EXHIBIT B-1

THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF NEW YORK PORTFOLIO CLEARING, LLC

This **THIRD AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF NEW YORK PORTFOLIO CLEARING, LLC,** a Delaware limited liability company (the "Company"), is made as of April 16, 2010, between The Depository Trust & Clearing Corporation, a New York corporation (the "DTCC Member") and NYSE Euronext, a Delaware corporation (the "NYSE Member" and, together with DTCC Member, the "Founding Members").

RECITALS

A. On July 15, 2009, the Company was formed as a limited liability company pursuant to (x) the Delaware Limited Liability Company Act, Del. Code Ann. tit. 6 §§ 18-101 et seq. (as amended, and including any successor statute of similar import, the "Act") and (y) a Certificate of Formation filed with the office of the Secretary of State of the State of Delaware (the "Certificate"), at which time the DTCC Member, the Company's then-sole member, entered into a Limited Liability Company Agreement (the "Original LLC Agreement");

B. On September 4, 2009, the Original LLC Agreement was amended and restated in that certain Amended and Restated Limited Liability Company Agreement of the Company (the "First Amended LLC Agreement") to accommodate the admission of the NYSE Member;

C. On March 16, 2010, the First Amended LLC Agreement was amended and restated in that certain Second Amended and Restated Limited Liability Company Agreement of the Company (the "Second Amended LLC Agreement"); and

D. The Company and Founding Members desire to enter into this Agreement, which Agreement shall amend and restate the Second Amended LLC Agreement in its entirety and constitute the limited liability company agreement of the Company under the Act for the purpose of setting forth the agreements of the Members as to the affairs of the Company and the conduct of its business.

NOW, THEREFORE, the Founding Members (and other Persons as shall become members of the Company after the date hereof in accordance with the terms of this Agreement) hereby enter into this Third Amended and Restated Limited Liability Company Agreement of the Company and agree as follows:

ARTICLE I

DEFINITIONS

1.1 Specific Definitions. The following terms, as used in this Agreement, have the following meanings:

"Accounting Period" means the period beginning on the day following any Adjustment Date (or, in the case of the first Accounting Period, beginning on the date hereof) and ending on the next succeeding Adjustment Date.

"Act" has the meaning defined in Recital A.

"Additional Capital Contribution" has the meaning defined in Section 4.2(b).

"Additional Members" has the meaning defined in Section 8.2.

"Adjustment Date" means (i) the last day of each Fiscal Year, (ii) the day before the date of admission of any substituted or additional Member, (iii) the day before the date of any change in the Members' Interests, (iv) the day before any adjustment made pursuant to Section 4.2, Section 4.3(b) or Section 5.3 or (v) any other date determined by the Board as appropriate for a closing of the Company's books.

"Affiliate" means, with respect to a specified Person, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the specified Person. "control" (and variations thereof) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise, *provided*, that, for purposes of this Agreement, except as otherwise expressly provided for herein, the Company shall not be deemed to be an Affiliate of any Member; *provided further*, that no member or shareholder of a Member shall be deemed an Affiliate of any Member or the Company. For purposes of this Agreement and for the avoidance of doubt, Liffe shall be considered a controlled Affiliate of NYSE.

"Agency", when used in reference to an issuer of securities, means a U.S. government agency or instrumentality or a U.S. government-sponsored enterprise.

"Agreement" means this Third Amended and Restated Limited Liability Company Agreement of New York Portfolio Clearing, LLC, including the Exhibits hereto, as amended from time to time in accordance herewith.

"Appraiser" has the meaning defined in Section 8.6(a)(iii).

"Available Cash" means, as of any date (other than any date during which the Company is in dissolution), the excess of the Company's cash or cash equivalents over the sum of (x) amounts reserved in the then-current Business Plan for payment of expenses, liabilities and obligations (whether fixed or contingent), and (y) appropriate reserves established by the Board for expenses, liabilities and obligations that may arise, including the maintenance of adequate working capital for the continued conduct of the Company's business, *provided* that such reserves shall not be used in the event of a sale of all or substantially all of the assets of the Company.

"Bankruptcy" means, with respect to any Person, any event or occurrence described in clauses (1)a. through (1)f. and (2) of Section 18-304 of the Act.

"Board" has the meaning defined in Section 3.1.

"Book Gain" or "Book Loss" means the gain or loss, as the case may be, recognized by the Company for book purposes in any Accounting Period by reason of any sale or disposition of any of the assets of the Company, computed by reference to the Net Book Value of such assets as of the date of such sale or disposition, rather than by reference to the tax basis of such assets as of such date, and each reference herein to "gain" or "loss" shall be deemed to refer to Book Gain or Book Loss, rather than to tax gain or tax loss, unless the context specifically requires otherwise.

"Business" has the meaning defined in Section 2.3.

"Business Day" means any day other than a Saturday or a Sunday or a day on which bank institutions in the City of New York are authorized or required to close.

"Capital Account" has the meaning defined in Section 4.3(a).

"Capital Contribution" means, with respect to any Member, the amount of capital contributed by such Member to the Company.

"CEO" means the chief executive officer of the Company.

"Certificate" has the meaning defined in Recital A.

"CFTC" has the meaning defined in Section 2.3.

"Clearing Services Agreement" means the clearing services agreement between Liffe and the Company dated on or prior to the Outside Date.

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

"Commodity Exchange Act" means the Commodity Exchange Act, 7 U.S.C. § 1 et. seq., as in effect on the date hereof.

"Company" has the meaning defined in the Preamble.

"Company Shortfall" has the meaning defined in Section 4.2(a).

"Core Products" means U.S. Treasury, Agency and Agency mortgage-backed securities, and repurchase agreements and reverse repurchase agreements thereon.

"Covered Person" has the meaning defined in Section 7.4(f).

"Cross-Guarantees" means the agreements between the Company, FICC and certain of DTCC's other operating subsidiaries, dated on or prior to the Outside Date, providing for a limited guaranty of the obligations of an entity that is a member of more than one signatory clearing organization and applicable in the event of a default of such Member to one or more such clearing organizations.

"Cross-Margining Agreement" means the agreement between the Company and FICC, dated on or prior to the Outside Date, whereby joint clearing members (and pairs of affiliated clearing members), having deposited margin collateral and pledged positions in futures contracts and options on futures contracts and positions in interest rate instruments (including repurchase agreements and reverse repurchase agreements) that are cleared by the Company and FICC, respectively, elect to have the positions that are cleared by the Company and FICC combined and margined as a single account based upon the net risk presented by the contracts carried in the clearing member's (or pair of affiliated clearing members') accounts at the Company and FICC.

"Deadlock" has the meaning defined in Section 3.9(a).

"Defaulting Member" has the meaning defined in Section 8.4(a).

"Deficit" has the meaning defined in Section 5.2(c)(i).

"Depreciation" means, for any Accounting Period and with respect to any asset, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to such asset for such period for United States federal income tax purposes, *provided* that if the Net Book Value of an asset differs from its adjusted basis for United States federal income tax purposes at the beginning of any such period, Depreciation shall be an amount that bears the same relationship to the Net Book Value of such asset as the depreciation, amortization, or other cost recovery deduction computed for tax purposes with respect to such asset for the applicable period bears to the adjusted tax basis of such asset at the beginning of such period, or if such asset has a zero

adjusted tax basis, Depreciation shall be an amount determined under any reasonable method selected by the Members.

"Designated Executive" has the meaning defined in Section 3.9(a)(i).

"DGCL" means the General Corporation Law of the State of Delaware (8 Del. C. § 101, et seq.), as amended from time to time and any successor statute thereto.

"Director" has the meaning defined in Section 3.2(a).

"DTCC Directors" has the meaning defined in Section 3.2(a).

"DTCC Interim Directors" has the meaning defined in Section 12.5.

"DTCC Member" has the meaning defined in the Preamble.

"Effective Time" has the meaning defined in Section 12.1

"Event of Default" has the meaning defined in Section 8.4(a).

"Executive Officer" has the meaning defined in Section 3.5(a).

"Fair Market Value" has the meaning defined in Section 8.6(a).

"FICC" means the Fixed Income Clearing Corporation, a New York corporation and wholly owned Subsidiary of DTCC.

"Financial Information" has the meaning defined in Section 8.6(a)(ii).

"First Amended LLC Agreement" has the meaning defined in Recital B.

"Fiscal Year" has the meaning defined in Section 2.7.

"Founding Members" has the meaning defined in the Preamble.

"GAAP" means U.S. generally accepted accounting principles, consistently applied.

"Governmental Authority" means any nation or government or multinational body, any state, agency, commission or other political subdivision thereof or any entity (including a court) exercising executive, legislative, judicial or administrative functions of or pertaining to government.

"Higher Appraised Amount" has the meaning defined in Section 8.6(a)(iii).

"Indemnitee" has the meaning defined in Section 7.4(c).

"Independent Appraised Amount" has the meaning defined in Section 8.6(a)(iii).

"Independent Appraiser" has the meaning defined in Section 8.6(a)(ii).

"Independent Directors" has the meaning defined in Section 3.2(a).

"Initial Capital Contributions" has the meaning defined in Section 4.1.

"Initiation Date" has the meaning defined in Section 8.6(a)(i).

"Interest", with respect to any Member, as of any determination date, means such Member's "limited liability company interest" (as defined in the Act) in the Company and such Member's rights and obligations with respect to the Company pursuant to this Agreement and applicable Law.

"Interim Board" has the meaning defined in Section 12.5.

"Interim Contribution" has the meaning defined in Section 4.2(a).

"Interim Director" has the meaning defined in Section 12.5.

"Interim Member Directors" has the meaning defined in Section 12.5.

"Law" means rule, regulation, statute, order, ordinance, guideline, code or other legally enforceable requirement, including, but not limited to, common law, state and federal laws, laws of foreign jurisdictions and regulatory requirements.

"Letter Agreement" means the letter agreement between The Depository Trust & Clearing Corporation and NYSE Euronext dated June 17, 2009.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), other charge or security interest; or any preference, priority or other agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, or any capital lease having substantially the same economic effect as any of the foregoing).

"Liffe" means NYSE Liffe US LLC.

"Losses" has the meaning defined in Section 7.4(a).

"Lower Appraised Amount" has the meaning defined in Section 8.6(a)(iii).

"Market" means any trading facility or organized exchange, as such terms are defined in the Commodity Exchange Act, except the term "trading facility" shall include the entities otherwise excluded by Section 1a(34)(B) of the Commodity Exchange Act.

"Master Services Agreements" means, collectively,

(i) both an NYSE Master Services Agreement and Software License Agreement, each between Liffe and the Company, pursuant to each of which Liffe and its Affiliates will provide to the Company a variety of information technology services supporting the development and operation of the Company, together with a license to certain intellectual property, including for the avoidance of doubt:

(a) an irrevocable royalty-free license from Liffe or its Affiliate to the Company to use CPS in the Company's operations, which license will permit the Company to sublicense CPS to entities clearing through the Company for use in such clearing;

(b) an irrevocable license from Liffe or its Affiliate to the Company to use TRS in the Company's operations, which license will permit the Company to sublicense TRS to those entities clearing through the Company who elect to use TRS for purposes of such clearing, which sublicense will be royalty free to Liffe and its Affiliates and priced at market rates for all others;

(c) managed services for CPS and TRS (at fully loaded cost to Liffe and its Affiliates and at market rates for all others) on terms and conditions to be set forth in the NYSE Master Services Agreement; and

(ii) the DTCC Master Services Agreement, between DTCC and the Company, pursuant to which DTCC and its Affiliates will provide a variety of corporate and information technology services supporting the development and operation of the Company, together with a license to certain software and documentation, including for the avoidance of doubt access to RTTM, Risk, Banking and Reference Data systems for the purpose of the Company interfacing with the services and software described in the NYSE Master Services Agreement.

