, all books and records of an Exchange Subsidiary reflecting confidential information pertaining to the self-regulatory function of a Company-Related SRO (including disciplinary matters, trading data, trading practices and audit information) that shall come into the possession of the Company, and the information contained in those books and records, shall be retained in confidence by the Company, the Members and the Managers, officers, employees and agents of the Company and

shall not be used for any non-regulatory purposes. Notwithstanding the foregoing sentence, nothing herein shall be interpreted so as to limit or impede the rights of the SEC or a Company-Related SRO to access and examine such confidential information pursuant to the U.S. federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any Members, Managers, officers, employees or agents of the Company to disclose such information to the SEC or a Company-Related SRO.

(b) To the extent they are related to the operation or administration of an Exchange Subsidiary, the books, records, premises, officers, Managers, agents, and employees of the Company shall be deemed to be the books, records, premises, officers, managers, directors, agents and employees of such Exchange Subsidiary or, in the case of ISE Exchange, ISE SRO for the purposes of, and subject to oversight pursuant to, the Exchange Act. For so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, the Company's books and records shall be subject at all times to inspection and copying by the SEC and the applicable Exchange Subsidiary or, in the case of ISE Exchange, ISE SRO, provided that such books and records are related to the operation or administration of an Exchange Subsidiary.

11.3 Deposits of Funds. All funds of the Company shall be deposited in its name in such checking, money market, or other account or accounts as the Board may from time to time designate; withdrawals shall be made therefrom on such signature or signatures as the Board shall determine.

11.4 Company Budget and Distribution Plan. At least 60 calendar days before any Fiscal Year, the Board shall prepare and approve an annual budget setting forth all anticipated expenses of the Company during the course of that upcoming Fiscal Year (the "Annual Budget"). If the Board does not prepare and approve an annual budget, the Annual Budget from the prior Fiscal Year shall remain in effect until such new annual budget is so prepared and approved. Prior to the six month anniversary of the Merger Date, the Board shall also prepare, and the Board and the Initial Members shall approve pursuant to Section 7.7(c)(5) a Distribution Plan covering the two years immediately following the Merger Date.

11.5 Financial Statements; Reports to Members. In connection with the financial statements to be delivered pursuant to this Section 11.5, the Company shall engage nationally recognized, independent certified public accountants and have annual audits made by such independent public accountants. The Company shall deliver to each of the Members the following: within 30 calendar days after the close of each month (other than the last month of any fiscal quarter), an unaudited consolidated balance sheet of the Company as of the end of such month, together with the related statements of operations and cash flow for such month and for the current Fiscal Year to the end of such month;

(b) within 30 calendar days after the close of each fiscal quarter (other than the fourth quarter), an unaudited consolidated balance sheet of the Company as of the end of such quarter, together with the related statements of operations and cash flow for such quarter and for the current fiscal year to the end of such fiscal quarter;

(c) within 90 calendar days after the end of each Fiscal Year, an audited consolidated balance sheet of the Company as of the end of such Fiscal Year, together with

related statements of operations and cash flow for such Fiscal Year;

(d) at the time the Board approves the Annual Budget in accordance with Section 11.4, the Company's Annual Budget for the next Fiscal Year and any material modifications thereto; and

(e) with reasonable promptness, such other information and data as a Member may from time to time reasonably request.

11.6 Tax Matters.

(a) The Board shall prepare all tax returns of the Company; provided, however, that the Board shall not file any income tax return without the approval of each Member owning a Percentage Interest of 10% or more during the period covered by such tax return, which approval shall not be unreasonably withheld or conditioned. The Board shall cause the Company to circulate to each Member referred to in the preceding sentence for its review and approval a draft of any income tax return no later than 90 calendar days after the end of the Company's Fiscal Year. If any such Member shall object to any items on such return within 30 calendar days, then the Members and the Board shall attempt to agree on a mutually acceptable resolution of any disputed tax items. If such Member and the Board cannot resolve their disagreement within ten calendar days, either such Member or the Board may request, in writing with a copy sent to the other party, that the disagreement be resolved by a mutually agreed upon nationally recognized, independent accounting firm (the "Independent Accountants") and the Independent Accountants shall be instructed to resolve the dispute by, first determining if both positions have merit, and if not, shall adopt the position that has merit. If the Independent Accountants determine that both positions have merit, the Independent Accountants shall adopt the position that will maximize, in the aggregate, the U.S. federal, state and local and foreign income tax advantages and will minimize, in the aggregate, the U.S. federal, state, and local and foreign income tax detriments, available to the Members. The Independent Accountants shall provide their written resolution of the disagreement to both the Member and the Board within 15 calendar days after the date that the Independent Accountants were requested to resolve such disagreement. If the Independent Accountants are incapable of resolving such disagreement based on the above-stated criteria, the position of the Board shall prevail. The cost of the Independent Accountants in connection with the resolution of a dispute under this Section shall be paid by the Company.

(b) The Board shall furnish a copy of all filed tax returns of the Company to each of the Members. In addition, upon reasonable written notice provided to the Company by a Member (and as otherwise required by law), the Company shall furnish such Members, on a timely basis, with all information relating to the Company required to be reported in any U.S. federal, state and local tax returns of such Members, including a report indicating such Member's allocable share for U.S. federal income tax purposes of the Company's income, gain, credits, losses and deductions. Within 90 calendar days after the end of the Company's Fiscal Year, the Board shall send to each Member a copy of Schedule K-1 to Internal Revenue Service Form 1065 (or any successor form); provided that the Board may, in its reasonable discretion extend such period as permitted under applicable law.

(c) The Members shall report their tax items with respect to, and arising from, their Units in a manner that is consistent with the Company's tax returns.

(d) The Board shall provide prompt notice to the Members of advice that the IRS or any applicable foreign, state or local taxing authority intends to examine any tax returns or records or books of the Company and of any notice from the IRS or any other taxing authority in any administrative or judicial proceeding at the Company level relating to the determination of any item of income, gain, loss, deduction or credit of the Company, in each case together with a copy of such IRS or foreign, state or local taxing authority notice and any written materials submitted by the Board in response to such notice. In the event of any tax audit or any contest, dispute or litigation with respect to the treatment of, or liability of the Company for, any U.S. federal, state or local or foreign income tax for any taxable period (or portion of a taxable period) of the Company beginning after the date that the Company ceases to be a partnership for U.S. federal income tax purposes, the Board shall control, defend and otherwise represent the Company in such audit, contest, dispute or litigation. The Board shall advise any Member of any written proposed adjustment by the IRS that would increase (directly or through such Member's interest in any intermediate entities) such Member's U.S. federal income tax liability (or decrease (directly or through such Member's interest in any intermediate entities) such Member's U.S. federal tax benefits). If the Board proposes that such adjustment be approved, the Company shall not concede such adjustment without each Member's prior written approval, which approval shall not be unreasonably withheld or conditioned. In the event of a disagreement between the Board and a Member with respect to such adjustment, the procedures for resolving disagreements set forth in Section 11.6(a) hereof shall apply.

(e) The Board shall take any steps necessary pursuant to Code Section 6223(a) to designate each Member as a "notice partner" (as defined in Code Section 6231(a)(8)). In addition, nothing in this Agreement is intended to waive any rights, including rights to participate in administrative and judicial proceedings, that a Member may have under Code Sections 6221 through 6233, inclusive.

(f) Subject to this Agreement, the Board shall have authority to make any tax election with respect to the Company or any subsidiary thereof that it deems advisable; provided, however, that the Company, to the extent it has not already done so, shall make the election under Code section 754 so that ISE Holdings, in connection with the ISE Purchases, will obtain a step-up in tax basis in a portion of the Company's assets, and further provided, that the Company shall not make an election to be classified as a corporation pursuant to Treas. Reg. section 301.7701-3 or otherwise or any similar tax election without the unanimous written consent of the Initial Members.

(g) Notwithstanding any other provisions of this Agreement, the provisions of this Section 11.6 shall survive the dissolution of the Company or the termination of any Member's interest in the Company and shall remain binding on all Members for a period of time necessary to resolve with the IRS or any applicable state or local taxing authority all matters (including litigation) regarding the U.S. federal, state and local income taxation, as the case may be, of the Company or any Member with respect to the Company.

Article XII

Concentration

12.1 Limitations.

(a) Notwithstanding anything herein to the contrary, for so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, except as provided in Section 12.1(b):

- (1) no Person, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, Units representing in the aggregate a Percentage Interest of more than 40%;
- (2) no Person, either alone or together with its Related Persons, who is an Exchange Member, may own, directly or indirectly, of record or beneficially, Units representing in the aggregate a Percentage Interest of more than 20%; and
- (3) no Person, either alone or together with its Related Persons, may, directly, indirectly or pursuant to any voting trust, agreement, plan or other arrangement, vote or cause the voting of Units or give any consent or proxy with respect to Units representing a Percentage Interest of more than 20%, nor may any Person, either alone or together with its Related Persons, enter into any agreement, plan or other arrangement with any other Person, either alone or together with its Related Persons, under circumstances that would result in the Units that are subject to such agreement, plan or other arrangement not being voted on any matter or matters or any proxy relating thereto being withheld, where the effect of such agreement, plan or other arrangement would be to enable any Person, either alone or together with its Related Persons, to vote, possess the right to vote or cause the voting of Units that would represent a Percentage Interest of more than 20%; provided that this Section 12.1(a) shall not apply to ISE Holdings for so long as ISE Holdings is subject to ownership and voting limitations comparable to those set forth in Section 12.1(a) and ISE SRO is a wholly owned subsidiary of ISE Holdings.