"Member" means, as of any determination date, a holder of any Interest who is designated as a Member on Exhibit A hereto, as in effect as of such date.

"Member Board" has the meaning defined in Section 3.9(a)(iii).

"Member Director" has the meaning defined in Section 3.2(a).

"Net Book Value" of an asset means, as of any date, the value at which the asset is reflected on the books and records of the Company as of such date in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations, the initial Net Book Value of each

asset being its cost, unless such asset was contributed to the Company by a Member, in which case the initial Net Book Value shall be the amount stated as the fair market value for such asset as determined in the good faith discretion of the Board, in each case, as such Net Book Value shall thereafter be adjusted for Depreciation with respect to such asset (rather than for the cost recovery deductions to which the Company is entitled for United States federal income tax purposes with respect thereto).

"Net Profit" and "Net Loss" mean, for any Accounting Period, the Company's net income or net loss for such Accounting Period, including without limitation any items that are separately stated for purposes of § 702(a) of the Code, as determined in accordance with United States federal income tax accounting principles with the following adjustments:

(i) any income of the Company that is exempt from United States federal income tax shall be included as income;

(ii) any expenditures of the Company described in § 705(a)(2)(B) of the Code or treated as Code § 705(a)(2)(B) expenditures pursuant to Section 1.704-1(b)(2)(iv)*(i)* of the Treasury Regulations, shall be treated as current expenses;

(iii) if any asset of the Company is distributed in kind or if the Net Book Value of the assets of the Company is adjusted pursuant to Section 5.3, the Company shall be deemed to have realized net income or net loss thereon in the same manner as if the Company had sold such asset or assets for an amount equal to the greater of (x) the fair market value of such asset and (y) the amount of any non-recourse indebtedness to which such asset is then subject, in each case as reasonably determined by the Board;

(iv) Book Gain or Book Loss shall be taken into account in lieu of any tax gain or tax loss recognized by the Company;

(v) in lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Accounting Period, computed as provided in this Agreement; and

(vi) any adjustments made pursuant to § 734 or § 743 of the Code shall not be given effect.

"NYSE Directors" has the meaning defined in Section 3.2(a).

"NYSE Interim Directors" has the meaning defined in Section 12.5.

"NYSE Member" has the meaning defined in the Preamble.

"Officers" has the meaning defined in Section 3.5(a).

"Original LLC Agreement" has the meaning defined in Recital A.

"Outside Date" has the meaning defined in Section 12.4.

"Percentage Interest" means, with respect to any Member, as of any determination date, the percentage set forth opposite such Member's name on Exhibit A hereto, as amended from time to time.

"Person" means any individual, entity, corporation, partnership, association, joint-stock company, limited liability company, trust or unincorporated organization.

"Proceeding" has the meaning defined in Section 7.4(f).

"Qualified Firm" has the meaning defined in Section 8.6(a)(ii).

"Rule 144" has the meaning defined in Section 11.2.

"Rules" means the rules of the Company that have been submitted to the CFTC and made effective pursuant to the Commodity Exchange Act and CFTC regulations.

"Second Amended LLC Agreement" has the meaning defined in Recital C.

"Securities Act" means the Securities Act of 1933, as amended.

"Shortfall Notice" has the meaning defined in Section 4.2(a).

"Subsidiary" of any Person means any corporation or other entity of which securities or other ownership interests having the power or ability to elect or designate a majority of the board of directors or other Persons performing similar functions are directly or indirectly owned by such Person.

"Tax Matters Partner" has the meaning defined in Section 6.5(a).

"Term Sheet" has the meaning defined in Section 12.2(b).

"Third Appraiser" has the meaning defined in Section 8.6(a)(iii).

"Transaction Documents" means the Cross-Margining Agreement, the Clearing Services Agreement, the Master Services Agreements, the Cross-Guarantees, the Rules and any other written agreement between or among Members that is specifically designated as a Transaction Document.

"Transfer" means a direct or indirect transfer, sale, assignment, pledge, hypothecation, gift or transfer by operation of Law (other than by way of a merger, consolidation or conversion of the Company) of, creation of a security interest in or Lien on, or any other encumbrance or disposal (directly or indirectly and whether or not voluntary) of, any Interest or beneficial interest therein.

"Treasury Regulations" means the United States federal income tax regulations promulgated under the Code.

"Trustee" has the meaning defined in Section 9.2.

"Unwind Right" has the meaning defined in Section 12.4.

1.2 Terms Generally; Principles of Construction. The definitions given for terms in this Article I and elsewhere in this Agreement shall apply to both the singular and plural forms of the terms defined. Any pronoun shall include the corresponding masculine, feminine and neuter forms. The conjunction "or" shall be understood in its inclusive sense (and/or). The words "hereby", "herein", "hereunder" and words of similar import refer to this Agreement as a whole (including any Exhibits and Schedules hereto) and not merely to the specific section, paragraph or clause in which such word appears. All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require.

ARTICLE II

FORMATION; ORGANIZATION

2.1 Formation. The Company was formed by filing the Certificate with the office of the Secretary of State of the State of Delaware on July 15, 2009.

2.2 Term of the Company. The term of the Company commenced upon filing of the Certificate and shall continue until terminated as provided in Article IX. The existence of the Company as a separate legal entity shall continue until the cancellation of the Certificate as provided in the Act.

2.3 Purpose and Powers.

(a) The purpose and business of the Company is the establishment of a company registered with the Commodity Futures Trading Commission ("CFTC") (including any successor entity thereto) to serve as a derivatives clearing organization and, subject to applicable Law, to engage in such other businesses as the Board may determine (the "Business"); and to engage in any and all activities necessary, desirable or

incidental to the foregoing. Subject to any limitations set forth in this Agreement and applicable Law, the Company shall have the power and authority to take any and all actions that limited liability companies may take under the Act that are necessary, appropriate, incidental or convenient to or for the furtherance of the foregoing purpose.

(b) Except as provided in Section 13.11(a), all agreements and obligations set forth in the Letter Agreement shall expire upon the due execution of the last Transaction Document (it being agreed that for this purpose the Rules shall be deemed duly executed upon the final submission of the Rules to the CFTC). Notwithstanding the foregoing, each Member agrees that the purpose of the restrictions contained in the Letter Agreement is to aid the implementation of the Company's Business but that the ultimate purpose of the Company and the goal of each Member is to expand the Company's Business to new products and new Markets.

2.4 Name and Offices. The Company's name shall be New York Portfolio Clearing, LLC. The principal business office of the Company shall be located at 55 Water Street, New York, New York 10041. The Company shall also have such additional offices as shall be determined, from time to time, by the Board.

2.5 Registered Agent; Registered Office. The Company's registered office and agent for service of process in the State of Delaware shall be Corporation Services Company, 1013 Center Road, in the City of Wilmington, County of New Castle, Delaware 19805, or such other registered agent and or office as the Board may designate from time to time.

2.6 Qualification in Other Jurisdictions. The Board shall cause the Company to be qualified or registered in any jurisdiction in which the Company transacts business and in which such qualification or registration is required by Law or deemed advisable by the Board.

2.7 Fiscal Year. The fiscal and tax year of the Company ("Fiscal Year") shall be the calendar year.

2.8 No State-Law Partnership. The Members intend that the Company not be a partnership (including, but not limited to, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement (except for tax purposes as set forth in the next succeeding sentence of this Section 2.8), and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise. The Members intend that the Company shall be treated as a partnership for federal and, if applicable, state or local income tax purposes, and that each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

ARTICLE III

GOVERNANCE OF COMPANY

3.1 Board of Directors. The business and affairs of the Company shall be managed by or under the direction of the Company's Board of Directors (the "Board") acting pursuant to this Agreement. Except for rights and powers expressly reserved to the Members or delegated to the Officers and except as otherwise provided herein, the Board shall have full power, discretion and authority to make all decisions affecting the business, affairs and properties of the Company and to take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company as set forth herein.

3.2 Designation of Directors; Powers and Procedures.

(a) The Board shall consist of nine individuals (each, a "Director"). Each of the DTCC Member and the NYSE Member shall appoint three Directors (the "DTCC Directors" and the "NYSE Directors", respectively, and collectively the "Member Directors" and each a "Member Director") and one alternate Director. The board may change the number of Directors in its sole discretion; *provided,* that, absent the unanimous consent of the Members, the Board shall not change the proportional representation on the Board of either Founding Member as set forth in the prior sentence. The alternate Director of each Founding Member shall have the power and authority to vote in place of any Director of such Founding Member if one or more of such Founding Member's Directors is not present in person or by proxy at a Board meeting, and in such event any reference herein to a Director shall include his or her alternate Director as appropriate. For purposes of determining whether a quorum is present, an alternate Director shall be included if the Director for which such alternate Director has been appointed shall not be present in person or by proxy. All alternate Directors shall be permitted to be present at any meetings of the Board. The remaining three Directors shall be independent directors as determined by the Founding Members; provided, that in making such determination the Founding Members will consider the New York Stock Exchange and CFTC published requirements for director independence (the "Independent Directors"). Two Independent Directors shall be nominated by the DTCC Directors and one Independent Director shall be nominated by the NYSE Directors. The appointment of each Independent Director shall be subject to the approval of the Founding Member whose Member Directors did not nominate such Independent Director. The initial DTCC Directors, NYSE Directors and alternate Directors shall be as set forth on Exhibit B. In accordance with §§ 18-402 of the Act, the authority to manage the Company shall be vested exclusively in the Board, subject to any delegation thereby to the Officers as provided hereunder or any other delegation contemplated hereby. Directors shall constitute "managers" within the meaning of the Act. Either Founding Member may change any Directors it has appointed or its alternate Director at any time, with or without cause, effective upon written notice to the other Members and the CEO. Any Director

may resign at any time by giving written notice to the Board and the CEO of the Company. Unless otherwise specified therein, such resignation shall take effect upon delivery. Upon removal or resignation, such Director shall cease to be a "manager" within the meaning of the Act. Each Director shall hold office until his or her successor is appointed, or until his or her death, disability, resignation or removal, if earlier. Unless otherwise agreed by the Founding Members, each Member Director and alternate Director shall be an officer or employee of a Founding Member or a controlled Affiliate of a Founding Member (it being understood that, for purposes of this Section 3.2(a), the Company shall be considered an Affiliate of each Member).

(b) Each Director shall be entitled to one vote, in person or by proxy. The presence, in person or by proxy, of a majority of Directors then in office, including at least two DTCC Directors and two NYSE Directors, shall constitute a quorum, *provided* that no Director may refrain from attending a meeting of the Board in order to deny the establishment of a quorum. Any action, determination or judgment taken by the Board shall require the affirmative vote or consent of a majority of the DTCC Directors and a majority of the NYSE Directors present and voting and any action, determination or judgment taken by the Board in respect of risk management, regulatory compliance or similar decisions shall also require the approval of a majority of the Independent Directors present and voting. Subject to Section 3.9, the Directors will attempt to resolve all deadlocks in Board decision-making in good faith.

(c) No Director acting individually in his or her capacity as such, and no Member, acting individually in its capacity as such, shall have any right or authority to act for, to bind, or to otherwise assume any obligation or responsibility on behalf of, the Company, except as specifically authorized in accordance herewith. The Company may only act and bind itself through (i) the collective action of the Directors in accordance with this Agreement or (ii) the action of the Officers if and to the extent authorized by this Agreement or by the Board in accordance with this Agreement.