(b) Subject to Section 12.1(c) and Section 12.1(d), the limitations in Section 12.1(a)(1) and 12.1(a)(3) (other than with respect to Exchange Members and their Related Persons) may be waived by the Board pursuant to an amendment to this Agreement adopted by the Board pursuant to Section 15.2, if, in connection with the adoption of such amendment, the Board adopts a resolution stating that it is the determination of such Board that such amendment (i) will not impair the ability of each Exchange Subsidiary (in the case of EDGX or EDGA) and ISE SRO (in the case of ISE Exchange) to carry out its functions and responsibilities under the Exchange Act and the rules and regulations thereunder, (ii) is otherwise in the best interests of the Company and its Members and the Exchange Subsidiaries; and (iii) will not impair the ability

of the SEC to enforce the Exchange Act and the rules and regulations thereunder. Such amendment shall not be effective unless it is filed with and approved by the SEC. In making the determinations referred to in this Section 12.1(b), the Board may impose on the Person in question and its Related Persons such conditions and restrictions as it may in its sole discretion deem necessary, appropriate or desirable in furtherance of the objectives of the Exchange Act, and the rules under the Exchange Act, and the governance of the Exchange Subsidiaries.

(c) Notwithstanding Section 12.1(b), in any case where a Person, either alone or together with its Related Persons, would own or vote more than the percentage limitations set forth in Section 12.1(a) upon consummation of any proposed Transfer of Units, such Transfer shall not become effective until the Board shall have determined, by resolution, that such Person and its Related Persons are not subject to any applicable “statutory disqualification” (within the meaning of Section 3(a)(39) of the Exchange Act).

(d) Notwithstanding and without giving effect to Section 12.1(b), any Person (either alone or together with its Related Persons) that proposes to own, directly or indirectly, of record or beneficially, Units representing in the aggregate a Percentage Interest of more than 40%, or to exercise voting rights, or grant any proxies or consents, with respect to Units representing in the aggregate a Percentage Interest of more than 20%, shall deliver to the Board a notice in writing, not less than 45 days (or any shorter period to which the Board shall expressly consent) before the proposed ownership of such Units, or the proposed exercise of such voting rights or the granting of such proxies or consents, of its intention to do so.

12.2 Required Notices.

(a) Any Person that owns, directly or indirectly (whether by acquisition, a change in the number of Units outstanding or otherwise), of record or beneficially, Units representing in the aggregate a Percentage Interest of five percent or more (either alone or together with its Related Persons) shall, immediately upon becoming the owner of such amount of Units, give the Board written notice of such ownership, which notice shall state: (i) such Person’s full legal name; (ii) such Person’s title or status and the date on which such title or status was acquired; (iii) such Person’s approximate Percentage Interest (together with its Related Persons); and (iv) whether such Person has the power, directly or indirectly, to direct the management or policies of the Company, whether through ownership of securities, by contract or otherwise.

(b) Each Person required to provide written notice pursuant to Section 12.2(a) shall update such notice promptly after any change in the contents of that notice; provided that no such updated notice shall be required to be provided to the Board in the event of an increase or decrease in the Percentage Interest so reported that represents less than one percent of the issued Units (such increase or decrease to be measured cumulatively from the amount shown on the last such report), unless any increase or decrease of less than one percent results in such Person owning Units that represent a Percentage Interest of more than 20% or more than 40% (at a time when such Person previously owned less than such percentages) or such Person owning Units that represent a Percentage Interest of less than 20% or less than 40% (at a time when such Person previously owned more than such percentages).

(c) The Board shall have the right to require any Person reasonably believed to be subject to and in violation of this Article XII to provide the Company complete information as to all Units owned, directly or indirectly, of record or beneficially, by such Person (together with its Related Persons) and as to any other factual matter relating to the applicability of this Article XII as may reasonably be requested of such Person.

12.3 Redemption Right. If any Member purports to Transfer Units in violation of the Ownership Limitations or vote or cause the voting of Units, give any consent or proxy with respect to Units or enter into any agreement, plan or other arrangement for the voting of Units that would violate the Voting Limitations, then the Company shall have the right, exercisable upon written notice to such Member with respect to such Units, to redeem such Units for a price per Unit equal to lesser of fair market value or book value of those Units, which right shall be exercisable by the Company upon the approval of the Board. Upon any such determination to redeem any such Units, written notice shall be given by the Secretary of the Company to such Member, which notice shall specify a date for redemption of the Units which shall be not less than ten days nor more than 30 days from the date of such notice. Any Units that have been so called for redemption shall not be deemed outstanding Units for the purpose of voting or determining the total number of Units entitled to vote on any matter on and after the date on which written notice of redemption has been given to the Member if a sum sufficient to redeem such Units shall have been irrevocably deposited or set aside to pay the redemption price to the Member.

12.4 Voting. If any Member purports to vote or cause the voting of Units, give any consent or proxy with respect to Units, or enter into any agreement, plan or other arrangement for the voting of Units that would violate the Voting Limitations, the Company shall not honor such vote, consent or proxy to the extent that the Voting Limitations would be violated, and any Units subject thereto shall not be entitled to be voted to the extent of such violation.

Article XIII **Term and Dissolution**

13.1 Term. The legal existence of the Company shall be perpetual, unless the Company is sooner dissolved as a result of an event specified in the Act or pursuant to a provision of this Agreement.

13.2 Dissolution.

(a) The Company shall be dissolved and its affairs wound up upon the first to occur of the following:

- (1) The election to dissolve the Company made by the Board pursuant to Section 7.7(a)(1) and, to the extent applicable, the Initial Members pursuant to Section 7.7(c)(9);
- (2) The entry of a decree of judicial dissolution of the Company under § 18-802 of the Act;
- (3) The resignation, expulsion, Bankruptcy, or dissolution of the last

remaining Member, or the occurrence of any other event which terminates the continued membership of the last remaining Member in the Company, unless the business of the Company is continued without dissolution in accordance with the Act; and

- (4) The occurrence of any other event that causes the dissolution of a limited liability company under the Act, unless the Company is continued without dissolution in accordance with the Act.

(b) Upon dissolution of the Company, the business of the Company shall continue for the sole purpose of winding up its affairs. The winding up process shall be carried out by the Members unless the dissolution is caused by an event of withdrawal by the sole remaining Member, in which case the Board shall appoint a liquidating trustee. A liquidating trustee may be appointed for the Company by vote of a majority in Percentage Interest of the Members (the Members or such liquidating trustee appointed by the Board or the Members is referred to herein as the “Liquidator”). In winding up the Company’s affairs, every effort shall then be made to dispose of the assets of the Company in an orderly manner, having regard to the liquidity, divisibility and marketability of the Company’s assets. Subject to Section 13.3, if the Liquidator determines that it would be imprudent to dispose of any non-cash assets of the Company, then such assets may be distributed in-kind to the Members, in lieu of cash, proportionately to their right to receive cash distributions hereunder; provided, that the Liquidator shall in its sole discretion determine the relative shares of the Members of each kind of those assets that are to be distributed in kind. The Liquidator shall not be entitled to be paid by the Company any fee for services rendered in connection with the liquidation of the Company, but the Liquidator (whether one or more Members or a liquidating trustee) shall be reimbursed by the Company for all third-party costs and expenses incurred by it in connection therewith and shall, to the fullest extent permitted by law, be indemnified by the Company with respect to any action brought against it in connection therewith by applying, mutatis mutandis, the provisions of Section 15.1.

13.3 Application and Distribution of Assets. Upon windup of the Company, the Company shall distribute its assets as follows: first, to creditors of the Company, including Members and Managers who are creditors, to the extent permitted by law, in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for the payment thereof), and including any contingent, conditional and unmature liabilities of the Company, taking into account the relative priorities thereof; second, to the Members and former Members in satisfaction of liabilities under the Act for distributions to such Members and former Members; and third, to the Members, in proportion to, and to the extent of, their respective positive Capital Accounts. Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Treas. Regs. § 1.704-1(b)(2)(ii)(g), if any Member has a deficit Capital Account (after giving effect to all contributions, distributions, allocations, and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of the Member’s Capital Account shall not be considered a debt owed by the Member to the Company for any purpose whatsoever.

13.4 Capital Account Adjustments. For purposes of determining a Member’s Capital

Account, if, on liquidation and dissolution, some or all of the assets of the Company are distributed in kind, the Company's profits (or losses) shall be increased by the profits (or losses) that would have been realized had such assets been sold for their fair market value on the date of dissolution of the Company, as determined by the Liquidator. Such increase (i) shall be allocated to Members in accordance with Article IX hereof and (ii) shall increase (or decrease) the Members' Capital Account balances accordingly, it being the general intent that the adjustments contemplated by this subsection shall have the effect, as nearly as possible, of causing the Members' Capital Account balances to be in proportion to their Percentage Interests.

13.5 Termination of the LLC. Subject to Section 7.7(a)(1) of this Agreement, the separate legal existence of the Company shall terminate when all assets of the Company, after payment of or due provision for all debts, liabilities, and obligations of the Company, shall have been distributed to the Members in the manner provided for in this Article XIII, and a Certificate of Cancellation of the Certificate shall have been filed in the manner required by Section 18-203 of the Act.