(d) With respect to any action or determination required to be made or taken by the Board, each Director appointed by a Founding Member may vote (or otherwise grant or withhold his or her approval) and act in the best interests of the Founding Member that designated him or her. No Director appointed by a Founding Member shall be deemed an agent of the Company or any other Member and, to the fullest extent permitted by Law, shall have no duties (fiduciary or otherwise) to the Company or any other Member.

(e) Subject to any future policy adopted by the Board, each Independent Director shall be paid an annual fee of $25,000 for the discharge of his or her duties as a Director under this Agreement. Reasonable out-of-pocket expenses incurred by a Director in connection with attendance at meetings of the Board shall be reimbursed by the Company.

3.3 Meetings of the Board; Action by Written Consent; Committees

(a) The Board shall meet at least quarterly at such time and place as shall be reasonably satisfactory to the Directors. In addition, any Director may call a meeting on 10-days notice, either personally, by telephone, by facsimile or by any other similarly timely means of communication, at such time and place as shall be determined by him or her. Each of the CEO and any Founding Member may call a meeting of the Board on twenty-four (24) hours notice to each Director and alternate Director, either personally, by telephone, by facsimile or by any other similarly timely means of communication, at such time and place as shall be determined by him or her. Notice of any meeting of the Board shall include a statement of the proposed agenda in reasonable detail. Notice of any meeting may be waived by unanimous written consent of all Directors (including alternate Directors). Directors and alternate Directors may participate in any meeting of the Board by means of teleconference or such other means of communications permitted under the Act, and such participation shall constitute such Director's or alternate Director's presence in person at such meeting. Attendance (in person, telephonically, by video or by proxy) of a Director or alternate Director at a meeting shall constitute a waiver by such person of notice of such meeting, except when such person attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not called or convened in accordance with this Agreement.

(b) The Board shall appoint an individual to serve as the Company's chairman of the Board for a one-year term. The initial chairman of the Board shall be chosen from among the DTCC Directors, the one-year term of such DTCC Director as initial chairman shall be deemed an "odd year," at the expiration of the initial chairman's term the chairman shall be chosen from among the NYSE Directors, the one-year term of such NYSE Director shall be deemed an "even year," and thereafter the chairman shall be chosen from among the DTCC Directors to serve during succeeding "odd years" and from among the NYSE Directors to serve during succeeding "even years." Any person whom the chairperson may appoint shall keep minutes of each meeting which shall reflect all actions taken by the Board thereat. The Board may establish other provisions and procedures relating to the governance of its meetings that are not in conflict with the terms of this Agreement.

(c) Notwithstanding the foregoing, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if a consent or consents in writing, setting forth the action to be taken, shall be signed by the Directors or alternate Directors having not less than the minimum number of votes that would be required to authorize or take such action at a meeting at which all Directors entitled to vote thereon were present and voted and such consent or consents are filed with the minutes of proceedings of the Board. A copy of any such written consent shall be send to each Director who did not sign such consent.

(d) The Board shall designate each of an Executive Committee, Risk Committee and Regulatory Oversight and Audit Committee and may, by resolution, designate one or more additional committees. Such resolution shall specify the duties, quorum requirements and qualifications of the members of such additional committees, each such committee to consist of such number of Directors and other Persons (on an ex-officio basis) as the Board may fix from time to time. The Board shall approve the initial charter of each committee designated by the Board, together with any material amendments or modifications thereto. Alternate members of any committee shall be designated in accordance with the charter of such committee. Any such committee to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. Each committee shall keep regular minutes of its meetings and report the same to the Board when required. The Executive Committee, Regulatory Oversight and Audit Committee and Risk Committee shall each be comprised of such number of persons as may be designated by the Board.

3.4 Business Plan. Beginning on January 1, 2011, no later than 30 days prior to the end of each Fiscal Year, management of the Company shall develop and submit to the Board for adoption a business plan and operating budget for the following Fiscal Year. Each such business plan shall specify in reasonable detail planned operating and capital expenditures prepared on a basis consistent with the Company financial statements and GAAP. Each business plan and operating budget referred to in this Section 3.4 or in Section 12.2(c), when duly adopted, is referred to herein as a "Business Plan". If, prior to December 31st of any year, the Board is not able to adopt a Business Plan for the following Fiscal Year, the then-current Business Plan shall remain in effect (with such adjustments as are necessary to comply with existing contractual obligations) for such Fiscal Year, except that a 5% across-the-board increase shall be applied to the then-current operating budget.

3.5 Officers.

(a) The principal officers of the Company shall be the CEO, the chief operating officer and chief risk officer (each such Person being dedicated to and hereinafter referred to as an "Executive Officer"). The Company may have such other subordinate officers as the CEO may deem necessary (such subordinate officers and the Executive Officers, collectively, the "Officers"). Officers may be full-time employees of the Company or be fully or partially seconded by one of the Founding Members or an Affiliate thereof. Except as otherwise provided herein, each of the Officers shall have such powers and duties as are incident to the comparable office of a corporation organized under the DGCL and such other duties and powers as may from time to time be conferred upon or assigned to such Officer by or pursuant to authority delegated by the

Board. One person may hold the offices and perform the duties of any two or more of such offices.

(b) Each Officer shall serve until the earliest of his or her death, resignation or removal by the Board, which may appoint additional or substitute Officers at any time, *provided* that the Executive Officers may be removed (and appointed) only by the Board in accordance with this Agreement. Any Officer may resign at any time by giving written notice to the Company. The resignation of any Officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(c) Without limiting the scope of the fiduciary and other duties of Officers of the Company to the Company and the Members, the Officers of the Company shall act in what they believe in their respective good faith judgment to be the best interests of the Company (as opposed to the interest of any Member individually) and in accordance with this Agreement.

3.6 Executive Officers.

(a) The CEO shall be the senior executive officer of the Company and shall be responsible for the overall leadership and strategic direction of the Company. The CEO shall manage regulatory issues and shall represent the Company in its relationships with the Board, major clients, industry organizations, regulators and key outside parties.

(b) The chief operating officer shall report directly to the CEO and shall be responsible for administering the day-to-day affairs and business of the Company, focusing on the delivery of all clearing, settlement, and product management services to customers and managing vendor relations. The chief operating officer shall advise and counsel the CEO on planning the scope and direction of the Company's operations, and present recommendations for future objectives. As appropriate, the chief operating officer shall represent the Company with clients and industry groups. In the absence of the CEO, the chief operating officer shall perform the CEO's functions under the direction of the Board.

(c) The chief risk officer shall manage all credit and market risk exposure of the Company, including taking a lead role in determining applicable best practices. The chief risk officer shall function as the lead risk professional in responding to regulatory reviews and shall act as the Staff Liaison with respect to the Risk Committee of the Board. The chief risk officer shall update the CEO regarding regulatory and risk developments.

3.7 Execution of Contracts. Unless otherwise expressly provided in this Agreement or as established in any policy adopted by the Board, each Officer shall have the authority to sign, in the name and on behalf of the Company, checks, orders, contracts, documents or other instruments made or entered into in the ordinary course of the business of the Company. In addition to the authority afforded the CEO pursuant to Section 3.6(a), contracts, documents or other instruments that require the signature of the Company and that have been authorized under this Agreement or by the Board may be signed by any Executive Officer or other Officer authorized to sign pursuant to a resolution of the Board.

3.8 Officers as Agents; Reliance by Third Parties.

(a) The Officers, to the extent of their powers set forth in this Agreement or in a resolution of the Board, 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.

(b) Any Person dealing with the Company may rely upon a certificate signed by any Officer as to:

(i) the identity of any Member, Director or Officer;

(ii) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by any Member, the Board or Officers or in any other manner germane to the affairs of the Company;

(iii) the Persons who are authorized to execute and deliver any instrument or document of or on behalf of the Company;

(iv) the authenticity of any copy of this Agreement and amendments hereto;

(v) any act or failure to act by the Company or as to any other matter whatsoever involving the Company or, solely with respect to the activities of the Company, any Member; and

(vi) the authority of the Board, any Officer, any employee or agent of the Company, or the Tax Matters Partner.

3.9 Deadlock.

(a) So long as there are only two Members and each Member holds, of record or beneficially through one or more controlled Affiliates, 50% of the aggregate Percentage Interests, if any action requiring a determination by the Board is proposed in

good faith, and the Directors are unable to reach agreement on such proposed action at two successive meetings of the Board (including as a result of the failure by any Director to attend any meeting of the Board), in the case of any action to be taken by the Directors, then such matter (a "Deadlock") shall be addressed in accordance with this Section 3.9.

(i) A Deadlock may be referred by either Member for resolution to the chief executive officer of each Member (each such officer, a "Designated Executive"). The Designated Executives shall meet within 10 days after such referral to discuss the Deadlock and shall attempt in good faith to resolve the dispute. If the Designated Executives reach agreement with respect to the Deadlock, they shall jointly so notify the Board and the Members, and such agreement shall be implemented by the Board.

(ii) If the Designated Executives are unable to resolve such Deadlock within 60 days of the last date on which their meeting should have occurred, either Member may submit such Deadlock to the Independent Directors for non-binding mediation.

(iii) If the Members fail to resolve such Deadlock within 20 days of the date on which such Deadlock was submitted to non-binding mediation with the Independent Directors, then the Deadlock may be referred by either Member for resolution to the board of directors of each Member (each such board, a "Member Board"). The Member Boards shall meet first separately and then together as soon as practicable, but in any event, within 90 days after such referral to discuss the Deadlock and shall attempt in good faith to resolve the dispute. If the Member Boards reach agreement with respect to the Deadlock, they shall jointly so notify the Board and the Members, and such agreement shall be implemented by the Board. If the Member Boards fail to meet within the time period specified above or are unable to reach agreement within 60 days of the last date on which such initial meeting should have occurred, then the Deadlock shall be resubmitted to the Board for reconsideration.

(b) Without prejudice to either Member's remedies under applicable Law, until agreement with respect to a Deadlock is reached (or such Deadlock is otherwise resolved in accordance with this Agreement), the Company shall not implement the actions giving rise to such Deadlock and shall maintain the status quo, in accordance, to the extent commercially practicable, with the Business Plan then in effect (except that a 5% across-the-board increase shall be applied to the then-current operating budget), subject to and as modified by any duly approved Board actions.

(c) For the avoidance of doubt, and notwithstanding anything to the contrary set forth herein, no action or failure to act of any kind by any Designated Executive or any member of any Member Board in connection with this Section 3.9 shall result in any

liability on the part of any such Person, or any of their respective Affiliates, heirs, successors, assigns, agents and representatives, to the Company or its Members.

ARTICLE IV

CAPITAL CONTRIBUTIONS

4.1 Initial Capital Contributions. As of the date hereof, each Founding Member has contributed to the Company the cash and property set forth opposite such Founding Member's name on Exhibit A (together, the "Initial Capital Contributions") in accordance with this Agreement in exchange for the respective Percentage Interest set forth opposite such Founding Member's name on Exhibit A.