Article XIV **SRO Function**

14.1 Preservation of Independence. For so long as the Company shall, directly or indirectly, control an Exchange Subsidiary, the Managers, officers, employees and agents of the Company shall give due regard to the preservation of the independence of the self-regulatory function of such Exchange Subsidiary (in case of EDGX or EDGA) or ISE SRO (Exchange), as well as to its obligations to investors and the general public and shall not take any actions that would interfere with the effectuation of any decisions by a board of directors of an Exchange Subsidiary ((in case of EDGX or EDGA) or ISE SRO (in the case of ISE Exchange) relating to its regulatory functions (including disciplinary matters) or which would interfere with the ability of such Exchange Subsidiary (in the case of EDGX or EDGA) or ISE SRO (in the case of ISE Exchange) to carry out its responsibilities under the Exchange Act. To the fullest extent permitted by law, no present or past Member, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other Person shall have any rights against the Company or any Manager, officer, employee or agent of the Company under this Section 14.1.

14.2 Compliance with Securities Laws; Cooperation with the SEC. The Company shall comply with the U.S. federal securities laws and the rules and regulations thereunder and shall cooperate with the SEC and each Company-Related SRO, as applicable, pursuant to and to the extent of their respective regulatory authority. The officers, Managers, employees and agents of the Company, by virtue of their acceptance of such position, shall be deemed to agree (i) to comply with the U.S. federal securities laws and the rules and regulations thereunder and (ii) to cooperate with the SEC and each Company-Related SRO in respect of the SEC's oversight responsibilities regarding the Company-Related SROs and the self-regulatory functions and responsibilities of the Company-Related SROs. The Company shall take reasonable steps necessary to cause its officers, Managers, employees and agents to so cooperate. To the fullest extent permitted by law, no present or past Member, employee, beneficiary, agent, customer, creditor, regulatory authority (or member thereof) or other Person shall have any rights against the Company or any Manager, officer, employee or agent of the Company under this Section 14.2.

14.3 Consent to Jurisdiction. To the fullest extent permitted by law, the Company and its officers, Managers, employees and agents, by virtue of their acceptance of such position, shall be deemed to irrevocably submit to the jurisdiction of the United States federal courts, the SEC, each Company-Related SRO, as applicable, for the purposes of any suit, action or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder arising out of, or relating to, the activities of an Exchange Subsidiary, and by virtue of their acceptance of any such position, shall be deemed to 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 it or they are not personally subject to the jurisdiction of the United States federal courts, the SEC and the Company-Related SROs 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 of that suit, action or proceeding may not be enforced in or by such courts or agency. The Company and its officers, Managers, employees and agents also agree that they will maintain an agent, in the United States, for the service of process of a claim arising out of, or relating to, the activities of an Exchange Subsidiary, and agree to notify the other parties hereto of the name and address of such agent.

14.4 Consent to Applicability. The Company shall take reasonable steps necessary to cause its current officers, Managers, employees and agents and prospective officers, Managers, employees and agents prior to such Person's employment, appointment or otherwise, to consent in writing to the applicability of Section 11.2 and Article XIV with respect to activities related to an Exchange Subsidiary.

Article XV

General Provisions

15.1 Exculpation and Indemnification.

(a) Unless specifically set forth herein, to the fullest extent permitted by applicable law, no Member, officer, Manager, employee or agent of the Company and no officer, director, employee, representative, agent or Affiliate of any Member (collectively, the "Covered Persons") shall be liable to the Company or any other Person who is bound by this Agreement for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence or willful misconduct.

(b) To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by a Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by

such Covered Person by reason of such Covered Person's gross negligence or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 15.1(b), other than as specifically set forth herein, shall be provided out of and to the extent of the Company's assets only, excluding any Regulatory Funds, and no Member, unless specifically set forth in this Agreement, shall have personal liability on account thereof. The Covered Person shall provide the Company with prompt, written notice of any such claim, sole control of the defense and settlement of such claim, and all reasonable assistance to defend such claim at the Company's cost. The Covered Person may appear in such action with counsel of its choice, at its own expense. The Company shall have no obligations under this Section 15.1 up to and to the extent any such claims, damages and liabilities result from the Covered Person's material breach of any term of the agreement under which such indemnification is sought, and up to and to the extent such breach prejudices the Company's ability to provide the indemnification set out in this Section 15.1. If a Member commits gross negligence or willful misconduct, such Member shall not be entitled to indemnification hereunder.

(c) To the fullest extent permitted by applicable law, expenses (including legal fees) incurred by a Covered Person defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in this Section 15.1.

(d) A Covered Person 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 matters the Covered Person 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 or any other facts pertinent to the existence and amount of assets of the Company from which distributions to any Member might properly be paid.

(e) Except as otherwise set forth in this Agreement, to the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating to the Company or to any other Covered Person, a Covered Person acting under this Agreement shall not be liable to the Company or to any other Covered Person bound by this Agreement for its good faith reliance on the provisions of this Agreement or any approval or authorization granted by the Company or any other Covered Person. The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities of a Covered Person to the Company or any other Person who is bound by this Agreement otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Covered Person.

15.2 Entire Agreement; Integration; Amendments.

(a) This Agreement contains the sole and entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter, including the Citadel Confidentiality Agreement,

the Goldman Confidentiality Agreement and the ISE Confidentiality Agreement. Knight and Citadel agree that the Citadel Confidentiality Agreement terminated in its entirety in accordance with its terms as of July 23, 2007 and that they shall take such actions as are necessary to cause their respective Affiliates who are party to the Citadel Confidentiality Agreement to recognize such termination. Knight and Goldman agree that the Goldman Confidentiality Agreement terminated in its entirety in accordance with its terms on September 28, 2007 and that they shall take such actions as are necessary to cause their respective Affiliates who are party to the Goldman Confidentiality Agreement to recognize such termination.

(b) Subject to the proviso hereafter, this Agreement may be changed or terminated by the Board and the Members in accordance with Section 7.7(a)(2); provided, however, that, notwithstanding anything in this Agreement to the contrary, (i) without the consent of any other Person, the Board may amend Exhibit C from time to time so as to accurately reflect the information contained thereon upon (a) the withdrawal of a Member, (b) the admission of a new Member or (c) any change in the number of Units owned by a Member; (ii) without the consent of any other Person, the Board may amend Exhibit B and Exhibit C from time to time so as to accurately reflect the information contained thereon upon Additional Capital Contributions having been made in accordance with Section 5.2 and any changes to Percentage Interests and the number of Units held by Members as a consequence thereof, (iii) any change to the Agreement that adversely affects the governance rights of the Members set forth in Article VII or the economic rights (i.e., rights related to the capital accounts of any Member or the rights of any Member to participate in the profits and losses of the Company and the distributions of assets of the Company upon a dissolution or liquidation) of the Members other than ISE Holdings relative to ISE Holdings' governance or economic rights shall require the approval of at least 70% of the number of Units held by such affected non-ISE Holdings Members, and any change to this Agreement that adversely affects the governance rights set forth in Article VII or the economic rights of ISE Holdings relative to the other Members' governance or economic rights shall require the approval of ISE Holdings, provided that any change to this Agreement that materially, adversely and disproportionately affects the economic or governance rights of a Member shall require such Member's prior written consent, which consent may be withheld or conditioned in such Member's sole discretion, further provided, however that the additional approvals required by this Section 15.2(b)(iii) shall not be required to the extent that: (x) such additional approval requirements would cause the Company not to be in compliance with U.S. federal securities laws and the rules and regulations thereunder; or (y) would adversely impact the regulatory authority of the ISE SRO, (iv) any change to any voting, consent or approval threshold or requirement specified in this Agreement shall require the written consent of Members or Managers, as the case may be, constituting at least such voting, consent or approval threshold or otherwise satisfying such requirement; (v) any change to Section 7.1 shall require the prior written consent of each Initial Member for so long as each such Initial Member (together with its Affiliates) has a 15% Percentage Interest, provided that any such amendment does not treat any Initial Member differently than the other Initial Members; and (vi) any change to Exhibit D shall be subject to Section 3.01 thereof. Notwithstanding the foregoing, for so long as the Company shall control, directly or indirectly, an Exchange Subsidiary, before any amendment to any provision of this Agreement shall be effective, such amendment shall be submitted to the board of directors of each Exchange Subsidiary (in the case of EDGX or EDGA) or ISE SRO (in the case of ISE Exchange) and if any such board shall determine that such amendment must be filed with, or filed with and

approved by, the SEC before the amendment may be effective under Section 19 of the Exchange Act and the rules promulgated under the Exchange Act or otherwise, then the proposed amendment to this Agreement shall not be effective until filed with, or filed with and approved by, the SEC, as the case may be.

(c) Each of the Members further acknowledges and agrees that, in entering into this Agreement, such Member has not in any way relied upon any oral or written agreements, statements, promises, information, arrangements, understandings, representations or warranties, express or implied, not specifically set forth in this Agreement or in the exhibits hereto.

15.3 Avoidance of Provisions. No party hereto shall avoid the provisions of this Agreement by making one or more Transfers to one or more Affiliates and then disposing of all or any portion of such party's interest in any such Affiliate.

15.4 Binding Agreement. The covenants and agreements herein contained shall inure to the benefit of and binding upon the parties hereto and their respective representatives, successors in interest and permitted assigns.

15.5 Notices. Unless otherwise provided in this Agreement, any and all notices contemplated by this Agreement shall be deemed adequately given if in writing and delivered in hand, or upon receipt when sent by telecopy or electronic transmission confirmed by one of the other methods for providing notice set forth herein, or one Business Day after being sent, postage prepaid, by nationally recognized overnight courier (e.g., Federal Express), or five Business Days after being sent by certified or registered mail, return receipt requested, postage prepaid, to the party or parties for whom such notices are intended. All such notices to Members shall be addressed to the last address of record on the books of the Company; all such notices to the Company shall be addressed to the Company at the address set forth in Section 2.3 or at such other address as the Company may have designated by notice given in accordance with the terms of this subsection.

15.6 Captions. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this agreement or the intent of any provisions hereof.

15.7 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, all rights and remedies being governed by such laws, without regard to its conflict of laws rules.

15.8 Arbitration. Subject to Section 14.3, disputes arising among the Members out of or related to this Agreement that cannot be resolved by the Members will be resolved through binding arbitration in New York City using American Arbitration Association (“AAA”) Commercial Arbitration Rules; provided, that the parties acknowledge that pre-arbitration discovery shall be permitted. The Members will attempt to agree on a single arbitrator, but if they cannot so agree, the Members who are party to such dispute may each appoint an arbitrator, and those arbitrators shall choose one additional arbitrator (collectively, the “Arbitrator Panel”). In all cases, the arbitrators must be chosen from the AAA list of arbitrators. The decision of the

Arbitrator Panel shall be final and binding on the parties and the parties waive irrevocably any rights to any form of appeal, review or recourse to any state or other judicial authority, in so far as such waiver may validly be made. To the fullest extent permitted by law, the parties acknowledge that the Arbitrator Panel may grant equitable remedies, including injunctions and specific performance. Judgment upon any arbitral award may be entered in any court of competent jurisdiction and any party may apply to such court for the recognition and enforcement of such award as the law of such jurisdiction may allow. Notwithstanding any provision of the Agreement to the contrary, this Section 15.8 shall be construed to the maximum extent possible to comply with the laws of the State of Delaware, including the Uniform Arbitration Act (10 Del. C. § 5701 et seq.) (the “Delaware Arbitration Act”). If, nevertheless, it shall be determined by a court of competent jurisdiction that any provision or wording of this Section 15.8, including any rules of the AAA, shall be invalid or unenforceable under the Delaware Arbitration Act, or other applicable law, such invalidity shall not invalidate all of this Section 15.8. In that case, this Section 15.8 shall be construed so as to limit any term or provision so as to make it valid or enforceable within the requirements of the Delaware Arbitration Act or other applicable law, and, in the event such term or provision cannot be so limited, this Section 15.8 shall be construed to omit such invalid or unenforceable provision.

15.9 Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their mutual intent, and, to the fullest extent permitted by law, the parties intend that no rule of strict construction will be applied against any party.

15.10 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted. In the case of any such invalidity or unenforceability, the parties hereto agree to use all reasonable best efforts to achieve the purpose of such provision by a new legally valid and enforceable stipulation.

15.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.12 Survival. The provisions of Section 7.15, Section 7.19(c), Section 7.19(d), Section 10.8, Section 11.1, Section 11.2, Article XII, Article XIV and this Article XV shall survive the termination of this Agreement for any reason. Subject to the Act, all other rights and obligations of the Members shall cease upon the termination of this Agreement. The provisions of Section 7.19(c), Section 7.19(d), and Exhibit D shall survive the termination of this Agreement if this Agreement is terminated in connection with the Company having been converted or otherwise reorganized pursuant to Section 7.19(a) in anticipation of an Initial Public Offering.

15.13 Publicity. No Member nor the Company shall issue any public announcements or make any published statements regarding this Agreement, or the subject matter thereof, without the prior written consent of the Board; provided, however, that if such public announcement or statement identifies any Member by name, such Member’s prior written consent shall be required. If the Company or any of its Affiliates, or any Member or any of its Affiliates, is required by applicable law to file this Agreement or a description thereof with the SEC, such

Person shall (i) in accordance with the rules and regulations of the SEC, file with the Secretary of the SEC an application requesting confidential treatment pursuant to Rule 24b-2 of the Exchange Act at or about the time of such filing, (ii) notify the other parties hereto as soon as practicable in advance of any such filing, and (iii) give the other parties hereto a reasonable opportunity to review and comment on such filing in advance. If the Company, any Affiliate of the Company, any Member or any Affiliate of a Member is required by applicable law to file this Agreement or any description thereof with any other governmental entity or SRO, such entity shall (i) take all commercially reasonable efforts to obtain confidential treatment for this Agreement, (ii) notify the other parties hereto as soon as practicable in advance of any such filing, and (iii) give the other parties hereto a reasonable opportunity to review and comment on such filing in advance; provided, however, that no such filing shall be deemed to violate this Section 15.13.

15.14 Further Assurance. Each party to this Agreement agrees to execute, acknowledge, deliver, file and record such further certificates, amendments, instruments and documents, and to do all such other acts and things, as may be required by law or as, in the reasonable judgment of the Board, may be necessary or reasonably advisable to carry out the intent and purpose of this Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the Members signatory hereto have caused this Agreement to be executed on the date first above written:

MEMBERS:

Knight/Trimark, Inc.

By: _____
Title: _____

Citadel Derivatives Group LLC

By: _____
Title: _____

The Goldman Sachs Group, Inc.

By: _____
Title: _____

International Securities Exchange Holdings, Inc.

By: _____
Title: _____

DB US Financial Markets Holding Corporation

By: _____
Title: _____

LabMorgan Corporation

By: _____
Title: _____

Merrill Lynch L.P. Holdings, Inc.

By: _____
Title: _____

Nomura Securities International, Inc.

By: _____
Title: _____

Sun Partners LLC

By: _____
Title: _____

**ACKNOWLEDGED AND AGREED TO
BY:**

Direct Edge Holdings LLC

By: _____
Title: _____

Exhibit A
Certificate of Formation

See attached.

**Exhibit B
Capital Accounts**

Member	Effective Date Capital Account (Prior to ISE Holdings Contribution)	Effective Date Capital Account (After ISE Holdings Contribution)
Knight Capital Holdings LLC	[REDACTED]	[REDACTED]
Citadel Derivatives Trading Ltd.	[REDACTED]	[REDACTED]
The Goldman Sachs Group, Inc.	[REDACTED]	[REDACTED]
International Securities Exchange Holdings, Inc.	[REDACTED]	[REDACTED]
DB US Financial Markets Holding Corporation	[REDACTED]	[REDACTED]
LabMorgan Corporation	[REDACTED]	[REDACTED]
Merrill Lynch L.P. Holdings, Inc.	[REDACTED]	[REDACTED]
Nomura Securities International, Inc.	[REDACTED]	[REDACTED]
Sun Partners LLC	[REDACTED]	[REDACTED]
Total:	[REDACTED]	[REDACTED]

Exhibit C
Name and Address of Members, Number of Units and Percentage Interests

Name and Address of Member	Prior to ISE Holdings Contribution		After ISE Holdings Contribution	
	Number of Units	Percentage Interest	Number of Units	Percentage Interest
Knight Capital Holdings LLC 545 Washington Boulevard Jersey City, NJ 07310	1,867,088	21.44%	1,867,088	19.90%
Citadel Derivatives Trading Ltd. c/o Citadel Limited Partnership 131 South Dearborn Street Chicago, IL 60603	1,867,088	21.44%	1,867,088	19.90%
The Goldman Sachs Group, Inc. 85 Broad Street New York, NY 10004	1,867,088	21.44%	1,867,088	19.90%
International Securities Exchange Holdings, Inc. 60 Broad Street New York, NY 10004	2,284,174	26.23%	2,957,365	31.54%
DB US Financial Markets Holding Corporation 60 Wall Street New York, NY 10005	105,402	1.21%	105,402	1.12%
LabMorgan Corporation 277 Park Avenue New York, NY 10172	463,768	5.33%	463,768	4.93%
Merrill Lynch L.P. Holdings, Inc. 4 World Financial Center New York, NY 10080	105,402	1.21%	105,402	1.12%
Nomura Securities International, Inc. 2 World Financial Center, Bldg B New York, NY 10281	84,321	0.97%	84,321	0.90%
Sun Partners LLC 100 South Wacker Drive Chicago, IL 60606	63,241	0.73%	63,241	0.67%
Total:	8,707,572	100%	9,380,763	100%

Exhibit D

Registration Rights

1. Definitions

1.01 Definitions.

(a) Capitalized terms used but not otherwise defined in this Exhibit D shall have the meanings assigned to them in the Fourth Amended and Restated Limited Liability Company Operating Agreement of Direct Edge Holdings LLC (the “Agreement”).

(b) The following capitalized terms shall have the meanings set forth below:

“Common Stock” means the Surviving Corporation Shares.

“Corporation” means the corporation that is the issuer of the Common Stock.

“Excluded Expenses” means all underwriting discounts, selling commissions and the fees and expenses of each Selling Holder’s own counsel.

“Holder” means (i) each Initial Member, (ii) each other Member (including any New Member) who owns (together with its Affiliates and Permitted Assignees (as defined below)) at least five percent (5%) of the outstanding Common Stock on a fully diluted basis on the date of the Conversion and (iii) any Permitted Assignee of each Initial Member or such other Member (or New Member) to whom Registrable Securities have been Transferred who owns (together with its Affiliates and Permitted Assignees) at least five percent (5%) of the outstanding Common Stock on a fully diluted basis on the date of the Conversion.

“Initial Public Offering Date” means the date of completion of the initial sale of Common Stock in the Initial Public Offering.

“Permitted Transferee” means a Permitted Transferee (as defined in the Agreement) who has been admitted to the Company as a Member and has complied with Section 6.6(c) of the Agreement.