4.2 Additional Capital Contributions.

(a) Founder Member Capital Contributions to Provide Incremental Working Capital. The Company may, from time to time, deliver one or more written notices to the Founding Members (each, a "Shortfall Notice") at such times as the Company determines that its current balance of available cash is reasonably likely to fall below an amount equal to the good faith estimate of the Board of six months of operating cash requirements within thirty (30) days following the delivery of such Shortfall Notice (a "Company Shortfall"). Each Shortfall Notice shall include a dollar amount for an additional capital contribution (the "Interim Contribution") to be made by the Founding Members to the Company in an amount reasonably expected to prevent a Company Shortfall from occurring within such thirty (30) day period; provided, that the aggregate of all Initial Capital Contributions and Interim Contributions shall not exceed $30,000,000. Promptly, but in any event no later than ten (10) days following the delivery of a Shortfall Notice, each Founding Member shall contribute, by wire transfer of immediately available funds, an amount equal to one-half of the Interim Contribution set forth in such Shortfall Notice, to such account or accounts as the Company may designate.

(b) Additional Capital Contributions. The Members may from time to time be required to make additional capital contributions to the Company (each, an "Additional Capital Contribution") at such time and in such amounts as determined by the Board, in the event that (x) the Board has approved such Additional Capital Contribution, (y) the Board determines that an Additional Capital Contribution is required in order for the Company to maintain its status as a derivatives clearing organization or to satisfy any other regulatory obligation and the Company, after using commercially reasonable efforts, shall have failed to cause such Governmental Authority to waive, amend or rescind such regulatory obligation or (z) the Board determines that an Additional Capital Contribution is required in order to ensure an orderly winding down of the Company's clearing operations in the event of a closure of such operations; *provided*, that such

Additional Capital Contributions shall be made pro rata in proportion to the Members' respective Percentage Interests. All Additional Capital Contributions shall be (i) in cash, or (ii) if approved by the Board, in other assets or properties at the fair market value therefor as determined in the Board's good faith discretion. If any Member fails in whole or in part to comply with such a request by the Board, the other Founding Member may contribute the portion of Additional Capital Contribution not otherwise contributed by such Member, as the case may be, and such contribution will be considered a loan by the contributing Member to the non-contributing Member, which loan shall be evidenced by a full recourse promissory note of the non-contributing Member, which shall bear interest at an annual rate of LIBOR plus 10% and shall be secured by the Interests of the non-contributing Member (including all proceeds therefrom), and the non-contributing Member shall assign to the contributing Member all dividends, distributions and other proceeds that would have otherwise been paid to it in respect of such Interests until such note and interest thereon is repaid in full.

(c) Other Capital Contributions; Exhibit A. Except as set forth in Section 4.1 and this Section 4.2, no Member shall be required or permitted to make any capital contributions to the Company. The Board shall amend Exhibit A to reflect any Contributions or Additional Contributions.

4.3 Capital Accounts.

(a) A capital account (a "Capital Account") shall be established and maintained for each Member. The opening balance of each Member's Capital Account is as set forth on Exhibit A.

(b) As of the last day of each Accounting Period, the balance in each Member's Capital Account shall be adjusted by (i) *increasing* such balance by (x) such Member's allocable share of Net Profits (allocated in accordance with Section 5.1), and (y) the sum of the amount of cash Capital Contributions and the Net Book Value of any other Capital Contributions made by such Member during such Accounting Period, and (ii) *decreasing* such balance by (A) the sum of the amount of cash and the Net Book Value of any other property distributed to such Member during such Accounting Period and (B) such Member's allocable share of Net Losses (allocated in accordance with Section 5.1). The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with section 1.704-1(b) of the Treasury Regulations, and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

4.4 Transfer of Capital Accounts. The original Capital Account established for a substituted Member shall be in the same amount as the Capital Account of the Member that such substituted Member succeeds at the time such substituted Member is admitted as a Member of the Company. The Capital Account of any Member whose

Interest is increased by means of the transfer to it of all or part of the Interest of another Member, and the Capital Account of any Member whose Interest is thereby decreased, shall be appropriately adjusted to reflect such transfer. Any reference in this Agreement to a Capital Contribution of or distribution to a then-Member shall include without limitation a Capital Contribution or distribution previously made by or to any prior Member on account of the Interest of such then-Member.

4.5 No Withdrawal; Return; etc.

(a) A Member shall not be entitled to withdraw any part of its Capital Account or to receive any distributions from the Company except as provided in Articles V and IX; nor shall a Member be entitled to make any loan or capital contribution to the Company other than as expressly provided herein. No loan made to the Company by any Member shall constitute a capital contribution to the Company for any purpose.

(b) No Member shall have any liability for the return of the Capital Contributions of any other Member. No Member shall be required to make up a negative balance in its Capital Account.

(c) No Member shall have priority over any other Member either as to the return of the amount of such Member's Capital Contributions or as to any allocation of any item of income, gain, loss, deduction or credit of the Company.

(d) Except as may be set forth in any agreement between the Company and a Member, no Member shall receive any interest, salary or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company or otherwise in its capacity as a Member.

ARTICLE V

ALLOCATIONS AND DISTRIBUTIONS

5.1 Allocations of Net Profit and Net Loss. Net Profit or Net Loss for each Accounting Period shall be allocated to the Members' Capital Accounts pro rata in proportion to their respective Percentage Interests as of the beginning of such Accounting Period.

5.2 Tax Allocations.

(a) In General. Subject to Subsections (b) and (c) below, items of income, gain, loss and deduction of the Company shall be allocated among the Members, for United States federal, state and local income tax purposes, to the extent permitted under

the Code and the Treasury Regulations, in the same manner that each such item is allocated to the Members' Capital Accounts. Tax credits for each Accounting Period shall be allocated to the Members in proportion to their respective Percentage Interests as of the beginning of such Accounting Period. Notwithstanding the foregoing, the Tax Matters Partner shall have the power to make such allocations for United States federal, state and local income tax purposes as may be necessary to maintain substantial economic effect, or to insure that such allocations are in accordance with the interests of the Members in the Company, in each case within the meaning of the Code and the Treasury Regulations thereunder. All matters concerning allocations for United States federal, state and local and foreign income tax purposes, including accounting procedures, not expressly provided for by the terms of this Agreement shall be equitably determined in good faith by the Members.

(b) Contributed Property. When the Net Book Value of a Company asset contributed to the capital of the Company by a Member differs from its basis for federal or other income tax purposes, solely for purposes of the relevant Tax and not for purposes of computing Capital Account balances, income, gain, loss, deduction and credit shall be allocated among the Members in accordance with the principles of § 704(c) of the Code and the Treasury Regulations thereunder and Treasury Regulations section 1.704-1(b)(4)(i) using any reasonable method required or permitted thereunder and agreed to by the Members.

(c) Special Allocations.

(i) Qualified Income Offset. If any Member unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulations section 1.704-1(b)(2)(ii)*(d)(4), (5)* or *(6)* and such adjustment, allocation or distribution causes or increases a deficit in such Member's Capital Account (a "Deficit"), items of gross income and gain for such Accounting Period and each subsequent Accounting Period shall be specifically allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulation, the Deficit of such Member as quickly as possible; *provided* that an allocation pursuant to this Section 5.2(c) shall be made only if and to the extent that such Member would have a Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 5.2(c) were not in this Agreement. This Section 5.2 is intended to comply with the qualified income offset provision of Treasury Regulations section 1.704-1(b)(ii)*(d)* and shall be interpreted in a manner consistent therewith.

(ii) Minimum Gain; Gross Income Allocation; Non-recourse Deductions. Special allocations shall be made in accordance with the requirements set forth in the Treasury Regulations section 1.704-2(f), (g) and (j) (minimum gain chargeback), 1-704-1(g) (gross income allocation), 1.704-2(i)(2) (non-recourse

deductions), and to the extent that a Section 754 election is in effect, 1.704-1(b)(2)(iv)*(m)* (Section 754 adjustments).

(iii) Restorative Allocations. Any special allocations of items of income or gain pursuant to this Section 5.2 shall be taken into account in computing subsequent allocations pursuant to this Agreement, so that the net amount for any item so allocated and all other items allocated to each Member pursuant to this Agreement shall be equal, to the extent possible, to the net amount that would have been allocated to each Member pursuant to the provisions of this Agreement if such special allocations had not occurred.

5.3 Adjustments to Net Book Value. The Net Book Values of all of the Company's assets shall be adjusted to equal their respective gross fair market values immediately prior to the following times: (i) the distribution by the Company of more than a *de minimis* amount of money or property to a Member in consideration of the retirement of all or a portion of such Member's Interest; (ii) each time (if any) that either one or more Members, but fewer than all Members, make an Additional Capital Contribution of more than a *de minimis* amount of money or property or all of the Members make an Additional Capital Contribution of more than a *de minimis* amount of money or property but such Additional Capital Contributions are not in proportion to the Percentage Interests of the Members; (iii) the admission of an Additional Member; and (iv) if required by applicable Treasury Regulations, the termination of the Company for United States federal income tax purposes pursuant to § 708(b)(1)(B) of the Code.

5.4 Interim Distributions. Subject to Sections 5.5 and 5.6, the Company shall distribute Available Cash to the Members pro rata in accordance with their respective Percentage Interests with respect to the Accounting Period to which such distribution relates no later than December 31 of each year, except as otherwise determined by the Board, in such aggregate amounts as determined by the Board.

5.5 Restrictions on Distributions. Notwithstanding anything to the contrary contained herein, the Company shall not make a distribution to any Member on account of its Interest if such distribution would violate Section 18-607 of the Act or any other applicable Law.

5.6 Dissolution. Upon dissolution and winding up of the Company, the Company shall make distributions in accordance with Article IX.

5.7 Tax Distributions. The Company shall (to the extent that the Company has Available Cash) distribute to the Members pursuant to Section 5.4 amounts intended to enable the Members to pay their United States federal, state, and local income taxes (if any) imposed on the income or gain allocated to Members with respect to the Accounting Period to which such distribution relates pro rata in accordance with their respective

Percentage Interests. The aggregate amount of such distribution shall be determined in good faith by the Tax Matters Partner, using tax assumptions as the Tax Matters Partner shall determine to be appropriate.

5.8 Withholding Taxes.

(a) Authority to Withhold. Notwithstanding any other provision of this Agreement, each Member hereby authorizes the Company to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Company or any of its Affiliates (pursuant to the Code or any provision of United States federal, state, or local or foreign tax Law) as a result of such Member's status as a Member. The Company shall provide notice to such Member of any such payment required to be made as soon as reasonably practicable. If and to the extent that the Company shall be required to withhold or pay any such withholding or other taxes, such Member shall be deemed for all purposes of this Agreement to have received a payment from the Company as of the time such withholding or other tax is required to be paid, which payment shall be deemed to be a distribution of Available Cash with respect to such Member's Interest to the extent that such Member (or any successor to such Member's Interest) would have received a distribution but for such withholding. To the extent that the aggregate of such deemed payments to a Member for any period exceeds the distributions that such Member would have received for such period but for such withholding, the Company shall notify such Member as to the amount of such excess and such Member shall make a prompt payment to the Company of such amount by wire transfer.

(b) Distributions-in-kind. If the Company makes (or will make) a distribution-in-kind and such distribution is subject to withholding or other taxes payable by the Company on behalf of any Member, the Company shall notify such Member as to the extent (if any) of the taxes withheld (or to be withheld) and such Member shall make a prompt payment to the Company of the amount of such taxes by wire transfer.

(c) Withholding Tax Rate. Any withholdings referred to in this Section 5.8 shall be made at the maximum applicable statutory rate under the applicable tax Law unless the Company shall have received an opinion of counsel or other evidence, reasonably satisfactory to the Company, to the effect that a lower rate is applicable, or that no withholding is applicable.