“Registrable Securities” means the Common Stock and any securities issued or issuable with respect to the Common Stock by way of a split, dividend, or other division of securities, or in connection with a combination of securities, conversion, exchange, replacement, recapitalization, merger, consolidation, or other reorganization or otherwise; provided, that such Registrable Securities shall cease to be Registrable Securities (i) upon any sale pursuant to a Registration Statement or Rule 144 under the Securities Act (or any similar provision then in force), (ii) upon repurchase by the Corporation, (iii) upon any Transfer in any manner to a Person that is not a Permitted Assignee, (iv) at such time, following an Initial Public Offering, as they become eligible for sale under the circumstances described in Rule 144(b)(1)(i) under the Securities Act (or any

similar provision then in force) or (iv) when they otherwise cease to be outstanding.

“Registration Expenses” means any and all expenses incident to performance of or compliance with Section 2, including (i) the fees, disbursements and expenses of the Corporation’s counsel and accountants (including the expenses of any annual audit letters and “cold comfort” letters required or incidental to the performance of such obligations), (ii) all expenses, including filing fees, in connection with the preparation, printing and filing of the Registration Statement, any free writing, preliminary prospectus or final prospectus, any other offering document and amendments and supplements thereto and the mailing and delivering of copies thereof to any underwriters and dealers, (iii) the cost of printing or producing any agreements among underwriters, underwriting agreements, any selling agreements and any other documents in connection with the offering, sale or delivery of the securities to be disposed of, (iv) all expenses in connection with the qualification of the securities to be disposed of for offering and sale under state securities laws, (v) the filing fees incident to securing any required review by the National Association of Securities Dealers, Inc. of the terms of the sale of the securities to be disposed of, (vi) transfer agents’ and registrars’ fees and expenses and the fees and expenses of any other agent or trustee appointed in connection with such offering, (vii) all security engraving and security printing expenses, (viii) all fees and expenses payable in connection with the listing of the securities on any securities exchange or interdealer quotation system and (ix) all rating agency fees, and excluding any Excluded Expenses.

“Registration Statement” means a registration statement filed by the Corporation with the SEC for a public offering and sale of securities of the Corporation other than (i) a registration statement on Form S-8 or Form S-4, or their successors or any other form for a similar limited purpose, (ii) any registration statement covering only securities proposed to be issued in exchange for securities or assets of another corporation, (iii) any registration in which the only equity security being registered is Common Stock issuable upon the conversion of debt securities that are also being registered or (iv) any registration on a form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities.

“Rule 415 Offering” means an offering on a delayed or continuous basis pursuant to Rule 415 (or any successor rule to similar effect) promulgated under the Securities Act.

“Selling Holder” means a Holder of Registrable Securities included in the relevant Registration Statement.

2. Registration Rights

2.01 Demand Registration.

(a) Requests for Registration. At any time beginning six months after the Initial Public Offering Date, any Initial Member may, subject to the provisions of this Exhibit D, request in writing that the Corporation effect the registration under the Securities Act of any or all of the Registrable Securities held by such Initial Member (an “Initial Requesting Holder”), which notice shall specify (a) the amount of Registrable Securities proposed to be registered; and (b) the intended method or methods and plan of disposition thereof, including whether such requested registration is to involve an underwritten offering. The Corporation shall give prompt written notice of such registration request to all other Holders. Except as otherwise provided in this Exhibit D and subject to Section 2.01(i) in the case of an underwritten offering, the Corporation shall prepare and use its reasonable best efforts to file (within 60 days after such request has been given) with the SEC a Registration Statement with respect to (i) all Registrable Securities included in the Initial Requesting Holder’s request and (ii) all Registrable Securities included in any request for inclusion delivered by any other Holder (a “Participating Holder”, and together with the Initial Requesting Holder, the “Requesting Holders”) within 15 days after delivery of the Corporation’s notice of the Initial Requesting Holder’s registration request to such other Holder, in each case subject to Section 2.01(i) if such offering is an underwritten offering. Thereafter, the Corporation shall use its reasonable best efforts, in accordance with Section 2.05, to effect the registration under the Securities Act and applicable state securities laws of such Registrable Securities for disposition in accordance with the intended method or methods of disposition stated in such request. Subject to Section 2.01(i), the Corporation may include in such registration other securities of the Corporation for sale, for the Corporation’s account or for the account of any other Person.

(b) S-1 Registration. Each Initial Member shall have the right pursuant to Section 2.01(a) and subject to Section 2.01(e), to make one (1) request for registration on Form S-1 (or any successor form) for a public offering of all or a portion of the Registrable Securities held by it so long as such Initial Member (together with its Affiliates and Permitted Assignees) holds at least 10% of the Registrable Shares then outstanding; provided, that the reasonably anticipated gross aggregate price to the public of such Registrable Securities would exceed \$50,000,000 (based on the market price or fair market value (as determined reasonably and in good faith by the Board of Directors of the Corporation) on the date of such request).

(c) S-3 Registration; Shelf Registration. Each Initial Member shall have the right pursuant to Section 2.01(a) and subject to Section 2.01(e), after the Corporation becomes eligible to file a Registration Statement on Form S-3 (or any successor form), to request an unlimited number of times that the Corporation register all or a portion of its Registrable Securities on Form S-3 (or any successor form), including for an offering to be made on a continuous or delayed basis pursuant to Rule 415 under the Securities Act (or any similar rule that may be adopted by the SEC covering such Registrable Securities); provided, that the reasonably anticipated gross aggregate price to the public of the Registrable Securities requested to be included in any such registration would exceed \$5,000,000 (based on the market price or fair market value (as determined reasonably and in good faith by the Board of Directors of the Corporation) on the date of such request).

(d) Delay for Disadvantageous Condition. If, in connection with any request for registration pursuant to this Section 2.01, the Corporation provides a certificate, signed by the president or chief executive officer of the Corporation, to the Requesting Holders stating that, in

the good faith judgment of the Board of Directors of the Corporation and its counsel, it would be materially detrimental to the Corporation or its stockholders for such Registration Statement either to become effective or to remain effective for as long as such Registration Statement otherwise would be required to remain effective, then the Corporation shall have the right to defer taking action with respect to such filing and any time periods with respect to filing or effectiveness thereof shall be tolled correspondingly, for a period of not more than 60 days after the request of the Requesting Holder is given; provided, however, that the Corporation may not invoke this right more than once in any twelve (12) month period.

(e) Limitation on Successive Registrations. The Corporation shall not be required to effect a registration pursuant to Section 2.01(a) or Section 2.01(b) for 90 days immediately following the effective date of a Registration Statement filed pursuant to the prior exercise of any Holder's registration rights provided for in Section 2.01(a) or Section 2.01(b), provided that the Corporation is employing reasonable best efforts to cause such Registration Statement to become effective.

(f) Demand Withdrawal. Any Requesting Holder may, at any time prior to the effective date of the Registration Statement relating to any requested registration, withdraw its Registrable Securities from a requested registration. If all Registrable Securities are so withdrawn, the Corporation shall cease all efforts to effect such registration upon such request, without liability to any Requesting Holder. Such registration will be deemed an effected registration for purposes of Section 2.01(b) and Section 2.01(c) unless (i) the Requesting Holders shall have paid or reimbursed the Corporation for the Registration Expenses of the Corporation in connection with such withdrawn requested registration; or (ii) the withdrawal is made following the occurrence of a material adverse change in the business or financial condition of the Corporation that is made known to the Holders after the date on which such registration was requested or if the registration is interfered with by any stop order, injunction or other order or requirement of the SEC or other governmental agency or court for any reason other than a misrepresentation or omission by any Requesting Holder.

(g) Effective Registration. Notwithstanding any other provision of this Exhibit D to the contrary, a Registration Statement pursuant to this Section 2.01 shall not be deemed to have been requested or effected (including for purposes of Section 2.01(b) and Section 2.01(c)) unless it has become effective and shall have remained effective for 180 days (excluding any periods of time during which such Registration Statement is tolled or suspended pursuant to Section 2.01(d) or Section 2.05(c)) or such shorter period as may be required to sell all Registrable Securities included in the relevant Registration Statement; provided, that in the case of any registration on Form S-3 of Registrable Securities that are intended to be offered on a continuous or delayed basis, such 180-day period shall be extended, if necessary, to keep the Registration Statement effective until all such Registrable Securities are sold. In no event shall a registration be deemed to have been effected (i) if after it has become effective such registration is interfered with by any stop order, injunction or other order or requirement of the SEC or other governmental agency or court for any reason other than a misrepresentation or an omission by any Requesting Holder and, as a result thereof, the Registrable Securities requested to be registered cannot be completely distributed in accordance with the plan of distribution set forth in the related Registration Statement or (ii) if the conditions to closing specified in the purchase agreement or underwriting agreement entered into in connection with such registration are not

satisfied or waived other than solely by reason of some act or omission by any Requesting Holder.

(h) Selection of Underwriters. The Requesting Holders of a majority of the Registrable Securities to be included in any registration requested under this Section 2.01 may request that the registration be effected as an underwritten offering and such Requesting Holders shall have the right to select the managing underwriter or underwriters for the offering; provided that such underwriter or underwriters shall be reasonably acceptable to the Corporation.

(i) Priority. If a registration under this Section 2.01 involves an underwritten offering and the managing underwriter(s) in its good faith judgment advises the Corporation that the number of Registrable Securities requested to be included in the Registration Statement by the Requesting Holders exceeds the number of securities that can be sold without adversely affecting the price, timing, distribution or sale of securities in the offering (the “Underwriter’s Maximum Number”), the Corporation shall be required to include in such Registration Statement only such number of securities as is equal to the Underwriter’s Maximum Number and the Corporation and the Requesting Holders shall participate in such offering in the following order of priority:

(i) First, the Corporation shall be obligated and required to include in the Registration Statement the number of Registrable Securities that the Requesting Holder has requested to be included in the Registration Statement and underwriting and that does not exceed the Underwriter’s Maximum Number; provided that if there are multiple Requesting Holders, the Registrable Securities to be included in the Registration Statement shall be allocated among all the Requesting Holders in proportion, as nearly as practicable, to the respective number of Registrable Securities held by them on the date of the request for registration pursuant to Section 2.01. If any Requesting Holder would thus be entitled to include more Registrable Securities than such Requesting Holder requested to be registered, the excess shall be allocated among other requesting Requesting Holders pro rata in the manner described in the preceding sentence.

(ii) Second, the Corporation shall be entitled to include in such Registration Statement and underwriting that number of shares of Common Stock and/or other securities of the Corporation that it proposes to offer and sell for its own account or the account of any other Person to the full extent of the remaining portion of the Underwriter’s Maximum Number.

2.02 Piggyback Registration.

(a) Notice of Registrations. In the event that the Corporation proposes to file a Registration Statement (other than a Registration Statement filed pursuant to Section 2.01) with respect to Common Stock of the Corporation or other securities (“Company Securities”), whether or not for sale for its own account, including in an Initial Public Offering, it shall give prompt written notice to each Holder of its intention to do so and of the rights of such Holder under this Section 2.02 at least 30 days prior to filing a Registration Statement. Subject to the terms and conditions hereof, such notice shall offer each such Holder the opportunity to include in such Registration Statement such number of Registrable Securities as such Holder may request. Upon the written request of any such Holder made within 15 days after the receipt of

the Corporation's notice (which request shall specify the number of Registrable Securities intended to be disposed of and the intended method of disposition thereof), the Corporation shall use its reasonable best efforts to effect, in connection with the registration of the Company Securities, the registration under the Securities Act of all Registrable Securities which the Corporation has been so requested to register, to the extent required to permit the disposition (in accordance with such intended methods thereof) of the Registrable Securities so requested to be registered.

(b) Withdrawal of Registration. If, at any time after giving a written notice of its intention to register any Company Securities and prior to the effective date of the Registration Statement filed in connection with such registration, the Corporation shall determine for any reason not to register the Company Securities, the Corporation may, at its election, give written notice of such determination to such Holders and thereupon the Corporation shall be relieved of its obligation to register such Registrable Securities in connection with the registration of such Company Securities, without prejudice, however, to the rights of the Holders immediately to request that such registration be effected as a registration under Section 2.01 to the extent permitted thereunder.

(c) Priority. If a registration under this Section 2.02 involves an underwritten offering and the managing underwriter(s) in its good faith judgment advises the Corporation that the number of Registrable Securities requested to be included in the Registration Statement by the Requesting Holders exceeds the Underwriter's Maximum Number, the Corporation shall be required to include in such Registration Statement only such number of securities as is equal to the Underwriter's Maximum Number and the Corporation and the Holders shall participate in such offering in the following order of priority:

(i) First, the Corporation shall be entitled to include in such Registration Statement the Company Securities that the Corporation proposes to offer and sell for its own account in such registration and that does not exceed the Underwriter's Maximum Number.

(ii) Second, the Corporation shall be obligated and required to include in such Registration Statement that number of Registrable Securities that the Holders shall have requested to be included in such offering to the full extent of the remaining portion of the Underwriter's Maximum Number, provided, that if the Registrable Securities of the Holders exceeds such remaining portion of the Underwriter's Maximum Number, the Registrable Securities shall be allocated among all Holders requesting to be included in such offering in proportion, as nearly as practicable, to the respective number of Registrable Securities held by them on the date of the Corporation's notice pursuant to Section 2.02(a). If any Holder would thus be entitled to include more Registrable Securities than such Holder requested to be registered, the excess shall be allocated among other Holders pro rata in the manner described in the preceding sentence.

(iii) Third, the Corporation shall be entitled to include in such Registration Statement that number of Company Securities that the Corporation proposes to offer and sell for the account of any other Person to the full extent of the remaining portion of the Underwriter's Maximum Number.

(d) Not a Demand Registration. No registration of Registrable Securities effected under this Section 2.02 shall relieve the Corporation of its obligation to effect a registration of Registrable Securities pursuant to Section 2.01.

2.03 Certain Information. In connection with any request for registration pursuant to Section 2.01 or Section 2.02, the Selling Holders shall furnish to the Corporation such information regarding themselves, the Registrable Securities held by them, and the intended method of disposition of such securities as the Corporation shall reasonably request to the extent required to lawfully complete the filing of such Registration Statement.

2.04 Expenses. Except as provided in this Exhibit D, if the Corporation is required to effect the registration of any Registrable Securities under the Securities Act as provided in Section 2.01 or 2.02, the Corporation shall pay all Registration Expenses with respect to such registration or proposed registration; provided, however, that if a registration under Section 2.01 is withdrawn at the request of the Requesting Holders holding a majority of the Registrable Securities to be included in such registration (other than (i) as a result of information concerning the occurrence of a material adverse change in the business or financial condition of the Corporation that is made known to the Requesting Holders after the date on which such registration was requested or (ii) if the registration is interfered with by any stop order, injunction or other order or requirement of the SEC or other governmental agency or court for any reason other than a misrepresentation or omission by any Requesting Holder) and if such Requesting Holders elect not to have such registration counted as a registration under Section 2.01, the Selling Holders shall pay the Registration Expenses of such registration pro rata in accordance with the number of their Registrable Shares included in such registration. All fees and expenses of a Selling Holder's own counsel in connection with such registration shall be borne and paid by such Selling Holder unless the Selling Holders agree among themselves otherwise, and in any event such fees and expenses shall not be borne or paid by the Corporation.

2.05 Registration and Qualification.

(a) If the Corporation is required to effect the registration of any Registrable Securities under the Securities Act as provided in Section 2.01 or 2.02, the Corporation shall as promptly as practicable:

(i) prepare and (within 60 days after the request of the Initial Requesting Holder has been given) file and use its reasonable best efforts to cause to become effective as promptly as practicable a Registration Statement relating to the Registrable Securities to be offered in accordance with the intended method of disposition thereof;

(ii) prepare and file with the SEC such amendments and supplements to such Registration Statement and the prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all such Registrable Securities until such time as all of such Registrable Securities have been disposed of in accordance with the intended methods of disposition set forth in such Registration Statement; provided, that the Corporation will, as far in

advance as practicable but at least five Business Days prior to filing a Registration Statement or prospectus (or any amendment or supplement thereto), furnish to each Selling Holder, for their review, copies of such Registration Statement or prospectus (or amendment or supplement) as proposed to be filed (including, upon the request of such Holder, documents to be incorporated by reference therein); and provided, further, that each Selling Holder may request reasonable changes to such Registration Statement or prospectus (or amendment or supplement) and the Corporation shall be required to comply therewith (A) if the Selling Holder is an Initial Member, and such Initial Member reasonably believes that the provisions in question would have an impact or effect on such Initial Member, or (B) solely to the extent necessary, if at all, to lawfully complete the filing or maintain the effectiveness thereof;

(iii) furnish to the Selling Holders and to any underwriter of such Registrable Securities such number of conformed copies of such Registration Statement and of each such amendment and supplement thereto (in each case including all exhibits), such number of copies of the prospectus included in such Registration Statement (including each preliminary prospectus and any summary prospectus), in conformity with the requirements of the Securities Act, such documents incorporated by reference in such Registration Statement or prospectus, and such other documents as the Selling Holders or such underwriter may reasonably request, and a copy of any and all transmittal letters or other correspondence to or received from the SEC or any other governmental agency or self-regulatory body or other body having jurisdiction (including any domestic or foreign securities exchange) relating to such offering;

(iv) after the filing of the Registration Statement, promptly notify each Selling Holder in writing of the effectiveness thereof and of any stop order issued or threatened by the SEC and take all commercially reasonable actions required to prevent the entry of such stop order or to promptly remove it if entered and promptly notify each Selling Holder of such lifting or withdrawal of such order;

(v) use reasonable best efforts to register or qualify all Registrable Securities covered by such Registration Statement under the securities or blue sky laws of such jurisdictions as the Selling Holders or any underwriter of such Registrable Securities shall request, and promptly notify the Selling Holders of the receipt of any notification with respect to the suspension of the qualification of Registrable Securities for sale or offer in any such jurisdiction;

(vi) use reasonable best efforts to obtain all appropriate registrations, permits and consents in connection therewith, and do any and all other acts and things (including, without limitation, reasonable best efforts to promptly remove any such suspension) which may be necessary or advisable to enable the Selling Holders or any such underwriter to consummate the disposition in such jurisdictions of the Registrable Securities covered by such Registration Statement; provided, that the Corporation shall not for any such purpose be required to qualify generally to do business as a foreign corporation in any such jurisdiction

wherein it is not so qualified, to consent to general service of process in any such jurisdiction or to amend its certificate of incorporation or bylaws;

(vii) use its reasonable best efforts to furnish to each Selling Holder and to any underwriter of such Registrable Securities (i) an opinion of counsel for the Corporation addressed to such underwriter and each Selling Holder and dated the date of the closing under the underwriting agreement (if any) (or if such offering is not underwritten, dated the effective date of the registration statement) and (ii) “cold comfort” letters dated as of the effective date of the registration statement and brought down to the date of closing under the underwriting agreement addressed to such underwriter and each Selling Holder and signed by the independent public accountants who have audited the financial statements of the Corporation included in such registration statement, in each such case covering substantially the same matters with respect to such registration statement (and the prospectus included therein) as are customarily covered in opinions of issuer’s counsel and in accountants’ letters delivered to underwriters in connection with the consummation of underwritten public offerings of securities and such other matters as the Selling Holders may reasonably request and, in the case of such accountants’ letter, with respect to events subsequent to the date of such financial statements;