(d) Survival. The provisions of this Section 5.8 shall survive the dissolution, winding up and termination of the Company.

ARTICLE VI

BOOKS; ACCOUNTING; TAX ELECTIONS; REPORTS

6.1 Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in its name. In the absence of instructions from the Board to the contrary, the CEO shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

6.2 Books and Records. The Board shall cause the Company, the CEO and any other relevant Officer to keep, or cause to be kept, complete and accurate books and records of account of the Company. The books of the Company shall be kept on the basis of accounting utilized in preparing the company's United States income tax returns, which basis shall be the basis for the preparation of the financial reports to be sent to the Members pursuant to Section 6.3, and otherwise in accordance with GAAP. In addition to such books and records, the Board shall cause the CEO to maintain and make available at the principal business office of the Company: copies of this Agreement, as amended; a current list of the full name and last known business address of each Member, a copy of the Certificate, including all certificates of amendment thereto and executed copies of all powers of attorney pursuant to which the Certificate or any certificate of amendment has been executed; copies of the Company's federal, state and local income tax returns and reports, if any, and any financial statements of the Company, in each case for the three most recent years; and all other records required to be maintained pursuant to this Agreement or the Act.

6.3 Financial Statements; Reports to Members. The financial statements of the Company shall be prepared in accordance with GAAP and audited on an annual basis by an accounting firm designated by the Board in accordance with this Agreement. In the absence of instructions from the Board to the contrary, the CEO shall distribute to the Members:

(i) unaudited quarterly financial reports of the Company within 30 days following the end of each quarter,

(ii) audited annual financial statements of the Company within 60 days following the end of the Fiscal Year (in each case, including a balance sheet, income statement and statement of changes in financial position and such notes or other supporting material as may be requested by the Members or may be required by GAAP),

(iii) within 180 days following the end of each Fiscal Year, a United States Treasury Form 1065 and Schedule K-1 (or any similar successor form) in

sufficient detail to enable each Member to prepare its tax returns in accordance with the Laws, rules and regulations thereunder then prevailing, and each Member's closing Capital Account balance for the Fiscal Year.

Notwithstanding the foregoing, prior to the Effective Time the Company shall have no obligation to prepare or distribute audited financial statements in accordance with this Section 6.3.

6.4 Inspection Rights. Each Member shall have the right, during normal business hours, to audit, examine and make copies of or extracts from the books of account of the Company. Such right may be exercised through any agent or employee of such Member (including the Director designated by such Member) or a certified public accounting firm of recognized international standing designated by such Member. Such Member shall (a) bear all expenses incurred in any examination requested by such Member pursuant to this Section 6.4, and (b) obtain written confidentiality agreements with terms no less onerous than those set forth in Section 13.11(a) from any agent, employee or certified public accountant auditing or examining the books of account of the Company pursuant to this Section 6.4.

6.5 Tax Matters Partner: Tax Elections.

(a) The DTCC Member shall serve as the initial "tax matters partner" (as such term is defined in section 6231(a)(7) of the Code and any similar provision of state and local income tax Law, the "Tax Matters Partner") of the Company, *provided* that the Tax Matters Partner, in its capacity as the "tax matters partner" will not (i) agree to extend the statute of limitation regarding any tax matter or (ii) agree to jurisdiction of any court other than the U.S. Tax Court to adjudicate the Company's tax matters without the prior written consent of other Founding Member. Each Member hereby consents to such designation and agrees that, upon the request of the Tax Matters Partner, such Member will execute, certify, acknowledge, deliver, swear to, file and record at the appropriate public offices, such documents as may be necessary or appropriate to evidence such consent.

(b) Promptly following the written request of the Tax Matters Partner, the Company shall, to the fullest extent permitted by Law, reimburse and indemnify the Tax Matters Partner for all reasonable expenses, including reasonable legal and accounting fees, claims, liabilities, losses and damages incurred by the Tax Matters Partner in its capacity as a "tax matters partner" in connection with any administrative or judicial proceeding with respect to the tax liability of the Members, except to the extent arising from the bad faith, gross negligence, willful violation of Law, fraud or breach of this Agreement by such Tax Matters Partner. The provisions of this Section 6.5(b) shall survive the termination of the Company or the termination of any Member's Interest in the Company and shall remain binding on the Members for as long a period of time as is necessary to resolve with the Internal Revenue Service any and all matters regarding the

income taxation of the Company or the Members resulting from their interest in the Company with respect to any period during which a Member held an Interest in the Company.

(c) Neither the Tax Matters Partner nor any other Member shall make, or shall permit the Company to make, the election to treat the Company as an association taxable as a corporation for United States federal income tax purposes under section 301.7701(a)-3 of the Treasury Regulations or any similar provision of state or local Law.

(d) Notwithstanding anything to the contrary in this Agreement, any material tax election or substantial change in tax, accounting or auditing practices of the Company, including any change in the Tax Matters Partner or any appointment or removal of the Company's independent auditors and any determination of fair market value of assets or of any Adjustment Date, and the settlement of any tax audit or other tax proceeding involving the Company, shall require unanimous prior written approval of the Founding Members, which approval shall not be unreasonably conditioned, withheld or delayed.

ARTICLE VII

LIABILITY; EXCULPATION AND INDEMNIFICATION

7.1 Limited Liability.

(a) Except as otherwise provided under the Act or herein, the debts, obligations and other liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member or Director shall have any obligation or liability in respect thereof solely by reason of being a Member, holding an Interest, or acting as a "manager" of the Company.

(b) No Member shall, in its capacity as a Member, be deemed to owe any fiduciary duty to the Company or any of its Subsidiaries or any other Member.

(c) No Member shall be required to make any contribution to the capital of the Company or lend any funds or otherwise provide any financial or credit support to the Company, except for each Member's aggregate Initial Capital Contributions as set forth in Exhibit A, Interim Contributions and Additional Capital Contributions, if any, when and to the extent the same shall become due and payable in accordance herewith.

7.2 Exculpation.

(a) To the maximum extent permitted by applicable Law, each Member hereby waives any claim or cause of action against a Director (other than a Director that

is also an Officer or employee of the Company or any of its Subsidiaries) or any of his or her Affiliates, heirs, successors, assigns, agents and representatives for any breach of any fiduciary duty to the Company or its Members by such Person, and any liability for breach of fiduciary duties as a Director (other than a Director that is also an Officer or employee of the Company or any of its Subsidiaries) is hereby eliminated to the fullest extent permitted by applicable Law.

(b) No Member, Director, Designated Executive, or Officer of the Company shall be liable to the Company or to any other Member for any action taken or omitted to be taken with respect to the Company within the scope of such Person's authority conferred by, and in accordance with, this Agreement, except to the extent that any such act or omission was attributable to the willful misconduct, fraud or gross negligence of such Person. No Member shall be liable to the Company or any other Member for any action taken by any other Member.

(c) Subject to compliance with the express terms of this Agreement, no Member Director shall be obligated to recommend or take any action as a Director that prefers the interests of the Company or any of its Subsidiaries or any other Member over the interests of the Member that designated such Member Director or its Affiliates, and the Company and the Members hereby waive any applicable duty of such Director to the Company, its Subsidiaries and the Members, fiduciary or otherwise, including in the event of any such conflict of interest.

7.3 Reliance. Each Member, Director, Designated Executive and Officer of the Company 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 Member, Director, Designated Executive or Officer believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

7.4 Indemnification.

(a) Members. The Company shall indemnify and hold harmless, to the fullest extent permitted by Law, each Member, such Member's Directors and the direct or indirect shareholders, officers, directors, employees, representatives and agents of any of the foregoing, from and against all costs and expenses (including attorneys' fees and disbursements), judgments, fines, settlements, claims and other liabilities (including all costs of investigation, preparation and defense thereof) ("Losses") incurred by or imposed upon such indemnified Person in connection with, or resulting from, any claim, action, suit or proceeding, whether civil, criminal, administrative, investigative,

legislative or otherwise (or any appeal thereof), which may be brought against such indemnified Person by any third party (other than an Affiliate of such Member), in each case by reason of such indemnified Person's being or having been a Member, Director or Designated Executive or relating to or arising out of the business and affairs of the Company, *provided* that such indemnity shall be payable only if such claim, action, suit or proceeding does not arise out of or relate to willful misconduct, fraud or gross negligence on the part of such indemnified Person.

(b) Directors and Officers. The Company shall indemnify and hold harmless, to the fullest extent permitted by Law, each Director, Designated Executive, and Officer of the Company from and against all Losses incurred by or imposed upon such indemnified Person in connection with, or resulting from, any claim, action, suit or proceeding, whether civil, criminal, administrative, investigative, legislative or otherwise (or any appeal thereof), which may be brought against such indemnified Person by any third party (other than an Affiliate of such Member), by reason of any action taken or omitted to be taken by such indemnified Person in good faith on behalf of the Company in a manner believed to be within the scope of authority conferred on such indemnified Person by this Agreement and in accordance with this Agreement or any other Transaction Document, *provided* that such indemnity shall be payable only if such claim, action, suit or proceeding does not arise out of or relate to willful misconduct, fraud or gross negligence on the part of such indemnified Person.

(c) No Direct Member Indemnity; Recovery. Members shall not be required directly to indemnify any Person entitled to indemnification pursuant to Section 7.4(a) or Section 7.4(b). The Company shall be the primary obligor in respect of any claim by any Person pursuant to Section 7.4(a) or 7.4(b) (each, an "Indemnitee") for indemnification, advancement of expenses and/or insurance, to the extent subject to this Article VII, and the obligation, if any, of any Member or any of its Affiliates to indemnify, advance expenses to or provide insurance for any Indemnitee shall be secondary to the obligations of the Company under this Article VII. In the event that any Member or any of its Affiliates is or is threatened to be made a party to or a participant in any claim, action, suit or proceeding, and such Person's involvement in the claim, action, suit or proceeding arises in whole or in part from the service to the Company of any Indemnitee, then such Person shall be directly entitled to all rights and remedies of such Indemnitee hereunder to the same extent as such Indemnitee. To the extent any Member or any of its Affiliates advances or pays any amounts to any Indemnitee in connection with any claim subject to this Article VII, whether or not such Member or Affiliate is or is threatened to be made a party to or a participant in any claim, action, suit or proceeding, such Member or Affiliate shall be subrogated to the rights of such Indemnitee against the Company pursuant to this Article VII. For the avoidance of doubt, each Member and each of its Affiliates is a third-party beneficiary of this Section 7.4(c) and may enforce its terms against the Company.

(d) Limitations. Any indemnity under this Section 7.4 shall be provided solely out of, and only to the extent of, the Company assets. None of the provisions of this Section 7.4 shall be deemed to create any rights in favor of anyone other than the Indemnitees and the Members and Affiliates as provided in Section 7.4(c) indemnified Persons. This provision excludes, among others, any right of subrogation in favor of any insurer or surety.

(e) Expenses. Except in the case of a proceeding instituted by or on behalf of the Company against an Indemnitee, the Company may pay the expenses (including attorneys' fees and disbursements) incurred in good faith by an Indemnitee in advance of the final disposition of a proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay the amount if it is ultimately determined that such Indemnitee is not entitled to be indemnified by the Company pursuant to this Article. The right of any Indemnitee to the indemnification provided herein shall be cumulative with, and in addition to, any and all rights to which such Indemnitee may otherwise be entitled by contract or as a matter of Law or equity and shall extend to such Indemnitee's successors, assigns and legal representatives.

(f) Notice of Claims; Procedures. Promptly after receipt by any Indemnitee that may be entitled to indemnification pursuant to Section 7.4(a) or 7.4(b) (each, a "Covered Person") of a notice of any claim, assertion or other commencement of any investigation, action, suit, arbitration or other proceeding (a "Proceeding") with respect to which the Company may be obligated to provide indemnification pursuant to this Section 7.4, such Covered Person shall, if a claim for indemnification in respect thereof is to be made against the Company, give written notice to the Company of the commencement of such Proceeding, *provided* that the failure of any Covered Person to give notice as provided herein shall not relieve the Company of its obligations under this Article VII, except to the extent that the Company is actually prejudiced by such failure to give notice. In case any such Proceeding is brought against a Covered Person (other than a derivative suit in right of the Company), the Company will be entitled to participate in and to assume the defense thereof to the extent that the Company may wish, with counsel reasonably satisfactory to such Covered Person. After notice from the Company to such Covered Person of the Company's election to assume the defense of such Proceeding, the Company will not be liable for expenses subsequently incurred by such Covered Person in connection with the defense thereof. The Company will not consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Covered Person of a release from all liability in respect of such claim.

(g) Limits on Liability and Indemnification. No Member shall be entitled to incidental or consequential or punitive damages (including lost profits) arising from a breach of any Transaction Document, except to the extent such Losses are subject to indemnification pursuant to Section 7.4(a) or 7.4(b).

7.5 Insurance. The Company shall purchase and maintain insurance, to the extent and in such amounts as the Board shall, in its sole discretion, deem reasonable, on behalf of Covered Persons against any liability that may be asserted against such Person, regardless of whether the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement or any other Transaction Document. The Company shall use its best efforts to cause its insurance providers, if any, to satisfy any claims under this Article VII to the fullest extent of the coverage provided, notwithstanding any other indemnities or insurance available to any Indemnitee from any Member or any of its Affiliates.

ARTICLE VIII

ADMISSION OF ADDITIONAL MEMBERS; TRANSFERS OF INTERESTS; DEFAULTS, ETC.

8.1 Member Interests. The Company shall have one class of Interests, which shall have equal rights and preferences in the assets of the Company. The Board shall have no right to establish or issue new or additional classes of Interests without the unanimous written consent of the Members and amendment of this Agreement to provide for such designation or issuance.

8.2 Admission and Withdrawal of Members. No new Members (other than any transferee admitted as a substitute Member pursuant to Section 8.3(b)) ("Additional Members") may be admitted to, and no Member may withdraw from, the Company, without the unanimous written consent of the Members. The capital contribution of any Additional Member, and any corresponding reductions in the Percentage Interests of the continuing Members, shall be determined by the Board in accordance with this Agreement, with the unanimous written consent of the Members. A Person shall be admitted as an Additional Member at the time such Person (i) executes this Agreement or a counterpart of this Agreement and executes a counterpart of any other Transaction Agreement requested by the Board; and (ii) pays in full the capital contribution of such amount as the Board may require. Upon such admission, the Board shall amend Exhibit A accordingly.

8.3 Transfers of Interests.

(a) Restrictions. No Member may Transfer its Interest (or any portion thereof) to any Person, except with the prior written consent of the Founding Members (or in the case of a proposed Transfer by a Founding Member, the other Founding Member); *provided*, that such consent shall not be unreasonably withheld, conditioned or delayed.

(b) Admission of Substitute Members. A transferee of all or part of an Interest Transferred in accordance with this Agreement shall be admitted as a substitute Member at such time as such transferee has executed an amendment or supplement to this Agreement in form and substance reasonably satisfactory to the Founding Members (or in the case of a Transfer by a Founding Member, the other Founding Member) whereby such transferee will become bound by the terms of this Agreement. A member that Transfers all its Interests shall cease to be Member concurrently with the admission of the substitute Member. The Board shall amend Exhibit A hereto to reflect such Transfer and the Capital Accounts shall be adjusted as provided in Section 4.4. Except as otherwise provided herein, any transferee who is admitted to the Company as a Member shall succeed to the rights and powers, and be subject to the obligations and liabilities, of the transferor Member to the extent of the Interest Transferred.

(c) No Pledges. Other than as provided in Section 4.2(b), no Member may pledge all or any part of its Interest, and any purported pledge shall be void *ab initio*.

(d) Breach. Any Transfer made in violation of this Article VIII shall be void, and the Company shall not recognize any such Transfer.

(e) Transfer Not a Release. Notwithstanding anything to the contrary herein, none of the obligations set forth in Sections 2.3(b) hereof shall be assigned, released, terminated or otherwise affected as a result of, and each shall survive and continue to be effective following, any Transfer of any Interest by any Member.

8.4 Default.

(a) Events of Default. The Bankruptcy or dissolution of a Member (such Member, the "Defaulting Member") shall constitute an "Event of Default" with respect to such Member.

(b) Effects of Default. Upon the occurrence and during the continuance of an Event of Default, (i) the Directors designated by the Defaulting Member shall not be (A) counted for purposes of determining whether there is a quorum, (B) required for a quorum, (C) entitled to vote on or consent to, and such Director's vote or consent shall not be required for, any matter to be voted upon or consented to by the Board, and no such Director shall otherwise be entitled to exercise any rights or perform any functions under this Agreement; (ii) the Defaulting Member shall not have any voting rights with respect to actions to be taken by the Members; (iii) the Defaulting Member shall not be entitled to take or receive any distributions with respect to its Percentage Interest; and (iv) the Company shall be entitled to withhold any payments otherwise due to such Defaulting Member hereunder or under any other Transaction Document.

8.5 Call Provisions.

(a) If an Event of Default has occurred and shall be continuing, the non-Defaulting Members who are Founding Members shall have the right, exercisable within the time periods specified in paragraph (b) below, to purchase all, but not less than all, of the Defaulting Member's Interest at the Fair Market Value of such Interest in accordance with paragraph (c) of this Section 8.5.

(b) Each non-Defaulting Member who is a Founding Member may exercise its rights under Section 8.5(a) immediately and for a period of 120 days.

(c) The Fair Market Value of any Interest for purposes of this Section 8.5 shall be determined in accordance with Section 8.6. Any Member invoking its right to purchase an Interest under this Section 8.5 shall so notify the Founding Members (or in the case of a proposed Transfer by a Founding Member, the other Founding Member) in writing within the applicable time period as set forth in Section 8.5(b) and shall have the right at any time to require a determination of Fair Market Value in accordance with Section 8.6. Within 30 days of the date on which the values of the relevant Interests are determined in accordance with Section 8.6, each Interest to be transferred shall be transferred on the terms set forth herein, by payment of the purchase price for such Interest by wire transfer of immediately available funds against delivery by the selling Member of all documents necessary to fully transfer such Interest, free and clear of all Liens to the purchasing Member.

8.6 Fair Market Value.

(a) The fair market value of any Interest as of a determination date (the "Fair Market Value") shall be the product of (x) the fair market value of the Company and (y) the percentage of the Company that such Interest comprises. The Fair Market Value shall be determined in the following manner:

(i) During the 30 days following the date on which a Member exercises it right to purchase any Interest pursuant to Section 8.5 (the "Initiation Date"), the Members shall attempt in good faith to agree on the Fair Market Value of such Interest. Any such agreed value shall constitute the Fair Market Value of such Interest as of such date for purposes of Section 8.5.

(ii) If the transferee Member(s) and the transferor Member shall not have agreed upon such Fair Market Value on or before the 30th day following the Initiation Date, the transferee Member(s) and the transferor Member shall promptly engage an independent appraiser with nationally recognized valuation expertise in the Business (a "Qualified Firm") that is acceptable to the transferee Member(s) and the transferor Member (the "Independent Appraiser") to determine such Fair Market

Value, *provided* that any time after the 20th Business Day and prior to the selection of an Independent Appraiser, any such Member may request the American Arbitration Association to select a Qualified Firm that has not had any business dealings with any Member or its Affiliates in the two-years prior to appointment. The transferee Member(s) and the transferor Member shall promptly cause to be furnished to the Independent Appraiser such information concerning the Company ("Financial Information") as the Independent Appraiser may reasonably request. The Independent Appraiser shall be instructed by the transferee Member(s) and the transferor Member to use its best efforts to render its determination of such Fair Market Value within 30 days following receipt of the Financial Information the Independent Appraiser deems reasonably necessary. Such determination shall constitute the Fair Market Value for purposes of this Agreement. The fees and expenses of the Independent Appraiser shall be borne equally by the transferee Member(s) on the one hand and the transferor Member on the other.

(iii) If the transferee Member(s) and the transferor Member shall not have agreed on an Independent Appraiser within 60 days following the Initiation Date, then the transferee Member(s) shall appoint one, and the transferor Member shall appoint one, Qualified Firm (such party's "Appraiser"), and shall promptly cause to be furnished to the two Appraisers so appointed such Financial Information as either Appraiser may reasonably request. The fees and expenses of each Appraiser shall be borne by the Member(s) that appointed it. Each Appraiser shall be instructed by the Member appointing it to use best efforts to render its determination of such Fair Market Value in writing within 30 days of receipt of such Financial Information as such Appraiser deems reasonably necessary. If the Appraiser determining the higher amount for such appraised value determines an amount (the "Higher Appraised Amount") that is not more than 115% of the amount (the "Lower Appraised Amount") determined by the other Appraiser, then the average of the Higher Appraised Amount and the Lower Appraised Amount, rounded to the nearest whole dollar, shall be the Fair Market Value of the Interest as of such date for the purposes of this Agreement. Otherwise, the two Appraisers shall promptly select a Qualified Firm (the "Third Appraiser") to determine such Fair Market Value, *provided* that if the two Appraisers fail to select a Third Appraiser within 30 days following receipt by the Members of the two Appraisers' written determinations, the Members shall instruct the American Arbitration Association to select a Third Appraiser, which selection shall be binding. The Third Appraiser shall receive copies of the determinations of the other two Appraisers, and the transferee Member(s) and the transferor Member shall promptly cause to be furnished to the Third Appraiser such Financial Information as the Third Appraiser may reasonably request. The Members shall instruct the Third Appraiser to use best efforts to render its determination (the "Independent Appraised Amount") of such Fair Market Value within 30 days of receipt of such Financial Information as such Third Appraiser deems reasonably necessary. Upon determination of the

Independent Appraised Amount, the Fair Market Value of the Interest shall be (i) the Independent Appraised Amount, if such Independent Appraised Amount falls within the range of values that is greater than the Lower Appraised Amount and less than the Higher Appraised Amount, or (b) the average of the Independent Appraised Amount and the other Appraised Amount (higher or lower) that is closest to the Independent Appraised Amount, if the Independent Appraised Amount is not within the range that is greater than the Lower Appraised Amount and less than the Higher Appraised Amount.

(b) The "fair market value" of any Additional Capital Contributions made in kind shall be the price that an unrelated third party would pay if it were to acquire the property proposed to be so contributed in an arm's length transaction. The Members shall attempt in good faith to agree on any such fair market value. If the Members shall have failed to agree in writing upon any such fair market value within 30 days after any such capital contribution in kind is proposed to be made, such fair market value shall be determined by an Independent Appraiser, selected in the manner set forth in Section 8.6.

8.7 Extension for Governmental Approvals. Notwithstanding any provision herein to the contrary, if the purchase and sale of any Interest (or any portion thereof) pursuant to Sections 8.3 or 8.5 is subject to any prior regulatory consent or approval from any governmental authority, the applicable time periods within which such purchase and sale must be consummated shall be automatically extended (for so long as the Member seeking such extension is making good faith efforts to obtain such consents or approvals as soon as practicable in accordance with applicable Law) until ten days after all such consents or approvals shall have been received.

ARTICLE IX

DISSOLUTION

9.1 Events of Dissolution.

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

(i) a unanimous written decision of the Members to dissolve the Company;

(ii) sale of all or substantially all of the Company's assets;

(iii) the entry of a decree of judicial dissolution under § 18-802 of the Act; and

(iv) at any time when there are no Members.

(b) Bankruptcy of a Member. The Bankruptcy or dissolution of a Member shall not in and of itself cause such Member to cease to be a member of the Company, and upon the occurrence of such event, the Company shall continue without dissolution under the management and control of the remaining Members, unless there are no remaining Members of the Company.

9.2 Liquidation Trustee. Upon the occurrence of an event of dissolution listed in Section 9.1(a), the Board shall appoint a liquidating trustee (the "Trustee") to conduct and supervise the liquidation, which Trustee shall be an individual who is knowledgeable about the Business and has substantial experience in the purchase and sale of businesses. The Trustee shall cause a full accounting of the assets, liabilities and operations of the Company to be taken and reviewed by independent accountants. The Trustee shall ensure that the Company shall not be dissolved prior to the date, if any, recommended or required by a Governmental Authority or, if no Governmental Authority recommends or requires a dissolution date, prior to 90 days after the event of dissolution.

9.3 Winding Up; Final Distributions. Upon dissolution, the Company shall conduct those activities (and only those activities) as are necessary to wind up its affairs in an orderly and commercially reasonable manner (including the sale of the assets of the Company in an orderly and commercially reasonable manner). The Trustee shall proceed, subject to the provisions of this Article IX and the Act, to liquidate the Company and apply the proceeds of such liquidation, or in its sole discretion distribute assets in kind, in the following order of priority:

(a) first, to creditors, including Members who are creditors (pursuant to member loans or otherwise), to the extent otherwise permitted by Law, in satisfaction of all debts and liabilities of the Company (other than liabilities for distributions to Members and former Members pursuant to Section 5.4), including the expenses of winding-up and liquidation (whether by payment or the making of reasonable provision for the payment thereof); and to the establishment of reasonable reserves, if any, in such amounts as the Trustee deems reasonably necessary for the payment of unliquidated claims or any contingent or unforeseen liabilities or other obligations of the Company;

(b) second, to the Members in satisfaction of liabilities for distributions pursuant to Section 5.4, whether by payment or the making of reasonable provision for the payment thereof;

(c) third, to each member in the amount of such Member's aggregate Capital Contributions as reflected in the Company's books and records; and

(d) thereafter, with respect to any remaining proceeds or assets, to the Members pro rata in proportion to their Percentage Interests.

9.4 Distributions in Cash or in Kind. Upon the dissolution of the Company, the Trustee (or any duly designated liquidating trustee) shall use all commercially reasonable efforts to liquidate all of the Company assets in an orderly manner and apply the proceeds of such liquidation as set forth in Section 9.3, *provided* that, if in the good faith judgment of the Trustee, a Company asset should not be liquidated, the Trustee shall allocate, on the basis of the value (determined in good faith by the Trustee) of any Company assets not sold or otherwise disposed of, any unrealized gain or loss based on such value to the Members' Capital Accounts as though the assets in question had been sold on the date of distribution and, after giving effect to any such adjustment, distribute such assets in accordance with Section 9.3, subject to the priorities set forth in Section 9.3, *provided*, that the Trustee shall in good faith attempt to liquidate sufficient Company assets to satisfy in cash (or make reasonable provision for) the debts and liabilities referred to in Section 9.3(a).

9.5 Time for Liquidation, etc. A reasonable time period shall be allowed for the orderly winding up and liquidation of the assets of the Company and the discharge of liabilities to creditors so as to enable the Trustee to seek to minimize potential losses upon such liquidation. The provisions of this Agreement shall remain in full force and effect during the period of winding up and until the filing of a certificate of cancellation of the Company with the Secretary of State of the State of Delaware.

9.6 Termination. Upon completion of the foregoing, any Director (or any Trustee or other duly designated representative) shall execute, acknowledge and cause to be filed a certificate of cancellation of the Certificate with the Secretary of State of the State of Delaware.

9.7 Claims of the Members. The Members and former Members shall look solely to the Company's assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Members and former Members shall have no recourse against the Company or any other Member.

9.8 Survival of Liabilities and Certain Provisions. Dissolution, winding up or termination of the Company shall not relieve or release any Member from any liability arising from a breach or default of any of its obligations under this Agreement occurring prior thereto. Notwithstanding any provision of this Agreement to the contrary, Sections 2.3(b), 4.5(b), 5.6, 5.8, 6.5(b), 7.1, 7.2, 7.4, and Articles X and XIII hereof shall survive the termination or expiration of this Agreement and the dissolution, winding up and termination of the Company.

ARTICLE X

GOVERNING LAW; VENUE

10.1 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF DELAWARE, WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

10.2 Venue. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined as follows: (i) if such proceeding may be heard in the Delaware Chancery courts, then such proceeding shall be heard in the Delaware Chancery courts, (ii) if such proceeding may not be heard in the Delaware Chancery courts but may be heard in the United States Federal Courts, then such proceeding shall be heard in the U.S. District Court for the District of Delaware, and (iii) if such proceeding may not be heard in either the Delaware Chancery courts or the United States Federal Courts, then such proceeding shall be heard in the Delaware state courts located in Wilmington, Delaware. The Members hereby irrevocably submit to the exclusive jurisdiction of the court set forth above in any such action or proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding so brought and waive any bond, surety or other security that might be required of any other Person with respect thereto. Each Member agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be in any manner provided by Law.

ARTICLE XI

REPRESENTATIONS, WARRANTIES AND COVENANTS

11.1 Investment Intention and Restrictions on Disposition. Each Member represents and warrants that such Member has or is acquiring the Interests solely for such Member's own account for investment and not with a view to resale in connection with, any distribution thereof. Each Member agrees that such Member will not, directly or indirectly, Transfer any of the Interests (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of any of the Interests) or any interest therein or any rights relating thereto or offer to Transfer, except in compliance with the Securities Act, all applicable state securities or "blue sky" Laws and this Agreement, as the same shall be amended from time to time. Any attempt by a Member, directly or indirectly, to Transfer, or offer to Transfer, any Interests or any interest therein or any rights relating thereto without complying with the provisions of this Agreement, shall be void and of no effect.

11.2 Securities Laws Matters. Each Member acknowledges receipt of advice from the Company that (i) the Interests have not been registered under the Securities Act or qualified under any state securities or "blue sky" laws, (ii) it is not anticipated that there will be any public market for the Interests, (iii) the Interests must be held indefinitely and such Member must continue to bear the economic risk of the investment in the Interests unless the Interests are subsequently registered under the Securities Act and such state laws or an exemption from registration is available, (iv) Rule 144 promulgated under the Securities Act ("Rule 144") is not presently available with respect to sales of any securities of the Company and the Company has made no covenant to make Rule 144 available and Rule 144 is not anticipated to be available in the foreseeable future, (v) when and if the Interests may be disposed of without registration in reliance upon Rule 144, such disposition can be made only in limited amounts and in accordance with the terms and conditions of such Rule and the provisions of this Agreement, (vi) if the exemption afforded by Rule 144 is not available, public sale of the Interests without registration will require the availability of an exemption under the Securities Act, (vii) restrictive legends shall be placed on any certificate representing the Interests and (viii) a notation shall be made in the appropriate records of the Company indicating that the Interests are subject to restrictions on transfer and, if the Company should in the future engage the services of a transfer agent, appropriate stop-transfer instructions will be issued to such transfer agent with respect to the Interests.

11.3 Ability to Bear Risk. Each Member represents and warrants that (i) such Member's financial situation is such that such Member can afford to bear the economic risk of holding the Interests for an indefinite period and (ii) such Member can afford to suffer the complete loss of such Member's investment in the Interests.

11.4 Access to Information; Sophistication; Lack of Reliance. Each Member represents and warrants that (i) such Member is familiar with the business and financial condition, properties, operations and prospects of the Company and that such Member has been granted the opportunity to ask questions of, and receive answers from, representatives of the Company concerning the Company and the terms and conditions of the purchase of the Interests and to obtain any additional information that such Member deems necessary, (ii) such Member's knowledge and experience in financial and business matters is such that such Member is capable of evaluating the merits and risk of the investment in the Interests and (iii) such Member has carefully reviewed the terms and provisions of this Agreement and has evaluated the restrictions and obligations contained therein. In furtherance of the foregoing, each Member represents and warrants that (i) no representation or warranty, express or implied, whether written or oral, as to the financial condition, results of operations, prospects, properties or business of the Company or as to the desirability or value of an investment in the Company has been made to such Member by or on behalf of the Company, (ii) such Member has relied upon such Member's own independent appraisal and investigation, and the advice of such Member's own counsel, tax advisors and other advisors, regarding the risks of an investment in the Company and

(iii) such Member will continue to bear sole responsibility for making its own independent evaluation and monitoring of the risks of its investment in the Company.

11.5 Accredited Investor. Each Member represents and warrants that such Member is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act and, in connection with the execution of this Agreement, agrees to deliver such certificates to that effect as the Board may request.

11.6 Additional Representations and Warranties of the Members. Each Member represents and warrants that (i) it has duly executed and delivered this Agreement, (ii) all actions required to be taken by or on behalf of it to authorize it to execute, deliver and perform its obligations under this Agreement have been taken and this Agreement constitutes such Member's legal, valid and binding obligation, enforceable against such Member in accordance with the terms hereof, (iii) the execution and delivery of this Agreement and the consummation by such Member of the transactions contemplated hereby in the manner contemplated hereby do not and will not conflict with, or result in a breach of any terms of, or constitute a default under, any agreement or instrument or any applicable Law, or any judgment, decree, writ, injunction, order or award of any arbitrator, court or governmental authority which is applicable to such Member or by such Member or any material portion of its properties is bound and (iv) no consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental authority or third person is required to be obtained by such Member in connection with the execution and delivery of this Agreement or the performance of such Member's obligations hereunder.

11.7 Performance of Obligations.

(a) Such Member shall fully and faithfully carry out all its respective agreements and covenants expressly set forth in this Agreement.

(b) Such Member shall, and shall cause each of its controlled Affiliates to, fully and faithfully carry out all its respective agreements and covenants expressly set forth in each Transaction Document, and any material failure to do so, which failure is either incapable of being cured or is not cured within 30 days of delivery of written notice thereof, shall constitute a breach hereunder.

11.8 Further Assurances. Such Member shall, upon the request from time to time of the Company and without further consideration, do, execute and perform all such other acts, deeds and documents as may be reasonably requested by the Company to carry out fully the purposes and intents of this Agreement.

ARTICLE XII
PRE-EFFECTIVE PERIOD

12.1 Effective Time. The effective time of the Company's Business shall, subject to the fulfillment or waiver of the conditions set forth in Section 12.2, take place automatically immediately after all conditions set forth in Section 12.2 have been fulfilled or waived in writing accordance with this Agreement (such time, the "Effective Time").

12.2 Conditions to Effective Time. The occurrence of the Effective Time is subject to the satisfaction or written waiver by both Founding Members (subject to the provisos set forth in Section 12.4) of the following conditions:

(a) Regulatory Approval. (i) The filings with the Securities and Exchange Commission in respect of Rule 19b-4 required to be made prior to the Company commencing the Business shall have been made and all approvals or authorizations required to be obtained prior to the Company commencing the Business (including prior to commencing one-pot cross-margining) shall have been obtained, (ii) the filings required to be made with the U.S. Commodity Futures Trading Commission required to be made prior to the Company commencing the Business shall have been made and all approvals or authorizations required to be obtained prior to the Company commencing the Business (including prior to commencing one-pot cross-margining) shall have been obtained, (iii) all approvals or authorizations required to be obtained by the Federal Reserve Board prior to the Company engaging in the Business, if any, shall have been obtained, (iv) the waiting period (and any extension period thereof) applicable, if any, to the joint venture contemplated by this Agreement under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall have been terminated or shall have expired, any investigation opened by means of a second request for additional information or otherwise shall have been terminated or closed and no action shall have been instituted by the Department of Justice or the Federal Trade Commission challenging or seeking to enjoin the consummation of this transaction, which action shall not have been withdrawn or terminated, and (v) all other material notices, reports, filings, consents, registrations, approvals, permits or authorizations required to be made by the Company or any Member with, or obtained by the Company or any Member from, any Governmental Authority prior to the Company engaging in the Business, the failure of which to make or obtain, would, individually or in the aggregate, provide a reasonable basis to conclude that the Company, any Member or the directors or officers of the Company or any Member would be subject to the risk of criminal liability or material civil liability, shall have been obtained or made; *provided*, that the failure of any required regulatory approval or consent described above to include approval to clear over-the-counter derivative products within its scope shall not constitute a failure of such condition to have been satisfied; *provided further*, that in the event approval to clear over-the-counter derivative products is not included within the scope of any required

regulatory approval or consent as of the Effective Time, the Members and the Company shall use their best efforts to cause approval to clear over-the-counter derivative products to be so included no later than 6 months following the Effective Time.

(b) Transaction Documents. On or prior to the Outside Date, the Company and each Founding Member shall and, each Founding Member shall cause its Affiliates to, execute and deliver each Transaction Document to which it is a party, and each party thereto shall be substantially performing all of its obligations under such Transaction Document in accordance with the terms therein. Collectively, the Transaction Documents shall reflect, in all material respects, all terms set forth in Exhibit A to the Letter Agreement (such Exhibit A, the "Term Sheet") except to the extent that the terms or categories of the Term Sheet already have been reflected in this Agreement.

(c) Business Plan. The Interim Board shall have adopted the initial Business Plan and shall also have adopted a business plan addressing those matters required to be addressed by any Governmental Authority, if any Governmental Authority requires such adoption by the Company prior to the Company engaging in the Business.

12.3 Cooperation. The Company and each Founding Member shall, and shall cause each of their respective Affiliates, agents and representatives to, (i) work in good faith and cooperate in all respects with each other to fulfill each condition set forth in Section 12.2 as promptly as practicable; *provided*, that neither Founding Member nor the Company shall be obligated to, in order to fulfill any condition set forth in Section 12.2, (A) agree to changes that materially impair the benefit of the Business of the Company to either Founding Member relative to that anticipated as of June 17, 2009 or (B) agree to changes to either Founding Member's (or its controlled Affiliates' or Subsidiaries') business practices unrelated to the Company; *provided further*, that such obligation shall be subject to there occurring no event or existing any circumstances or condition, in any case that is not under the control or influence of any party hereto, that would materially reduce the anticipated benefit of the Business of the Company to either Founding Member relative to that anticipated as of June 17, 2009, (ii) promptly inform each Founding Member (in the case of the Company) or the Company and the other Founding Member (in the case of a Founding Member) of any communication received by it from, or given by it to, any Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, in each case in connection with the Company, and (iii) permit each Founding Member (in the case of the Company) or an officer of the Company and the other Founding Member (in the case of a Founding Member) to review and comment in advance as to any communication given by it to, and consult with each other in advance of any meeting or conference held with, any Governmental Authority or, in connection with any proceeding by a private party, and to the extent permitted by such Governmental Authority, give each Founding Member or the Company and the other Founding Member, as the case may be, the

opportunity to attend and participate in such meetings and conferences, in each case in connection with the Company.

12.4 Interim Board. Prior to the Effective Time, the business and affairs of the Company shall be managed by or under the direction of an interim board of directors (the "Interim Board") acting pursuant to this Agreement. The Interim Board shall consist of four individuals (each an "Interim Director"). Each of the DTCC Member and the NYSE Member shall appoint two Interim Directors (the "DTCC Interim Directors" and the "NYSE Interim Directors", respectively, and collectively, the "Interim Member Directors") and one alternate Interim Director. Notwithstanding anything to the contrary in this Agreement, during the period beginning on the date hereof and ending at the Effective Time, (i) the two foregoing sentences shall be deemed to replace the first sentence of each of Section 3.1 and Section 3.2(a), (ii) all references to "Board", "Director, "DTCC Director, "NYSE Director" and "Member Director" in this Agreement shall be deemed to have been replaced by "Interim Board", "Interim Director", "DTCC Interim Director", "NYSE Interim Director" and "Member Interim Director", respectively and (iii) any Deadlock occurring during this period shall be subject to the procedures of Section 3.9 without regard to Section 3.9(a)(ii) or Section 3.9(a)(iii).

12.5 Survival of Article XII. None of the provisions of this Article XII or the covenants or other agreements set forth therein shall survive the Effective Time, except for those covenants and agreements contained therein that by their terms apply or are to be performed in whole or in part after the Effective Time.

ARTICLE XIII

MISCELLANEOUS

13.1 Notices. All notices, consents, requests, instructions, approvals and other communications provided for herein shall be in writing and shall be deemed validly given (i) upon personal delivery, (ii) one day after being sent by facsimile, or (iii) three days after being sent by recognized express courier service that maintains records of receipt:

(a) if to DTCC Member, at:

DTCC
55 Water Street, 31st Floor
New York, New York 10041
Attention: Murray Pozmanter, Managing Director
Fax: (212) 269-0162

with copies (which shall not constitute notice hereunder) to:

Allen & Overy LLP
1221 Avenue of the Americas
New York, New York 10020
Attention: Doug Landy
Michael Gilligan
Fax: (212) 610 6399

(b) if to NYSE Member, at:

NYSE Liffe US
20 Broad Street
New York, NY 10005
Attention: Thomas Callahan, CEO
Fax: 212 656-2025

with copies (which shall not constitute notice hereunder) to:

NYSE Euronext
11 Wall Street
New York, NY 10005
Attention: John Halvey, General Counsel
Fax: 212 656-3939

Katten Muchin Rosenman LLP
525 W. Monroe Street
Suite 1900
Chicago, Illinois 60661
Attention: Arthur W. Hahn
Howard S. Lanznar
Fax: (312) 902-1061

or at such other address or facsimile number as any party hereto may designate by written notice to the other parties hereto.

13.2 Severability. If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to this Agreement to the extent possible. In any event, the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of the remainder of this Agreement in that

jurisdiction or the validity or enforceability of this Agreement, including that provision, in any other competent jurisdiction.

13.3 No Third-Party Beneficiaries Nothing in this Agreement shall be construed as giving any Person, other than the parties hereto, their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof, except that any Person who is entitled to indemnification pursuant to Section 7.4 and is not party to this Agreement shall be a third-party beneficiary of this Agreement to the extent required for purposes of such Section 7.4, *provided* that all claims for indemnification shall be made in the name and on behalf of such Person by a party to this Agreement.

13.4 Amendment. Except as otherwise specifically provided herein, neither this Agreement nor any term hereof may be amended or otherwise modified other than by an instrument in writing signed by all of the Members. No provision of this Agreement may be waived, discharged or terminated other than by an instrument in writing signed by the party against whom the enforcement of such waiver, discharge or termination is sought.

13.5 Assignment. This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and permitted assigns. If any Member shall acquire additional Interests and if any transferee of any Member shall acquire any Interests, in each case in any manner, whether by Transfer, operation of Law or otherwise, such Interests shall be held subject to all of the terms of this Agreement, and by taking and holding such Interests such Person shall be conclusively deemed to have agreed to be bound by, and to comply with, all of the terms and provisions of this Agreement.

13.6 Injunctive Relief; Specific Performance. The Members hereby agree that irreparable damage would occur as a result of the failure of any party hereto to perform any of its obligations under this Agreement in accordance with the specific terms hereof. Therefore, all Members shall have the right to injunctive relief to prevent any breach by, or specific performance of the obligations of, the other Members under this Agreement and if any Member shall institute any action or proceeding for injunctive relief or to enforce the provisions hereof, any Person against whom such action or proceeding is brought hereby waives the claim or defense therein that an adequate remedy at Law exists. The right to injunctive relief or specific performance shall be in addition to any other remedy to which a party hereto may be entitled at Law or in equity.

13.7 Remedies. No failure or delay by any party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of

any other right, power or privilege. The rights and remedies provided herein shall be cumulative and not exclusive of any rights or remedies provided by Law.

13.8 Waiver of Partition. Each Member hereby irrevocably waives any and all rights, if any, that such Member may have to maintain an action for partition of the property of the Company.

13.9 Section Headings; Counterparts; etc. The section headings of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Except as expressly provided herein, none of the parties hereto shall have any authority represent or to bind the other parties in any manner whatsoever.

13.10 Entire Agreement. This Agreement (including the Exhibits hereto) and the Transaction Documents constitute the full and entire understanding and agreement of the parties and supersedes any and all prior agreements, arrangements and understandings relating to the subject matters hereof. In the event of any inconsistency between this Agreement and any Transaction Document, this Agreement shall be controlling with respect to such matters.

13.11 Confidentiality.

(a) Each of the Members and the Company will hold, and will cause its respective officers, employees, advisors, representatives and Affiliates to hold, any nonpublic information in accordance with Annex I of the Letter Agreement as if each was a party thereto. For the purposes of this Agreement and the Transaction Documents, Annex I of the Letter Agreement shall survive indefinitely, subject to Section 13.11(b).

(b) Section 9.9 of this Agreement notwithstanding, on the third anniversary of the date on which any Member ceased to be a Member, the representations, acknowledgements, covenants and agreements of such Member set forth in this Section 13.11 shall automatically terminate without further action by such Member, and such Member shall be released from its obligations under this Section 13.11.

(c) Notwithstanding anything in this Agreement to the contrary, in the event that provisions included in any of the Transaction Documents or in any other documents entered into pursuant to this Agreement or the Transaction Documents shall conflict with or be inconsistent with this Section 13.11 or Annex I of the Letter Agreement, then in all such instances such provisions shall prevail over this section and such Annex I.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

DTCC Member

By: _____
Name: Michael C. Boosom
Title: Exec. Managing Director

NYSE Member

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

DTCC Member

By: _____
Name:
Title:

NYSE Member

By: _____
Name: THOMAS F. CALLAHAN
Title: CEO

Exhibit A

Membership Interests and Contributions

Member	Percentage Interest	Initial Capital Account Balance	Initial Capital Contribution	Interim Contributions	Additional Capital Contributions
DTCC Member	50%	$5,000,000	$5,000,000	-	-
NYSE Member	50%	$5,000,000	$5,000,000	-	-

Exhibit B

Interim Directors

DTCC Member Directors
Murray Pozmanter
Mike Bodson

NYSE Member Directors
Thomas Callahan
Lynn Martin

DTCC Alternate Director
Larry Thompson

NYSE Alternate Director
Mark Ibbotson

THIRD AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

OF

NEW YORK PORTFOLIO CLEARING, LLC

dated as of

April __, 2010