(viii) if requested by the managing underwriter(s), use its reasonable best efforts to list all such Registrable Securities covered by such registration on each securities exchange and automated inter-dealer quotation system on which shares of Common Stock are then listed;

(ix) furnish for delivery in connection with the closing of any offering of Registrable Securities pursuant to a registration effected pursuant to Section 2.01 or 2.02 unlegended certificates representing ownership of the Registrable Securities being sold in such denominations as shall be requested by the Selling Holders or the underwriters;

(x) not later than the effective date of the applicable Registration Statement, provide (A) a transfer agent and registrar (if the Corporation does not already have such an agent), (B) a CUSIP number for all Registrable Securities included in such Registration Statement and (C) the applicable transfer agent with printed certificates for the Registrable Securities which are in a form eligible for deposit with The Depository Trust Company or other applicable clearing agency;

(xi) in the case of an underwritten offering, cause the senior executive officers of the Corporation to participate in the customary “road show” presentations that may be reasonably requested by the managing underwriter or underwriters in any such underwritten offering and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto; and

(xii) otherwise use its reasonable best efforts to comply with all applicable securities laws, including the rules and regulations of the SEC.

(b) If the Corporation has delivered a prospectus to the Selling Holders and after having done so the prospectus is amended to comply with the requirements of the Securities Act, the Corporation shall promptly notify the Selling Holders and, if requested, the Selling Holders shall immediately cease making offers of Registrable Securities and return to the Corporation all prospectuses in their possession. The Corporation shall promptly provide the Selling Holders with revised prospectuses and, following receipt of the revised prospectuses, the Selling Holders shall be free to resume making offers of the Registrable Securities.

(c) In the event that, in the judgment of the Corporation, it is advisable to suspend use of a prospectus included in a Registration Statement due to pending material developments or other events that have not yet been publicly disclosed and as to which the Corporation believes public disclosure would be detrimental to the Corporation, the Corporation shall direct the Selling Holders to discontinue sales of Registrable Securities pursuant to such Registration, and each Selling Holder shall immediately so discontinue, until such Selling Holder has received copies of a supplemented or amended prospectus or until such Selling Holder is advised in writing by the Corporation that the then current prospectus may be used and has received copies of any additional or supplemental filings that are incorporated or deemed incorporated by reference in such prospectus. The Company shall provide the Selling Holders with any such supplemented or amended prospectuses or additional or supplemental filings, as the case may be. Notwithstanding anything to the contrary in this Exhibit D, the Corporation shall not exercise its rights under this Section 2.05(c) to suspend sales of Registrable Securities for a period in excess of 60 days consecutively or 90 days in any 365-day period.

2.06 Underwriting; Due Diligence.

(a) If requested by the underwriters for any underwritten offering of Registrable Securities pursuant to a registration requested under this Section 2, the Corporation shall enter into an underwriting agreement with such underwriters for such offering, which agreement will contain such representations and warranties and covenants by the Corporation and such other terms and provisions as are customarily contained in underwriting agreements with respect to secondary distributions, including indemnification and contribution provisions substantially to the effect and to the extent provided in Section 2.07, and agreements as to the provision of opinions of counsel and accountants' letters to the effect and to the extent provided in Section 2.05(a)(vii). The Selling Holders on whose behalf the Registrable Securities are to be distributed by such underwriters shall be parties to any such underwriting agreement, which shall also contain such representations and warranties by such Selling Holders and such other terms and provisions as are customarily contained in underwriting agreements with respect to secondary distributions on the part of selling shareholders, including indemnification and contribution provisions substantially to the effect and to the extent provided in Section 2.07. All of the representations and warranties by, and the other agreements on the part of, the Corporation to and for the benefit of the underwriters included in each such underwriting agreement shall also be made to and for the benefit of such Selling Holders and any or all of the conditions precedent to the obligations of such underwriters under such underwriting agreement shall be conditions precedent to the obligations of such Selling Holders. No Selling Holder shall be required in any

such underwriting agreement to make any representations or warranties to or agreements with the Corporation or the underwriters other than representations, warranties or agreements regarding such Selling Holder, such Selling Holder's Registrable Securities, such Selling Holder's intended method of distribution and any other representations required by law or reasonably required by the underwriters.

(b) In connection with the preparation and filing of each Registration Statement registering Registrable Securities under the Securities Act pursuant to this Section 2, but not during any suspension period pursuant to Section 2.01(d) and Section 2.05(c), the Corporation shall give the Selling Holders and the underwriters, if any, and their respective counsel and accountants such reasonable and customary access to its books, records and properties and such opportunities to discuss the business and affairs of the Corporation with its officers and the independent public accountants who have certified the financial statements of the Corporation as shall be necessary, in the opinion of such Holders and such underwriters or their respective counsel, to conduct a reasonable investigation within the meaning of the Securities Act; provided, that such Holders and the underwriters and their respective counsel and accountants shall use their reasonable best efforts to coordinate any such investigation of the books, records and properties of the Corporation.

2.07 Indemnification and Contribution.

(a) Corporation's Indemnification Obligations. To the fullest extent permitted by law, the Corporation agrees to indemnify and hold harmless each Selling Holder, all Affiliates of each Selling Holder, and each of their respective directors, officers, members, managers, partners, employees, stockholders, agents and advisors and each Person, if any, who controls each Selling Holder within the meaning of Section 15 of the Securities Act (collectively, the "Selling Holder Indemnified Persons"), from and against any and all losses, claims, damages and liabilities (including any legal or other costs, fees and expenses reasonably incurred in connection with defending or investigating any such action or claim) insofar as such losses, claims, damages or liabilities are caused by any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or any amendment thereof, any free writing prospectus, any preliminary prospectus or prospectus (as amended or supplemented) relating to the Registrable Securities, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities (i) relate to a transaction or sale made by a Selling Holder in violation of Section 2.05(c) or (ii) are caused by any such untrue statement or omission or alleged untrue statement or omission which is based upon and in conformity with information relating to a Selling Holder which is furnished to the Corporation in writing by such Selling Holder Indemnified Person expressly for use therein; provided, that clause (ii) shall not apply to the extent that the Selling Holder has furnished in writing to the Corporation prior to the filing of any such Registration Statement, amendment thereof, free writing prospectus, preliminary prospectus, prospectus or amendment of supplement information expressly for use in such Registration Statement, amendment thereof, free writing prospectus, preliminary prospectus, prospectus or amendment of supplement which corrected or made not misleading information previously furnished to the Corporation, and the Corporation failed to include such information therein.

(b) To the fullest extent permitted by law, each Selling Holder agrees to indemnify and hold harmless the Corporation, all Affiliates of the Corporation, each of their respective directors, officers, members, managers, partners, employees, stockholders, agents and advisors and each Person, if any, who controls the Corporation within the meaning of Section 15 of the Securities Act (collectively, the “Corporation Indemnified Persons”), from and against any and all losses, claims, damages and liabilities (including any legal or other costs, fees and expenses reasonably incurred in connection with defending or investigating any such action or claim) insofar as such losses, claims, damages or liabilities are caused by any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or any amendment thereof, any free writing prospectus, preliminary prospectus or prospectus (as amended or supplemented if the Corporation shall have furnished any amendments or supplements thereto) relating to the Registrable Securities, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, but only with reference to information relating to such Selling Holder furnished in writing by or on behalf of such Selling Holder expressly for use in a Registration Statement, any free writing prospectus, preliminary prospectus, prospectus or any amendments or supplements thereto; provided, that such Selling Holder shall not be liable in any such case to the extent that the Selling Holder has furnished in writing to the Corporation prior to the filing of any such Registration Statement, free writing prospectus, preliminary prospectus, prospectus or amendment of supplement information expressly for use in such Registration Statement, preliminary prospectus, prospectus or amendment of supplement which corrected or made not misleading information previously furnished to the Corporation, and the Corporation failed to include such information therein. Notwithstanding any other provision of this Section 2.07, each Selling Holder’s obligations to indemnify pursuant to this Section are several, and not joint and several, and no Selling Holder’s obligations to indemnify pursuant to this Section 2.07 in connection with any given registration shall exceed the amount of net proceeds received by such Selling Holder in connection with the offering of its Registrable Securities under such registration.

(c) Each party indemnified under paragraph (a) or (b) above shall, promptly after receipt of notice of a claim or action against such indemnified party in respect of which indemnity may be sought hereunder, notify the indemnifying party in writing of the claim or action and the indemnifying party shall assume the defense thereof, including the employment of counsel reasonably satisfactory to such indemnified party, and shall assume the payment of all fees and expenses; provided, that the failure of any indemnified party so to notify the indemnifying party shall not relieve the indemnifying party of its obligations hereunder except to the extent that the indemnifying party is materially prejudiced by such failure to notify. In any such action, any indemnified party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the sole expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel or (ii) in the reasonable judgment of such indemnified party representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them, in which case the fees and expenses of such counsel shall be at the sole expense of the indemnifying party. It is understood that the indemnifying party shall not, other than as provided in the preceding sentence, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) at any time for all such indemnified parties, and that all such fees and expenses shall be reimbursed as they are incurred.

In the case of any such additional separate firm for the Holders as indemnified parties, such firm shall be designated in writing by the indemnified party that had the largest number of Registrable Securities included in such registration. The indemnifying party shall not be liable for any settlement of any claim or action effected without its written consent, which consent shall not be unreasonably withheld or delayed, but if settled with such consent, or if there be a final judgment for the plaintiff, the indemnifying party shall indemnify and hold harmless such indemnified parties from and against any loss or liability (to the extent stated above) by reason of such settlement or judgment. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened claim or action in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability arising out of such proceeding and imposes no obligations on such indemnified party other than the payment of monetary damages (which damages will be paid by the indemnifying party hereunder).

(d) If the indemnification provided for in this Section 2.07 shall for any reason be unavailable (other than in accordance with its terms) to an indemnified party in respect of any loss, liability, cost, claim or damage referred to therein, then the indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by the indemnified party as a result of such loss, liability, cost, claim or damage in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the indemnified party on the other. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. Notwithstanding anything in this Section 2.07(d) to the contrary, no indemnifying party (other than the Corporation) shall be required pursuant to this Section 2.07(d) to contribute any amount in excess of the amount by which the net proceeds received by such indemnifying party from the sale of Registrable Securities in the offering to which the loss, liability, cost, claim or damage of the indemnified parties relates exceeds the amount of any damages which such indemnifying party has otherwise been required to pay by reason of such untrue statement or omission. The parties to this Exhibit D agree that it would not be just and equitable if contribution pursuant to this Section 2.07(d) were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. If indemnification is available under this Section 2.07, the indemnifying parties shall indemnify each indemnified party to the full extent permitted by applicable law and provided in Sections 2.07(a) and 2.07(b) hereof without regard to the relative fault of said indemnifying parties or indemnified party.

(e) Indemnification and contribution similar to that specified in the preceding paragraphs of this Section 2.07 (with appropriate modifications) shall be given by the Corporation, the Selling Holders and the underwriters with respect to any required registration or other qualification of securities under any state law or regulation or governmental authority.

(f) The obligations of the parties under this Section 2.07 shall be in addition to any liability which any party may otherwise have to any other party.

(g) The rights and obligations of the Corporation and the Selling Holders under this Section 2.07 shall survive the termination of this Exhibit D.

2.08 Rule 144. The Corporation covenants that as soon as practicable after the Initial Public Offering Date, it will file the reports required to be filed by it under the Securities Act and the United States Securities Exchange Act of 1934, as amended, and in each case the rules and regulations adopted by the SEC thereunder (or, if the Corporation is not required to file such reports, it will, upon the request of any Holder, make publicly available other information so long as necessary to permit sales pursuant to Rule 144 under the Securities Act), and it will take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 under the Securities Act, as such Rules may be amended from time to time, or (ii) any similar rule or regulation hereafter adopted by the SEC.

2.09 Transfer of Registration Rights. Prior to an Initial Public Offering, the registration rights of any Initial Member with respect to Registrable Securities may be Transferred to any Permitted Transferee of such Member who has been admitted to the Company as a Member and has complied with Section 6.6(c) of the Agreement. After the Initial Public Offering, the registration rights of any Holder under this Agreement with respect to Registrable Securities may be Transferred to any transferee of such Registrable Securities (a “Transferee Holder”, and together with a Permitted Transferee, a “Permitted Assignees”); provided, that (i) the Transferring Holder shall give the Corporation notice at or prior to the time of such Transfer stating the name and address of the transferee and identifying the securities with respect to which the rights under this Exhibit D are to be Transferred, and (ii) such transferee shall agree in writing, in form and substance reasonably satisfactory to the Corporation, to be bound as a Holder by the provisions of this Exhibit D. Each Holder and its Affiliates and their Permitted Assignees shall collectively have that number of demand registration rights pursuant to Section 2.01(b) that such Member has individually pursuant to Section 2.01(b). Any Transfer of Registrable Securities other than as set forth in this Section 2.09 shall cause such Registrable Securities to lose such status.

2.10 Holdback Agreement. To the fullest extent permitted by law, each Holder, if requested by the Corporation and the managing underwriter of securities of the Corporation in connection with the Initial Public Offering, agrees to enter into an agreement consistent with then market practice for major bracket underwriters (a “Lock-up Agreement”) not to sell or otherwise transfer or dispose of any shares of Common Stock (other than in connection with such Holder’s registration rights hereunder) for such period of time (not to exceed 180 days for the Initial Public Offering and not to exceed 90 days for any other underwritten public offering) following the effective date of a Registration Statement of the Corporation filed under the Securities Act (the “Lock-up Period”), provided, (i) that in the case of each Initial Member (and its Affiliates and permitted assignees), such restrictions shall only apply to shares of Common Stock acquired by such Initial Member (or its Affiliates or Permitted Assigns) pursuant to any Conversion; (ii) that such Lock-up Agreement shall also bind the executive officers, directors,

and other holders of at least five percent of the outstanding equity interests of the Corporation, on terms and conditions substantially similar to those which shall apply to the Holders; and (iii) that such Lock-up Agreement shall provide that if the managing underwriter(s) releases from the lock-up restrictions described in this Section 2.10 any Holder prior to the expiration of the Lock-up Period with respect to all or a percentage of the Common Stock held by such Holder, that all other Holders subject to the lock-up shall be released from such lock-up restrictions to the same extent and on the same terms and conditions. Notwithstanding anything to the contrary in this Section 2.10, none of the provisions or restrictions set forth in Section 2.10 shall in any way limit any Initial Member or any Affiliate thereof from engaging in any brokerage, investment advisory, financial advisory, anti-raid advisory, principaling, merger advisory, financing, asset management, trading, market making, arbitrage, investment activity and other similar activities conducted in the ordinary course of its business.

2.11 Termination. All of the Corporation's obligations to register Registrable Securities under Section 2 with respect to a Holder shall terminate upon the earlier of (a) the date on which such Holder holds no Registrable Securities, or (b) the consummation of any transaction pursuant to Section 7.7(b)(7) of the Agreement.

3. Miscellaneous

3.01 Consents to Amendments. No amendment, modification or waiver in respect of the terms of this Exhibit D shall be effective unless it shall be in writing and signed by the Company or the Corporation, as the case may be, and each Initial Member.

3.02 Provisions from the Agreement. For the sake of clarity, Sections 15.5, 15.6, 15.7, 15.8, 15.9, and 15.10 of the Agreement, shall apply to this Exhibit D as if set forth herein in full.

3.03 No Third Party Beneficiaries. This Exhibit D shall be binding upon and inure solely to the benefit of the Company and the Corporation, as the case may be, and the Holders and their permitted assigns, and nothing in this Exhibit D, express or implied, other than Section 2.07 (which is expressly for the benefit of the Selling Holder Indemnified Persons and Corporation Indemnified Persons and may be enforced by them), is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever.

3.04 Entire Agreement. The terms set forth in this Exhibit D constitute the entire agreement of the Company or the Corporation, as the case may be, and the Initial Members with respect to the subject matter of this Exhibit D and supersedes all prior agreements and understandings relating to such subject matter.

**Exhibit E
Managers**

Name of Manager	Manager Designator
William O'Brien	Chief Executive Officer
Thomas Ascher	International Securities Exchange Holdings, Inc.
Gary Katz	International Securities Exchange Holdings, Inc.
Michael Simon	International Securities Exchange Holdings, Inc.
Andrew Kolinsky	Citadel Derivatives Trading Ltd.
Martin Mannion	Citadel Derivatives Trading Ltd.
Gregory Tusar	The Goldman Sachs Group, Inc.
Rishi Nangalia	The Goldman Sachs Group, Inc.
Leonard Amoruso	Knight Capital Holdings LLC
James Smyth	Knight Capital Holdings LLC
J. Anthony Baumer	ISE Stock Exchange Consortium Members

Exhibit F
Effective Date Officers

Chief Executive Officer: William O'Brien

Secretary: Eric W. Hess

Treasurer and Chief Financial Officer: Glenn Badach

Exhibit G
Approval Matrix for Transfers and Issuances

Period Until Two Year Anniversary of Merger Date		Period On or After Two Year Anniversary of Merger Date	
Action	Approval	Action	Approval
Issuance of Units of the Company other than to a Strategic Investor	Majority of the Board and majority of Initial Members (including ISE Holdings)	Issuance of Units of the Company	Majority of the Board and majority of Members
Issuance of Units of the Company to a Strategic Investor representing up to 15% of the Units outstanding on the Effective Date (together with Transfers to Strategic Investors)	Majority of the Board and majority of Initial Members	Transfer of Units of the Company (other than to certain affiliates) representing less than 50% of the Percentage Interests	Majority of the Board
Transfer of Units of the Company (other than to certain affiliates or Strategic Investors)	Majority of the Board and majority of Initial Members (including ISE Holdings)	Transfer of Units of the Company (other than to certain affiliates) representing greater than 50% of the Percentage Interests	Majority of the Board and majority of Members
Transfer of Units of the Company to a Strategic Investor representing up to 15% of the Units outstanding on the Effective Date (together with issuances to Strategic Investors)	Majority of the Board and majority of Initial Members		
Transfer of Units of the Company to certain affiliates	No approval required		

Schedule A

**ACKNOWLEDGMENT OF FIFTH AMENDED AND RESTATED LIMITED
LIABILITY COMPANY OPERATING AGREEMENT OF
DIRECT EDGE HOLDINGS LLC**

The undersigned hereby acknowledges the terms of the Fifth Amended and Restated Limited Liability Company Operating Agreement of Direct Edge Holdings LLC, a Delaware limited liability company, dated as of July 12, 2010, and agrees to act as a manager thereunder.

Name: