



THE OPTIONS CLEARING
CORPORATION

March 22, 2012

VIA Electronic Mail

David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Rule Filing SR-OCC-2012-04 — Rule Certification

Dear Secretary Stawick:

Enclosed is a copy of the above-referenced rule filing, which The Options Clearing Corporation (“OCC”) is submitting pursuant to the self-certification procedures of Commission Regulation 40.6. The date of implementation of the rule is the later of 10 business days following receipt by the Commission hereof or the date the proposed rule is approved by the Securities and Exchange Commission (the “SEC”) or otherwise becomes effective under the Securities Exchange Act of 1934 (the “Exchange Act”). This rule filing has been, or is concurrently being, submitted to the SEC under the Exchange Act. The text of the rule is set forth at Item 1 of the enclosed filing.

In conformity with the requirements of Regulation 40.6(a)(7), OCC states the following:

Explanation and Analysis

The principal purpose of this rule change is to effect certain procedural changes to existing rules relating to OCC’s clearance of stock loan transactions in both its Market Loan and Stock Loan Programs under its securities clearing agency registration. The proposed changes are described and explained in Item 3 of the filing which is incorporated herein by reference. In pertinent part, the proposed changes are intended to update and generally conform the buy-in and sell-out procedures that may be employed on fails to return borrowed stock or deposited collateral associated with securities lending transactions cleared through the two Programs. The proposed changes further clarify the

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certain respective rights and obligations of clearing members and OCC in connection with the operation of the Programs.

The filing also proposes certain changes to the clearing and settlement services agreement ("Clearing Agreement") between OCC and the operator of the Loan Market for which OCC provides clearing services. Such Operator is Automated Equity Finance Markets, Inc. ("AQS"). AQS and OCC propose to amend and restate the Clearing Agreement in its entirety. Exhibit 5 is a copy of the proposed amended and restated Clearing Agreement and Exhibit 5A is marked to show changes from the current form of Clearing Agreement.

Opposing Views

OCC hereby incorporates by reference Item 5 of the enclosed rule filing, which sets forth a description of any written comments on the rule filing, including any such comments expressing opposing views that were not incorporated into the proposed rule.

Notice of Pending Rule Certification

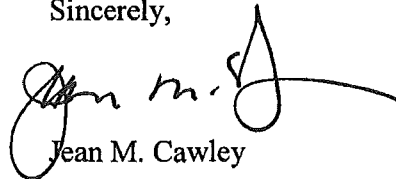
OCC hereby certifies that notice of this rule filing has been given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of the submission on OCC's website concurrently with the filing of this submission.

Certification

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Commodity Exchange Act and the Commission's regulations thereunder.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Jean M. Cawley

Enclosure

cc: CFTC Central Region (w/ enclosure)
525 West Monroe Street, Suite 1100
Chicago, IL 60661

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 19b-4

Proposed Rule Change
by

THE OPTIONS CLEARING CORPORATION

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

Item 1. Text of the Proposed Rule Change

The Options Clearing Corporation (“OCC” or the “Corporation”) proposes to amend its Rules as set forth below. Material proposed to be added is marked by underlining. Material proposed to be deleted is enclosed in bold brackets.

THE OPTIONS CLEARING CORPORATION**RULES**

* * *

Chapter XXII**STOCK LOAN/HEDGE PROGRAM**

* * *

Initiation of Stock Loans**RULE 2202. (a) [No Change.]**

(b) Upon receipt of a report from the Depository showing a completed stock loan, the Corporation shall (subject to Rule 2210(a)) accept such stock loan as a Stock Loan, unless the Corporation determines that the stock loan is not in accordance with the By-Laws and Rules or that one or both account numbers are invalid for Stock Loans; or that the information provided by the Depository contains errors or omissions, in which case the Corporation [shall] may reject the stock loan. A stock loan that is not affirmatively rejected by notice to the initiating Hedge Clearing Members no later than a time specified by the Corporation from time to time shall be deemed accepted by the Corporation as a Stock Loan, and upon such acceptance the following shall automatically occur: (i) the stock loan contract negotiated between the lending Hedge Clearing Member and the borrowing Hedge Clearing Member that initiated the Stock Loan shall be extinguished and replaced in its entirety by (1) a congruent contract between the lending Hedge Clearing Member, as stock lender, and the Corporation, as stock borrower, and (2) an identical congruent contract between the Corporation, as stock lender, and the borrowing Hedge Clearing Member, as stock borrower, (ii) such pair of contracts shall constitute the Stock Loan, (iii) the initial deliveries of Loaned Stock against the settlement price in respect of each such contract shall be deemed to have been made, [and] (iv) the lending Hedge Clearing Member shall be the Lending Clearing Member and the borrowing Hedge Clearing Member shall be the Borrowing Clearing Member in respect of such Stock Loan for all purposes of the Rules, and (v) the terms of the original stock loan (other than terms that establish congruence) and the representations, warranties and covenants made by each of the parties to the original stock loan under the Master Securities Loan Agreement or any other agreements with respect to the original

stock loan shall (1) to the extent that they are inconsistent with the By-Laws and Rules of the Corporation, be eliminated from the pair of congruent contracts constituting the Stock Loan and replaced by applicable By-Laws and Rules of the Corporation, and (2) to the extent that they are not inconsistent with the By-Laws and Rules of the Corporation, remain in effect as between such parties to the original stock loan, but shall not impose any additional obligations on the Corporation. [To the extent that the stock loan contract so extinguished included terms other than the terms that establish congruence, such terms shall be eliminated from the pair of congruent contracts constituting the Stock Loan and replaced by the By-Laws and Rules of the Corporation.] A stock loan contract which is rejected by the Corporation shall remain effective as between the initiating Hedge Clearing Members. For purposes of the foregoing, a replacement stock loan contract shall be "congruent" to the stock loan contract replaced if and only if the contracts agree with respect to the identity of the Eligible Stock that is to be lent, the number of shares that are to be lent and the settlement price.

(c) – (f) [No Change.]

* * *

Settlement Date

RULE 2208. (a) The termination of a Stock Loan, or any portion thereof, may be initiated by either (i) the Borrowing Clearing Member by giving the Depository instructions (including the appropriate "reason code") to transfer a specified quantity of the Loaned Stock to the specified [appropriate] account of the Lending Clearing Member at the Depository, against payment of the settlement price in respect thereof (which shall be specified in such instructions) by the Lending Clearing Member to the specified account of the Borrowing Clearing Member at the Depository, or (ii) the Lending Clearing Member, by giving an irrevocable notice to the Borrowing Clearing Member, in such manner as the Corporation may specify from time to time and prior to a time established by the Corporation from time to time, that the Lending Clearing Member is terminating the Stock Loan, or a portion thereof, and specifying in such notice the number of shares of the Loaned Stock in respect of which the Lending Clearing Member is terminating the Stock Loan (the quantity of the Loaned Stock that the Borrowing Clearing Member wishes to return or that the Lending Clearing Member wishes to recall shall be referred to herein as the "Specified Quantity"). The settlement date for any such termination shall be the earlier of: (1) the date on which the Borrowing Clearing Member initiates the termination or (2) the date that is three stock loan business days after the date on which the Lending Clearing Member initiates the termination. The fact that a Lending Clearing Member has initiated the termination of a Stock Loan, or a portion thereof, shall not preclude the Borrowing Clearing Member from terminating such Stock Loan, or a portion thereof, before the date that would otherwise have been the settlement date.

(b) – (d) [No Change.]

Settlement

RULE 2209. (a) Termination of a Stock Loan, or a portion thereof, shall be complete when (i) the Depository has made final entries on its books showing the transfer to the Lending

Clearing Member's account of the amount of Loaned Stock specified in the Borrowing Clearing Member's transfer instructions and the transfer of the settlement price in respect thereof to the Borrowing Clearing Member's account and the Corporation has been effectively notified of such entries or (ii) the Lending Clearing Member and the Borrowing Clearing Member have certified to the Corporation in such manner as the Corporation shall from time to time prescribe that the Stock Loan (or designated portion thereof) has been terminated between the Clearing Members and any transfer of the settlement price has occurred between the Clearing Members. From and after the time when termination of a Stock Loan, or a portion thereof, is complete in accordance with this Rule, the Corporation shall be discharged from its obligations as borrower to the Lending Clearing Member and lender to the Borrowing Clearing Member, and the Corporation shall have no further obligation in respect of the terminated Stock Loan, or such portion.

(b) If the Lending Clearing Member initiates the termination of a Stock Loan and the Lending Clearing Member does not receive the Specified Quantity in its designated account with the Depository on the settlement date at or before such time (the "Settlement Time") as may be specified by the Corporation from time to time, the Borrowing Clearing Member shall nevertheless be entitled to receive from the Lending Clearing Member the settlement price in respect of the number of shares (if any) of the Loaned Stock actually transferred by the Borrowing Clearing Member to the Lending Clearing Member, and the termination of the Stock Loan shall be complete at the time thereafter: [.]

(1) when the Borrowing Clearing Member has caused the quantity of the Loaned Stock necessary to complete the return of the Specified Quantity (the "Delinquent Quantity") to be transferred to the Lending Clearing Member's designated account at the Depository, and the Lending Clearing Member has caused the settlement price in respect of the Delinquent Quantity to be transferred to the account of the Borrowing [borrowing] Clearing Member at the Depository; or

(2) when the Lending Clearing Member[, having notified the Corporation and the Borrowing Clearing Member of its intention to execute a buy-in of the Delinquent Quantity,] has executed a buy-in of the Delinquent Quantity prior to actually receiving the Delinquent Quantity in its designated account at the Depository from the Borrowing Clearing Member.

The Lending Clearing Member may execute a buy-in of the Delinquent Quantity pursuant to this paragraph at any time after the Settlement Time on the settlement date, provided that the Lending Clearing Member has not actually received the Delinquent Quantity in its designated account with the Depository from the Borrowing Clearing Member prior to executing the buy-in. [If the Lending Clearing Member executes a buy-in pursuant to this paragraph, the buy-in shall be for the account and liability of the Corporation.] After execution [thereof] of a buy-in, the Lending Clearing Member shall immediately give written notice to the Corporation and the Borrowing Clearing Member of such buy-in, including [as to] the quantity of the Loaned Stock purchased (which shall not be greater than, and should ordinarily be equal to, the Delinquent Quantity) and the price paid (including any transactional costs, fees or interest incurred in connection with such buy-in, the "Buy-In Costs"). Such notice shall be in a form specified by the Corporation from time to time. The Lending Clearing Member shall execute the

buy-in in a commercially reasonable manner and must be prepared to defend the timing of the buy-in and the Buy-In Costs [the price at which the buy-in was executed relative to the current market at the time of the buy-in]. Any objections by the Borrowing Clearing Member with respect to the timeliness of the buy-in and the reasonableness of the Buy-In Costs shall be matters to be resolved as between the Lending Clearing Member and the Borrowing Clearing Member, and the Corporation shall have no responsibility in respect thereof.

(c) If a buy-in has been completed by a Lending Clearing Member pursuant to paragraph (b), the Corporation shall (i) determine the difference between the amount of Collateral held by the Lending Clearing Member in respect of [a number of shares of] the bought-in Loaned Stock [equal to the number of shares bought in] and the Buy-In Costs [price paid on such buy-in and], (ii) pay such amount to or collect such amount from, as applicable, the account of the Lending Clearing Member in which the stock loan position was carried, and (iii) collect such amount from or pay such amount to, as applicable, the account of the Borrowing Clearing Member in which the stock borrow position was carried. Such collection and payment having been made, the stock loan position of the Lending Clearing Member and the stock borrow position of the Borrowing Clearing Member in respect of [a number of shares of] the bought-in Loaned Stock [equal to the number of shares bought in] shall be extinguished, and the Corporation shall have no further obligation in respect thereof.

(d) Notwithstanding the preceding provisions of this Rule, if the Lending Clearing Member is unable to complete the buy-in or if, for any reason, effecting a buy-in is not permitted, the Corporation, in its discretion and upon notice to the Lending Clearing Member, may fix a cash settlement value for the quantity of the Loaned Stock not returned to the Lending Clearing Member. The value fixed by the Corporation shall be final and not subject to review. The Corporation shall (i) determine the difference between the amount of Collateral held by the Lending Clearing Member in respect of such quantity of the Loaned Stock and the cash settlement value fixed by the Corporation, (ii) pay such amount to or collect such amount from, as applicable, the account of the Lending Clearing Member in which the stock loan position was carried, and (iii) collect such amount from or pay such amount to, as applicable, the account of the Borrowing Clearing Member in which the stock borrow position was carried. Such collection and payment having been made, the stock loan position of the Lending Clearing Member and the stock borrow position of the Borrowing Clearing Member in respect of such quantity of the Loaned Stock shall be extinguished, and the Corporation shall have no further obligation in respect thereof. These payments shall be made through the Corporation's daily cash settlement system and may be netted against other cash settlements due to or from the same account in accordance with the By-Laws and Rules.

(e) [(d)] Notwithstanding any other provision of the By-Laws or Rules, from and after the time at which [a Lending Clearing Member executes] a buy-in is executed pursuant to paragraph (b) of this Rule or a cash settlement value is determined pursuant to paragraph (d) of this Rule, the Borrowing Clearing Member shall have no further obligation to deliver to the Corporation, and the Corporation shall have no further obligation to deliver to the Lending Clearing Member, a quantity of the Loaned Stock equal to the number of shares bought in or cash-settled, the Corporation shall have no further right to receive from the Lending Clearing Member, and the Borrowing Clearing Member shall have no further right to receive from the

Corporation, the Collateral in respect of a quantity of the Loaned Stock equal to the number of shares bought in or cash-settled, and no delivery of Loaned Stock by the Borrowing Clearing Member to the Lending Clearing Member shall constitute a return of any of the Loaned Stock in respect of which [the Lending Clearing Member executed the] a buy-in is executed or a cash settlement value is determined.

(f) If the Borrowing Clearing Member initiates the termination of a Stock Loan and the Borrowing Clearing Member does not receive in its specified account with the Depository, at or before the Settlement Time on the settlement date, the full settlement price in respect of the Specified Quantity of Loaned Stock, the Borrowing Clearing Member shall nevertheless deliver to the Lending Clearing Member the number of shares (if any) of the Loaned Stock in respect of which the settlement price has actually been transferred by the Lending Clearing Member to the Borrowing Clearing Member. The portion of the Specified Quantity of Loaned Stock remaining in the Borrowing Clearing Member's possession shall be referred to herein as the "Remaining Quantity." The termination of the Stock Loan shall be complete at the time thereafter:

(1) when the Lending Clearing Member has caused the settlement price in respect of the Remaining Quantity to be transferred to the Borrowing Clearing Member's designated account at the Depository, and the Borrowing Clearing Member has caused the Remaining Quantity to be transferred to the specified account of the Lending Clearing Member at the Depository; or

(2) when the Borrowing Clearing Member has executed a sell-out prior to actually receiving the settlement price in respect of the Remaining Quantity in its specified account at the Depository from the Lending Clearing Member.

The Borrowing Clearing Member may execute a sell-out of the Remaining Quantity pursuant to this paragraph at any time after the Settlement Time on the settlement date, provided that the Borrowing Clearing Member has not actually received the settlement price in respect of the Remaining Quantity in its specified account with the Depository from the Lending Clearing Member prior to executing the sell-out. After execution of a sell-out, the Borrowing Clearing Member shall immediately give written notice to the Corporation and the Lending Clearing Member of such sell-out, including the quantity of the Loaned Stock sold (which shall not be greater than the Remaining Quantity), the price received, and any transactional costs, fees or interest incurred in connection with such sell-out (such transactional costs, fees and interest, the "Sell-Out Costs"). The Borrowing Clearing Member shall execute the sell-out in a commercially reasonable manner and must be prepared to defend the timing of the sell-out, the sell-out price and the Sell-Out Costs. Any objections by the Lending Clearing Member with respect to the timeliness of the sell-out and the reasonableness of the sell-out price and the Sell-Out Costs shall be matters to be resolved as between the Lending Clearing Member and the Borrowing Clearing Member, and the Corporation shall have no responsibility in respect thereof.

(g) If a sell-out has been completed by a Borrowing Clearing Member pursuant to paragraph (f), the Corporation shall (i) subtract the Sell-Out Costs from the price received on such sell-out, and determine the difference between the remaining amount and the settlement price owed to the Borrowing Clearing Member in respect of the sold-out Loaned Stock, (ii) pay such amount to or collect such amount from, as applicable, the account of the Borrowing

Clearing Member in which the stock borrow position was carried, and (iii) collect such amount from or pay such amount to, as applicable, the account of the Lending Clearing Member in which the stock loan position was carried. Such collection and payment having been made, the stock loan position of the Lending Clearing Member and the stock borrow position of the Borrowing Clearing Member in respect of the sold-out Loaned Stock shall be extinguished, and the Corporation shall have no further obligation in respect thereof.

(h) Anything else herein to the contrary notwithstanding, the Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of any exchange or self-regulatory organization.

...Interpretations and Policies: [No change.]

* * *

Suspension of Hedge Clearing Members - Buy-In and Sell-out Procedures

Rule 2211. If a Hedge Clearing Member shall be suspended by the Corporation, the Corporation may direct the Lending Clearing Member or the Borrowing Clearing Member, as applicable, or, in the Corporation's discretion, may instruct an independent broker, to buy in or sell out, as applicable, the Loaned Stock with respect to each open stock borrow or loan position of the suspended Hedge Clearing Member that originated through the Stock Loan/Hedge Program. In the case where the Lending Clearing Member or the independent broker fails to complete a buy-in or if, for any reason, effecting a buy-in is not permitted, the Corporation, in its discretion and upon notice to the Lending Clearing Member or the independent broker, may fix a cash settlement value for the quantity of the Loaned Stock not returned to the Lending Clearing Member. The buy-in, sell-out or cash settlement process shall be effected in accordance with the applicable procedures set forth in Rule 2209, provided that (i) in the case where the Corporation instructs an independent broker to execute a buy-in, the Corporation shall return the bought-in Loaned Stock to the Lending Clearing Member against the payment of settlement price in respect thereof by the Lending Clearing Member, (ii) in the case where the Corporation instructs an independent broker to execute a sell-out, the Corporation shall recall the Loaned Stock from the Borrowing Clearing Member for purpose of the sell-out and transfer the sale proceeds to the Borrowing Clearing Member, and (iii) any amount to be credited to or collected from the suspended Clearing Member shall be credited to or withdrawn from the suspended Clearing Member's Liquidating Settlement Account. The Clearing Member executing the buy-in or sell-out, as applicable, must be prepared to defend the reasonableness of the timing of such transaction and/or the reasonableness of the price, transactional costs or cash settlement value, provided that in the case where the Corporation instructs an independent broker to execute a buy-in or sell-out, every determination by the Corporation with respect to any such related matter shall be within the sole discretion of the Corporation and shall be conclusive and binding on all Clearing Members and not subject to review. Anything else herein to the contrary notwithstanding, the Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of any exchange or self-regulatory organization.

[(a)(1) If a Hedge Clearing Member that is the Borrowing Clearing Member in respect of a Stock Loan shall be suspended (including between the time when the termination of a Stock Loan is initiated and the time when the Borrowing Clearing Member should have delivered the Loaned Stock), the Corporation may direct the Lending Clearing Member to buy in the Loaned Stock for the account and liability of the Corporation. Unless the Corporation otherwise directs, the Lending Clearing Member shall execute such buy-in as promptly as practicable, but in no event later than the opening of trading on the next business day. No advance notice need be given of any such buy-in, but the Lending Clearing Member executing such a buy-in shall, immediately after execution thereof, give written notice to the suspended Clearing Member and the Corporation as to the quantity of the Loaned Stock purchased and the price paid. A Clearing Member that executes a buy-in pursuant to this paragraph (a) must be prepared to defend the timing of the buy-in and the price at which the buy-in was executed relative to the current market at the time of the buy-in.

(2) If a buy-in has been completed by a Lending Clearing Member pursuant to this paragraph (a), upon receipt of notice thereof the Corporation shall (i) determine the difference between the amount of Collateral held by the Lending Clearing Member in respect of the bought-in Loaned Stock and the price paid on such buy-in, (ii) pay such amount to or collect such amount from the Lending Clearing Member, as applicable, and (iii) collect such amount from or pay such amount to the Liquidating Settlement Account of the suspended Clearing Member, as applicable.

(3) The failure of a Lending Clearing Member to execute a buy-in as specified in this paragraph (a) on a timely basis shall not affect the contract rights of the parties, except that the Corporation may limit the amount which it is obligated to pay pursuant to subparagraph (2) hereof to the highest amount it would have been required to pay if the buy-in had been executed on a timely basis.

(b)(1) If a Hedge Clearing Member that is the Lending Clearing Member in respect of a Stock Loan shall be suspended (including between the time when the termination of a Stock Loan is initiated and the time when the Borrowing Clearing Member should have delivered the Loaned Stock), the Corporation may direct the Borrowing Clearing Member to sell out the Loaned Stock for the account and liability of the Corporation. Unless the Corporation otherwise directs, the Borrowing Clearing Member shall execute such sell-out as promptly as practicable, but in no event later than the opening of trading on the next business day. No advance notice need be given of any such sell-out, but the Borrowing Clearing Member executing such a sell-out shall, immediately after execution thereof, give written notice to the suspended Clearing Member and the Corporation as to the quantity of the Loaned Stock sold and the price received. A Clearing Member that executes a sell-out pursuant to this paragraph (b) must be prepared to defend the timing of the sell-out and the price at which the sell-out was executed relative to the current market at the time of the sell-out.

(2) If a sell-out has been completed by a Borrowing Clearing Member pursuant to this paragraph (b), upon receipt of notice thereof, the Corporation shall (i) determine the difference between the amount of Collateral owed to the Borrowing Clearing Member in respect of the sold-out Loaned Stock and the price received on such sell-out, (ii) pay such amount to or collect such amount from the Borrowing Clearing Member, as applicable, and (iii) collect such amount

from or pay such amount to the Liquidating Settlement Account of the suspended Clearing Member, as applicable.

(3) The failure of a Borrowing Clearing Member to execute a sell-out as specified in this paragraph (b) on a timely basis shall not affect the contract rights of the parties, except that the Corporation may limit the amount which it is obligated to pay pursuant to subparagraph (2) hereof to the highest amount it would have been required to pay if the sell-out had been executed on a timely basis.]

[Rule 2211 supplements Rules 1105 and 1106 and replaces Rule 1107.]

* * *

Chapter XXIIIA

MARKET LOAN PROGRAM

* * *

Termination of Market Loans

Rule 2209A. (a) The termination of a Market Loan, or any portion thereof, may be initiated by (i) the Borrowing Clearing Member, by giving a return notice to the relevant Loan Market indicating its intention to return a specified quantity of the Loaned Stock, or (ii) the Lending Clearing Member, by giving a recall notice to the relevant Loan Market calling for the return of a specified quantity of the Loaned Stock.

(1) Upon matching a return request with an open stock loan position, or a recall request with an open stock borrow position, the Loan Market shall send details of the matched return/recall transaction to the Corporation. If a matched return/recall transaction passes the Corporation's validation process, the Corporation shall create and send to the Depository a pair of delivery orders – one order instructing the Depository to transfer a specific quantity of the Loaned Stock from the Borrowing Clearing Member to the Corporation's account against transfer of the settlement price in respect thereof [Collateral] from the Corporation's account to the Borrowing Clearing Member, and the other order instructing the Depository to simultaneously transfer such Loaned Stock from the Corporation's account to the Lending Clearing Member against the transfer of the settlement price in respect thereof [Collateral] from the Lending Clearing Member to the Corporation's account.

(2) [No Change.]

(3) On each stock loan business day, any return/recall transactions originated through a Loan Market that are not settled by the Depository and confirmed by the Corporation shall have no further effect as to the Corporation; provided, however, that the Loan Market shall resubmit to the Corporation any return/recall transaction that was not completed, and the Corporation in turn shall resubmit its instructions to the Depository on the next stock loan business day. If (i) a recall transaction fails to settle by the Settlement Time on the third stock loan business day following the day that the transaction was first submitted, or (ii) a return

transaction fails to settle by the Settlement Time on the stock loan business day on which it was submitted, [the relevant Loan Market shall initiate on the morning of the next stock loan business day] the Lending Clearing Member or the Borrowing Clearing Member, as applicable, may initiate at any time thereafter the “buy-in” or “sell-out” process, as applicable, set forth in paragraphs (b) and (c) of this Rule, respectively. For purposes of clause (ii) of the preceding sentence, a return transaction submitted after a cutoff time specified by the Loan Market shall be deemed to have been submitted on the following stock loan business day.

(b) *Buy-In.* (1) Where the Borrowing Clearing Member fails to return the specified quantity of Loaned Stock, the Lending Clearing Member may execute a buy-in of the Loaned Stock [the Loan Market shall instruct an independent broker (such broker shall be a Market Loan Clearing Member) to purchase the Loaned Stock. The broker shall be instructed to effect the buy-in in a commercially reasonable manner as promptly as practicable and in any event at or prior to the latest time when a buy-in is required to be effected under applicable regulatory requirements. The buy-in shall be for the account and liability of the Corporation. Notwithstanding the foregoing, the Corporation shall not be held liable for any Clearing Member’s failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of any exchange or self-regulatory organization]. After execution of a buy-in, the Lending Clearing Member [the broker] shall immediately give written notice to [the Corporation and] the Loan Market of such buy-in [as to the quantity of the Loaned Stock purchased and the price paid]. After receipt of such notice, the Loan Market shall immediately give written notice to the Borrowing Clearing Member and the Corporation of such buy-in, including the quantity of the Loaned Stock purchased (which shall not be greater than, and should ordinarily be equal to, the quantity of the Loaned Stock that the Borrowing Clearing Member has failed to return to the Lending Clearing Member) and the price paid (including any transactional costs, fees or interest incurred in connection with such buy-in, the “Buy-In Costs”). The Loan Market shall also provide the Corporation with such other information as it may reasonably require with respect to the executed buy-in. The Lending Clearing Member shall execute the buy-in in a commercially reasonable manner and must be prepared to defend the timing of the buy-in and the Buy-In Costs. Any objections by the Borrowing Clearing Member with respect to the timeliness of the buy-in and the reasonableness of the Buy-In Costs shall be matters to be resolved by the Loan Market, and the Corporation shall have no responsibility in respect thereof. [As between the Corporation and the Borrowing Clearing Members, every determination by the Corporation with respect to the reasonableness of a buy-in price shall be within the sole discretion of the Corporation and shall be conclusive and binding on all Clearing Members and not subject to review.]

(2) If a buy-in has been completed by a Lending Clearing Member pursuant to subparagraph (b)(1) above, the Corporation shall (i) determine the difference between the amount of Collateral held by the Lending Clearing Member in respect of the bought-in Loaned Stock and the Buy-In Costs, (ii) pay such amount to or collect such amount from, as applicable, the account of the Lending Clearing Member in which the stock loan position was carried, and (iii) collect such amount from or pay such amount to, as applicable, the account of the Borrowing Clearing Member in which the stock borrow position was carried. [After execution of a buy-in, the Loan Market shall notify the Corporation to instruct the Depository to transfer the bought-in

Loaned Stock from the account of the broker to the Corporation's account against transfer of Collateral from the Corporation's account to the broker, and simultaneously transfer the bought-in Loaned Stock from the Corporation's account to the Lending Clearing Member against the transfer of Collateral from the Lending Clearing Member to the Corporation's account. The Borrowing Clearing Member shall be responsible to the Corporation for the price paid on the buy-in, any costs, fees or interest incurred by the broker in connection with such buy-in (all such costs, the "Buy-In Transaction Cost"), and any penalties or charges that the Loan Market may assess against the Borrowing Clearing Member. Notwithstanding the foregoing, if the returned Collateral exceeds the sum of the price paid and the Buy-In Transaction Cost, the broker shall receive only an amount equal to the sum of the price paid and the Buy-In Transaction Cost. The Corporation shall apply the excess to cover any penalties or charges assessed by the Loan Market and credit any remaining amount to the Borrowing Clearing Member. If the returned Collateral is insufficient to cover the price paid, the Buy-In Transaction Cost and/or any penalties or charges assessed by the Loan Market, the Corporation shall pay the amount of the deficiency to the broker and/or the Loan Market, as appropriate, and charge such amount to the Borrowing Clearing Member.]

(3) Notwithstanding the preceding provisions of this Rule, if the Lending Clearing Member [the broker] is unable to complete the buy-in [within a reasonable time or such time as may be required under applicable law or the rules of a self-regulatory organization] or if, for any reason, effecting a buy-in is not permitted, the Corporation, in its discretion and upon notice to the Lending Clearing Member [in consultation with the Loan Market], may fix a cash settlement value for the quantity of the Loaned Stock [that was] not returned to the Lending Clearing Member. The value fixed by the Corporation shall be final and not subject to review. The Corporation shall (i) determine the difference between the amount of Collateral held by the Lending Clearing Member in respect of such quantity of the Loaned Stock and the cash settlement value fixed by the Corporation, (ii) pay such amount to or collect such amount from, as applicable, the account of the Lending Clearing Member in which the stock loan position was carried, and (iii) collect such amount from or pay such amount to, as applicable, the account of the Borrowing Clearing Member in which the stock borrow position was carried. [If the Collateral held by the Lending Clearing Member exceeds such cash settlement value, the Lending Clearing Member shall retain collateral equal in value to the cash settlement price and pay the excess to the Corporation and the Corporation shall pay the excess to the Borrowing Clearing Member. If the Collateral is less than such cash settlement value, the Lending Clearing Member shall retain the full amount of the Collateral, and the Corporation shall pay the amount of the deficiency to the Lending Clearing Member and collect such amount from the Borrowing Clearing Member.] These payments shall be made through the Corporation's daily cash settlement system and may be netted against other cash settlements due to or from the same account in accordance with the By-Laws and Rules [at the discretion of the Corporation].

(4) Notwithstanding any other provision of the By-Laws or Rules, from and after the time that a buy-in is executed pursuant to subparagraph (b)(1) of this Rule or, in the case where the broker fails to complete the buy-in,] a cash settlement value is determined pursuant to subparagraph (b)(3) of this Rule, the Borrowing Clearing Member shall have no further right or obligation to deliver to the Corporation the Loaned Stock, and no delivery of Loaned Stock by the Borrowing Clearing Member shall satisfy the obligation of the Borrowing Clearing Member under this paragraph (b).

(c) *Sell-Out.* (1) Where the Lending Clearing Member fails to [return] pay the settlement price in respect of the Loaned Stock [the Collateral], the Borrowing Clearing Member may execute a sell-out of the Loaned Stock [the Loan Market shall instruct an independent broker (such broker shall be a Market Loan Clearing Member) to sell the Loaned Stock. The broker shall be instructed to effect the sell-out in a manner that is both commercially reasonable and in compliance with all applicable laws and regulations, as promptly as practicable and in any event at or prior to the latest time when a sell-out is required to be effected under applicable regulatory requirements. The sell-out shall be for the account and liability of the Corporation. However, the Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of any exchange or self-regulatory organization]. After execution of a sell-out, the Borrowing Clearing Member [the broker] shall immediately give written notice to [the Corporation and] the Loan Market of such sell-out [as to the quantity of the Loaned Stock sold and the price received]. After receipt of such notice, the Loan Market shall immediately give written notice to the Lending Clearing Member and the Corporation of such sell-out, including the quantity of the Loaned Stock sold (which shall not be greater than the quantity of the Loan Stock in respect of which the Lending Clearing Member has failed to return the settlement price to the Borrowing Clearing Member), the price received, and any transactional costs, fees or interest incurred in connection with such sell-out (such transactional costs, fees and interest, the "Sell-Out Costs"). The Loan Market shall also provide the Corporation with such other information as it may reasonably require with respect to the executed sell-out. The Borrowing Clearing Member shall execute the sell-out in a commercially reasonable manner and must be prepared to defend the timing of the sell-out, the sell-out price and the Sell-Out Costs. Any objections by the Lending Clearing Member with respect to The timeliness of the sell-out and the reasonableness of the sell-out price and/or the Sell-out Costs shall be matters to be resolved by the Loan Market, and the Corporation shall have no responsibility in respect thereof. [As between the Corporation and the Lending Clearing Members, every determination by the Corporation with respect to the reasonableness of a sell-out price shall be within the sole discretion of the Corporation and shall be conclusive and binding on all Clearing Members and not subject to review.]

(2) If a sell-out has been completed by a Borrowing Clearing Member pursuant to subparagraph (c)(1), the Corporation shall (i) subtract the Sell-Out Costs from the price received on such sell-out, and determine the difference between the remaining amount and the settlement price owed to the Borrowing Clearing Member in respect of the sold-out Loaned Stock, (ii) pay such amount to or collect such amount from, as applicable, the account of the Borrowing Clearing Member in which the stock borrow position was carried, and (iii) collect such amount from or pay such amount to, as applicable, the account of the Lending Clearing Member in

which the stock borrow position was carried. [After execution of a sell-out, the Loan Market shall notify the Corporation to instruct the Depository to transfer the sale proceeds from the broker to the Corporation's account against transfer of the Loaned Stock from the Corporation's account to the broker, and simultaneously transfer the sale proceeds from the Corporation's account to the Borrowing Clearing Member against the transfer of the Loaned Stock from the Borrowing Clearing Member to the Corporation's account. The Lending Clearing Member shall be responsible to the Corporation for the full amount of the Collateral, any costs, fees or interest incurred by the broker in connection with such sell-out (all such costs, the "Sell-Out Transaction Cost"), and any penalties or charges that the Loan Market may assess against the Lending Clearing Member. Notwithstanding the foregoing, if the sale proceeds exceed the Collateral, the Borrowing Clearing Member shall only receive an amount equal to the Collateral. The Corporation shall apply the excess to cover the Sell-Out Transaction Cost incurred by the broker and any penalties or charges assessed by the Loan Market, and credit any remaining amount to the Lending Clearing Member. If the sales proceeds are insufficient to cover the Collateral, the Sell-Out Transaction Cost and/or any penalties or charges assessed by the Loan Market, the Corporation shall pay the amount of the deficiency to the Borrowing Clearing Member, the broker and/or the Loan Market, as appropriate, and collect such amount from the Lending Clearing Member.]

(d) The relevant Loan Market may issue return/recall instructions to the Corporation [shall] to terminate all or a portion of the outstanding Market Loans carried in the account(s) of a Market Loan Clearing Member [upon being directed by the relevant Loan Market to do so]. If any such termination fails to settle on the specified termination date, the relevant Loan Market may direct the Lending Clearing Member or the Borrowing Clearing Member, as applicable, to initiate the buy-in or sell-out process described in this Rule, as applicable, in accordance with any instructions the Loan Market may provide. The Corporation may also at any time terminate the outstanding Market Loans relating to one or more particular Eligible Stocks upon a determination by the Corporation, in its sole discretion, that such action is warranted by reason of the lack of substantial volume in such Market Loans, the impending termination of business on the part of the Corporation, the inability of the Corporation from time to time to maintain in effect satisfactory arrangements with the Depository, or other circumstances in which the Corporation in its sole discretion determines that such action is necessary or appropriate for the protection of the Corporation, its Clearing Members or the public. For Market Loans terminated at the election of the Corporation, the Corporation shall provide [The Corporation may effect a termination pursuant to this paragraph (d) by giving] written notice thereof to all affected Market Loan Clearing Members specifying the date on which such termination is to become effective, which date shall be a stock loan business day at least three stock loan business days after the date of such notice. If any such termination fails to settle on the specified termination date, the relevant Market Loan Clearing Members may [Loan Market shall] initiate on the morning of the next stock loan business day the "buy-in" or "sell-out" process described in this Rule, as applicable.

(e) – (f) [No change.]

(g) Anything else herein to the contrary notwithstanding, the Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations

under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of the relevant Loan Market or any exchange or self-regulatory organization.

Suspension of Market Loan Clearing Members – Buy-In and Sell-Out Procedures

Rule 2211A. If a Market Loan Clearing Member shall be suspended by the Corporation, the Corporation may direct the Lending Clearing Member or the Borrowing Clearing Member, as applicable, or, in the Corporation's discretion, may instruct an independent broker (such broker shall be a Market Loan Clearing Member) to buy in or sell out, as applicable, the Loaned Stock [for the account and liability of the Corporation] with respect to each open stock borrow or loan position of the suspended Clearing Member that originated through the Market Loan Program. The buy-in or sell-out shall be effected in accordance with the applicable procedures set forth in Rule 2209A, provided that (i) in the case where the Corporation instructs an independent broker to execute a buy-in, the Corporation shall return the bought-in Loaned Stock to the Lending Clearing Member against the payment of settlement price in respect thereof by the Lending Clearing Member, (ii) in the case where the Corporation instructs an independent broker to execute a sell-out, the Corporation shall recall the Loaned Stock from the Borrowing Clearing Member for purpose of the sell-out and transfer the sale proceeds to the Borrowing Clearing Member, and (iii) any amount to be credited to or collected from the suspended Clearing Member shall be credited to or withdrawn from the suspended Clearing Member's Liquidating Settlement Account. In the case where the Lending Clearing Member or the independent broker fails to complete a buy-in or if, for any reason, effecting a buy-in is not permitted, the Corporation, in its discretion and upon notice to the Lending Clearing Member or the independent broker, may fix a cash settlement value for the for the quantity of the Loaned Stock not returned to the Lending Clearing Member. The Clearing Member executing the buy-in or sell-out, as applicable, shall be prepared to defend the timeliness of the buy-in or sell-out, as applicable, the reasonableness of the price, the transactional costs or cash settlement value, provided that in the case where the Corporation instructs an independent broker to execute a buy-in or sell-out, every determination by the Corporation with respect to any such related matter shall be within the sole discretion of the Corporation and shall be conclusive and binding on all Clearing Members and not subject to review. Anything else herein to the contrary notwithstanding, the Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of the relevant Loan Market or any exchange or self-regulatory organization.

* * *

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by OCC's Board of Directors at a meeting held on December 8, 2009.

Questions regarding the proposed rule change should be addressed to Jean M. Cawley, Senior Vice President and Deputy General Counsel at (312) 322-6269.

Item 3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As described below, OCC is proposing three procedural changes to certain Rules relating to the Market Loan Program¹ and/or the Stock Loan/Hedge Program.²

First, OCC proposes to amend the buy-in and sell-out processes under the Market Loan Program. Under existing Rules, buy-in and sell-out transactions under the Market Loan Program would be executed by the relevant Loan Market via an independent broker. However, Clearing Members participating in the Market Loan Program have requested that the execution of such buy-in or sell-out transactions be left to the discretion of Lending Clearing Member or Borrowing Clearing Member, as applicable. OCC understands that Automated Equity Finance Markets, Inc. ("AQF"), the operator of the Loan Market supported by the Market Loan Program, supports the requested change and believes that allowing participants in the Market Loan Program to manage the buy-in and sell-out processes in the manner that they are accustomed to will foster the development of its marketplace. To accommodate such request, OCC proposes to amend Rule 2209A and Rule 2211A to update the buy-in and sell-out processes described therein and to redefine the respective rights, obligations and responsibilities of OCC, Clearing Members and the relevant Loan Market in connection therewith.

More specifically, under existing Rules, where the Borrowing Clearing Member fails to return the specified quantity of loaned stock (or where the Lending Clearing Member fails to pay the settlement price in respect of the specified quantity of loaned stock), the relevant Loan

¹ The Market Loan Program, governed by Article XXIA of OCC's By-Laws and Chapter XXIIA of OCC's Rules, provides a framework that accommodates securities lending transactions executed through electronic trading systems ("Loan Markets").

² The Stock Loan/Hedge Program, governed by Article XXI of OCC's By-Laws and Chapter XXII of OCC's Rules, allows approved clearing members to register their privately negotiated securities lending transactions with OCC.

Market will instruct an independent broker to execute a buy-in (or sell-out) of the loaned stock and OCC will determine in its sole discretion, as between OCC and the clearing members, whether the costs of the transaction are reasonable. Under the proposed Rules, as is the more common practice in connection with securities lending, instead of an independent broker, the Lending Clearing Member (or the Borrowing Clearing Member) would determine if and when to execute a buy-in (or sell-out) of the loaned stock. Because the Clearing Member would have sole discretion with respect to execution of the buy-in (or sell-out) transaction, such Clearing Member would be required to defend the timeliness of the transaction and/or the reasonableness of the costs if such matters were being challenged and OCC would have no responsibility with respect to their resolution unless OCC has suspended the Clearing Member. In connection with the foregoing proposed changes, OCC and AQS will amend and restate the Agreement for Clearing and Settlement Services between the parties (the "AQS Agreement"). A copy of the amended and restated AQS Agreement is attached hereto as Exhibit 5.³

Second, OCC proposes to amend the Rules governing the Stock Loan/Hedge Program to add a sell-out process. Currently, Rule 2209, which governs regular termination of stock loans under the Stock Loan/Hedge Program, does not describe a sell-out process. Although a sell-out process is described in Rule 2211, the scope of its application is limited by the context of Rule 2211, which specifically governs the close-out of stock loan positions of suspended Clearing Members. Therefore, OCC proposes to amend Rule 2209 to add a sell-out process that applies in the context of regular termination of stock loans and to amend Rule 2211 to update the buy-in and sell-out processes described therein and to redefine the respective rights, obligations and

³ Attached as Exhibit 5A is a marked copy showing the changes between the original and amended and restated AQS Agreement. These supporting changes to the AQS Agreement principally are technical in nature. Technical changes also have been made to reflect the use of DTC's Dividend Service to effect settlement of certain cash dividends. See File No. SR-OCC-2009-16, Release No. 34-60881 (October 26, 2009).

responsibilities of OCC and Clearing Members in connection therewith. Rule 2209 is also amended to clarify when stock loans are terminated, including codifying a long standing process which has permitted Clearing Members to a stock loan to certify to OCC that they have terminated the stock loan and transferred the settlement price between themselves.

Third, OCC proposes to amend the Rules governing the Stock Loan/Hedge Program to add a cash settlement process. Under the Market Loan Program, if the Lending Clearing Member is unable to complete a buy-in, OCC has the discretion to fix a cash settlement value for the quantity of the loaned stock not returned to the Lending Clearing Member, thereby facilitating the termination of the relevant stock loan (see Rule 2209A(b)(3)). However, currently OCC does not have the same option available under the Stock Loan/Hedge Program. Therefore, OCC proposes to amend Rule 2209 and Rule 2211 as appropriate to include a cash settlement process identical to the process available under the Market Loan Program.

Finally, in addition to the procedural changes described above, OCC proposes to amend Rule 2202(b) to clarify that with respect to a stock loan that has been novated by OCC under the Stock Loan/Hedge Program, any terms of the original stock loan (other than terms that establish congruence) and any representations, warranties and/or covenants made by the parties to the original stock loan with respect to such loan, to the extent that they do not conflict with OCC's By-Laws and Rules, shall remain in effect as between such parties. This change clarifies that, for example, the agreements of the parties to the original stock loan transaction with respect to dividend and rebate payments (which are not guaranteed by OCC in the Stock Loan/Hedge Program) are not affected by the provisions of OCC's By-Laws and Rules.

* * *

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because they are designed to promote the prompt and accurate clearance and settlement of stock loans by permitting Clearing Members to manage the buy-in and sell-out processes in the manner that they are accustomed to and by providing OCC with the additional option of closing out stock loans through a cash settlement process, thereby fostering cooperation and coordination with persons engaged in the clearance and settlement of stock loans, and removing impediments to and perfecting the mechanism of a national system for the prompt and accurate clearance and settlement of stock loans. The proposed rule change is not inconsistent with any rules of OCC, including any rules proposed to be amended.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would have any material adverse impact on competition.

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none has been received.

Item 6. Extension of Time Period for Commission Action

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

Item 8. Proposed Rule Change Based on Rules of Another Regulatory Organization or of the Commission

The proposed rule change is not based on a rule change of another self-regulatory organization.

Item 9. Exhibits

Exhibit 1 Completed notice of the proposed rule change for publication in the Federal Register.

Exhibit 5 The Amended and Restated AQS Agreement.

Exhibit 5A Marked copy showing changes between the AQS Agreement and the Amended and Restated AQS Agreement.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

THE OPTIONS CLEARING CORPORATION

By: _____

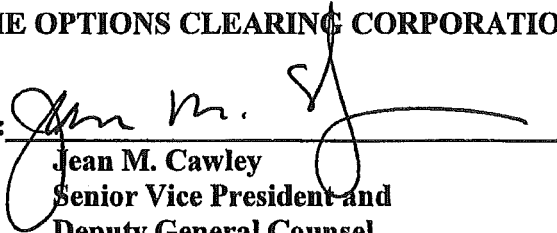

Jean M. Cawley
Senior Vice President and
Deputy General Counsel

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-OCC-2012-04

SELF-REGULATORY ORGANIZATION

Proposed Rule Change By
The Options Clearing Corporation

Relating to Stock Loan Buy-In and
Sell-Out Rules

Comments requested within days
after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on _____, 2012, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would propose procedural changes to certain stock loan Buy-In and Sell-Out Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As described below, OCC is proposing three procedural changes to certain Rules relating to the Market Loan Program¹ and/or the Stock Loan/Hedge Program.²

First, OCC proposes to amend the buy-in and sell-out processes under the Market Loan Program. Under existing Rules, buy-in and sell-out transactions under the Market Loan Program would be executed by the relevant Loan Market via an independent broker. However, Clearing Members participating in the Market Loan Program have requested that the execution of such buy-in or sell-out transactions be left to the discretion of Lending Clearing Member or Borrowing Clearing Member, as applicable. OCC understands that Automated Equity Finance Markets, Inc. ("AQS"), the operator of the Loan Market supported by the Market Loan Program, supports the requested change and believes that allowing participants in the Market Loan Program to manage the buy-in and sell-out processes in the manner that they are accustomed to

¹ The Market Loan Program, governed by Article XXIA of OCC's By-Laws and Chapter XXIIA of OCC's Rules, provides a framework that accommodates securities lending transactions executed through electronic trading systems ("Loan Markets").

² The Stock Loan/Hedge Program, governed by Article XXI of OCC's By-Laws and Chapter XXII of OCC's Rules, allows approved clearing members to register their privately negotiated securities lending transactions with OCC.

will foster the development of its marketplace. To accommodate such request, OCC proposes to amend Rule 2209A and Rule 2211A to update the buy-in and sell-out processes described therein and to redefine the respective rights, obligations and responsibilities of OCC, Clearing Members and the relevant Loan Market in connection therewith.

More specifically, under existing Rules, where the Borrowing Clearing Member fails to return the specified quantity of loaned stock (or where the Lending Clearing Member fails to pay the settlement price in respect of the specified quantity of loaned stock), the relevant Loan Market will instruct an independent broker to execute a buy-in (or sell-out) of the loaned stock and OCC will determine in its sole discretion, as between OCC and the clearing members, whether the costs of the transaction are reasonable. Under the proposed Rules, as is the more common practice in connection with securities lending, instead of an independent broker, the Lending Clearing Member (or the Borrowing Clearing Member) would determine if and when to execute a buy-in (or sell-out) of the loaned stock. Because the Clearing Member would have sole discretion with respect to execution of the buy-in (or sell-out) transaction, such Clearing Member would be required to defend the timeliness of the transaction and/or the reasonableness of the costs if such matters were being challenged and OCC would have no responsibility with respect to their resolution unless OCC has suspended the Clearing Member. In connection with the foregoing proposed changes, OCC and AQS will amend and restate the Agreement for Clearing and Settlement Services between the parties (the "AQS Agreement"). A copy of the amended and restated AQS Agreement is attached hereto as Exhibit 5.³

³ Attached as Exhibit 5A is a marked copy showing the changes between the original and amended and restated AQS Agreement. These supporting changes to the AQS Agreement principally are technical in nature. Technical

Second, OCC proposes to amend the Rules governing the Stock Loan/Hedge Program to add a sell-out process. Currently, Rule 2209, which governs regular termination of stock loans under the Stock Loan/Hedge Program, does not describe a sell-out process. Although a sell-out process is described in Rule 2211, the scope of its application is limited by the context of Rule 2211, which specifically governs the close-out of stock loan positions of suspended Clearing Members. Therefore, OCC proposes to amend Rule 2209 to add a sell-out process that applies in the context of regular termination of stock loans and to amend Rule 2211 to update the buy-in and sell-out processes described therein and to redefine the respective rights, obligations and responsibilities of OCC and Clearing Members in connection therewith. Rule 2209 is also amended to clarify when stock loans are terminated, including codifying a long standing process which has permitted Clearing Members to a stock loan to certify to OCC that they have terminated the stock loan and transferred the settlement price between themselves.

Third, OCC proposes to amend the Rules governing the Stock Loan/Hedge Program to add a cash settlement process. Under the Market Loan Program, if the Lending Clearing Member is unable to complete a buy-in, OCC has the discretion to fix a cash settlement value for the quantity of the loaned stock not returned to the Lending Clearing Member, thereby facilitating the termination of the relevant stock loan (see Rule 2209A(b)(3)). However, currently OCC does not have the same option available under the Stock Loan/Hedge Program. Therefore, OCC proposes to amend Rule 2209 and Rule 2211 as appropriate to include a cash settlement process identical to the process available under the Market Loan Program.

Finally, in addition to the procedural changes described above, OCC proposes to amend Rule 2202(b) to clarify that with respect to a stock loan that has been novated by OCC under the Stock Loan/Hedge Program, any terms of the original stock loan (other than terms that establish congruence) and any representations, warranties and/or covenants made by the parties to the original stock loan with respect to such loan, to the extent that they do not conflict with OCC's By-Laws and Rules, shall remain in effect as between such parties. This change clarifies that, for example, the agreements of the parties to the original stock loan transaction with respect to dividend and rebate payments (which are not guaranteed by OCC in the Stock Loan/Hedge Program) are not affected by the provisions of OCC's By-Laws and Rules.

* * *

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because they are designed to promote the prompt and accurate clearance and settlement of stock loans by permitting Clearing Members to manage the buy-in and sell-out processes in the manner that they are accustomed to and by providing OCC with the additional option of closing out stock loans through a cash settlement process, thereby fostering cooperation and coordination with persons engaged in the clearance and settlement of stock loans, and removing impediments to and perfecting the mechanism of a national system for the prompt and accurate clearance and settlement of stock loans. The proposed rule change is not inconsistent with any rules of OCC, including any rules proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2012-04 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2012-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, N.E., Washington, D.C. 20549-1090. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2012-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register]

_____.

For the Commission by the Division of Market Regulation, pursuant to delegated
authority.

Secretary

Dated: _____

AMENDED AND RESTATED AGREEMENT FOR CLEARING AND SETTLEMENT SERVICES

This Amended and Restated Agreement for Clearing and Settlement Services, including any Schedules attached hereto (collectively, this "Agreement") is entered into as of [, 20__] between The Options Clearing Corporation, a Delaware corporation (the "Corporation"), and Automated Equity Finance Markets, Inc., a Delaware corporation (the "Market").

WHEREAS, the Corporation is registered as a clearing agency with the Securities and Exchange Commission ("SEC") pursuant to Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and, as part of its business, provides clearing and settlement services in respect of stock loan and borrow transactions;

WHEREAS, the Market is a broker-dealer and Alternative Trading System ("ATS") registered with the SEC pursuant to Section 15 of the Exchange Act, and is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA");

WHEREAS, the Market operates an automated marketplace for stock loan and borrow transactions through which lenders and borrowers are matched based on loan terms that each party is willing to accept ("Stock Loans");

WHEREAS, the Market has engaged and wishes to continue to engage the Corporation to provide clearing and settlement services in respect of Stock Loans effected through the Market and reported by the Market to the Corporation;

WHEREAS, the Corporation has provided and is prepared to continue to provide such services to the Market, subject to the terms and conditions of this Agreement and the applicable By-Laws and Rules of the Corporation as in effect from time to time (such By-Laws and Rules referred to collectively hereafter as the "Rules of the Corporation");

WHEREAS, the relationship between the Corporation and the Market had been governed by an Agreement for Clearing and Settlement Services (the "Original Agreement") dated as of December 22, 2008; and

WHEREAS, the Corporation and the Market desire to amend and restate the Original Agreement in its entirety as set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants, terms and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Market Representations.

The Market represents that, as of the Effective Date, (i) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it is duly registered as a broker-dealer, and has filed an initial operation report on Form ATS with the SEC (and has neither ceased operation as an ATS nor filed a cessation of operation report on Form ATS with the SEC), (iii) it is a member of FINRA, (iv) it has procedures (as amended from time to time, the "Market Procedures") that comply with the requirements of Regulation ATS, (v) it has filed with the SEC any required information with respect to the Market Procedures on Form ATS, (vi) the Market Procedures are in full force and effect, (vii) it has all requisite power and authority, whether arising under applicable federal or state law or the rules and regulations of any regulatory or self-regulatory organization to which Market is subject, to enter into and perform its obligations hereunder and to conduct its business as currently conducted and proposed to be conducted, (viii) this Agreement is the legal, valid and binding obligation of the Market, enforceable against the Market in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (ix) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any other agreement binding on or affecting it or any of its assets, and (x) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with.

Section 2. Corporation Representations.

The Corporation represents that, as of the Effective Date, (i) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it is registered as a clearing agency under Section 17A(b) of the Exchange Act and is permitted to provide facilities for the clearance and settlement of Stock Loans, subject to applicable rules and regulations of the SEC, (iii) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (iv) the Agreement is the legal, valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (v) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets, (vi) it is in compliance with all regulations of the SEC applicable to the clearing of Stock Loans, (vii) the SEC has approved or permitted to become effective appropriate amendments to the Rules of the Corporation relating to Stock Loans effected through the Market,

(viii) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with, and (ix) it is prepared to provide clearing and settlement services for Stock Loans.

Section 3. Selection of Eligible Stocks for Stock Loans.

(a) Initial Criteria. The Market may select the securities that may be the subject of Stock Loan transactions effected on the Market and cleared by the Corporation provided that such securities meet the definition of "Eligible Stock" as set forth in the Rules of the Corporation; provided, however, that in the event that the Corporation determines that it would be unlawful or likely to subject the Corporation to liability for the Corporation to clear transactions in Stock Loans on a security otherwise meeting the definition of an Eligible Stock, the Corporation may give notice to the Market that the Market shall not submit Stock Loan transactions in such security to the Corporation for clearance and the Corporation shall be under no obligation to clear any such transactions thereafter reported to it by the Market for clearance.

(b) Loaned Stock Ceases to Meet Requirements. In the event that the Corporation shall determine that a Loaned Stock, as defined in the Rules of the Corporation, has ceased to be an Eligible Stock or that it has become unlawful or likely to subject the Corporation to liability for the Corporation to clear transactions in Stock Loans on such security, the Corporation may give notice to the Market that it must (i) cease to submit further Stock Loan transactions in such security to be cleared by the Corporation and require all open Stock Loan transactions to be closed immediately, and/or (ii) restrict Stock Loan transactions effected on the Market in such security to return and recall transactions (as those terms are defined in the Rules of the Corporation). The Corporation shall not be required to accept for clearance any Stock Loan transaction effected in violation of such notice. Any action taken by the Corporation under the foregoing provisions shall be consistent with the Rules of the Corporation.

Section 4. Comparison of Transactions; Settlement Prices.

(a) Matched Transaction Reports. The Market agrees that it will submit to the Corporation for clearance on each business day all matched Stock Loan transactions effected by its subscribers on that business day. The Market shall make such submissions in a format and in accordance with procedures that are reasonably established by the Corporation and communicated to the Market with reasonable advance notice. Such submissions shall be made by such time or times as the Corporation may reasonably prescribe taking into consideration the ability of the Market to provide such information within such time frames on a cost-effective basis. Unless the Corporation agrees otherwise, matched Stock Loan transactions will be submitted on a real-time basis. For each business day, any Stock Loan transaction received by the Corporation after the Depository's (as defined in the Rules of the Corporation) end of day window closing will need to be resubmitted by the Market, and will be processed, on the next business day.

(b) Settlement Prices. In connection with calculating the settlement price, as defined in the Rules of the Corporation, the Corporation shall, on each business day, obtain pricing information from industry pricing vendors that have been selected by the Corporation in its sole discretion.

Section 5. Clearance of Stock Loan Transactions.

(a) Provision of Clearing Services. The Corporation will provide, pursuant to and in accordance with the Rules of the Corporation and applicable regulatory requirements, all services reasonably necessary to perform its obligations under this Agreement and the other services identified in Schedule A attached hereto and incorporated herein. The Rules of the Corporation will provide that the Corporation will have no obligation to any borrower or lender arising out of any delay or error in the filing by the Market of any report of matched Stock Loan transactions and/or any delay or error with respect to any report provided by the Depository concerning any matched Stock Loan transactions; provided, however, that nothing in this Section 5(a) will be construed to relieve the Corporation of its obligation to accept and clear such matched Stock Loan transactions once the Corporation has received, validated and processed any report of such matched Stock Loan transactions by the Market and/or the Depository. To the extent any discrepancy exists, for any reason, between any report provided to the Corporation by the Market and a report provided by the Depository relating to a matched Stock Loan transaction, the information in any such report provided by the Depository shall be controlling. The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, and employees for any loss or damage incurred resulting from any delay in the filing by the Market of any report or from any error in the information so filed, other than an error in information submitted to the Market by a subscriber of the Market or delays or errors in the filing of information caused by the Corporation or systems under the control of the Corporation. The provisions of Section 14 hereof shall apply to such indemnity as if such indemnity were provided under Section 14(b)(ii) hereof.

(b) Clearing Members. For purposes of this Agreement "Clearing Member" means a Borrowing Clearing Member or a Lending Clearing Member (or both) as defined in the Rules of the Corporation. Unless otherwise restricted or suspended by the Corporation and/or the Market, any Clearing Member that is a subscriber of the Market may clear through the Corporation Stock Loan transactions that are matched on the Market, provided that the Clearing Member has been approved as a Market Loan Clearing Member (as defined in the Rules of the Corporation). To the extent that a Clearing Member has been restricted or suspended by the Market, the Market shall promptly provide the Corporation with notice of all relevant information related to such restriction or suspension, and the Market agrees to (i) promptly take action to terminate any open Stock Loan transactions with respect to such Clearing Member, and (ii) submit no additional matched Stock Loan transactions of such Clearing Member.

(c) Obligations of the Market. The Market shall be obligated to the Corporation to provide certain services in connection with the clearance and settlement of Stock Loan transactions, the servicing of stock loan and borrow positions in the accounts of Clearing

Members, the making of dividend equivalent payments and rebate payments, and other matters. The obligations of the Market are set forth in more detail in Schedule B to this Agreement.

Section 6. Acceptance of Stock Loan Transactions.

The Corporation agrees to accept, in accordance with and subject to the Rules of the Corporation, all matched Stock Loan transactions that are properly submitted to it by the Market in accordance with procedures and practices of which the Market is informed with reasonable advance notice. The Corporation shall not be obligated to accept any Stock Loan transaction until the Depository has confirmed to the Corporation, in form satisfactory to the Corporation, that the Loaned Stock has been delivered to the account of the Borrowing Clearing Member at the Depository and the settlement price has been delivered to the account of the Lending Clearing Member at the Depository. Upon acceptance of a matched Stock Loan transaction by the Corporation, the Corporation shall be substituted through contractual novation, as provided in the Rules of the Corporation, as the counterparty to each of the Clearing Members that were parties to the matched Stock Loan transaction.

Section 7. Non-Discrimination and Consultation.

(a) Certain Agreements. So long as all conditions on the obligations of the Corporation to clear Stock Loan transactions for the Market, as set forth in the Rules of the Corporation, continue to be satisfied, the Corporation agrees not to amend the Rules of the Corporation in any manner so as to limit its obligations hereunder to clear and settle Stock Loan transactions effected on the Market, and further agrees that, in the event that the Corporation provides clearing services for other similar stock loan markets, it will not unfairly discriminate among such markets with regard to the nature or quality of the services that it provides or the priority that it assigns to providing such services.

(b) Proposed Rule Changes. Each party shall furnish copies to the other party of all proposed rule changes, procedure changes or membership agreement changes that would have any material impact on the other party, its Clearing Members or subscribers, or the Stock Loan transactions matched on the Market and cleared by the Corporation. For the elimination of doubt, the foregoing shall include, with respect to the Market, any submission by the Market to the SEC pursuant to Regulation ATS. Such copies shall be mailed to the other party no later than the time that they are filed with the SEC, FINRA, the CFTC or any other state or federal regulatory authority, as applicable; and if no such filing is made, then no later than the time that the change is made available to Clearing Members or subscribers of the party or is otherwise made public or placed into effect. Each party shall consider in good faith comments of the other party on any proposed rule change. This Section does not require disclosure to the other party of any information contained in a filing for which the filing party has sought confidential treatment from the agency with which it is filed or which is otherwise non-public information.

(c) Adjustment Provisions Applicable to Stock Loan Transactions. The Corporation shall adjust stock loan and borrow positions to reflect corporate events affecting the Stock Loan generally in accordance with its existing practices with respect to its existing stock loan/hedge

program. Notwithstanding the foregoing, the Market shall retain the right to direct the close out of open stock loan and borrow positions in advance of the record date for any corporate action if the Market determines in its discretion to do so. The obligations of the Market with respect to corporate events are set forth in more detail in Schedule B to this Agreement.

Section 8. Limitations of Authority and Responsibility.

The Corporation shall have no authority or responsibility to establish or enforce standards relating to the conduct of Stock Loan transactions on the Market by its subscribers or the supervision of any aspect of the conduct of such subscribers with their customers, except as specifically provided in the Rules of the Corporation. The Corporation shall have no responsibility for making disclosure to subscribers of the Market or other customers regarding Stock Loan transactions on the Market except that the Corporation shall furnish to the Market such information regarding the Corporation and the clearance by it of Stock Loan transactions as may reasonably be requested by the Market for purposes of disclosure to customers.

Section 9. Margin Requirements of Corporation

The Corporation shall establish in the Rules of the Corporation, and shall have the responsibility to enforce, requirements for mark-to-market payments to be made between the Corporation and its Clearing Members in respect of stock loan and borrow positions that are generally consistent with practices in the stock loan market. In addition, the Corporation will assess and hold risk margin in respect of stock loan and borrow positions held in any Clearing Member account by including such positions within the portfolio of positions on which a risk determination is made. The amount and form of margin assets to be deposited or maintained with the Corporation by its Clearing Members in respect of such positions shall be made using such risk management systems as the Corporation shall determine in its sole discretion, and the Corporation shall retain full discretion to make adjustments to its margin requirements in accordance with the Rules of the Corporation.

Section 10. Financial Requirements for Clearing Members.

The Corporation has established in the Rules of the Corporation financial responsibility standards with which its Clearing Members must comply. The Corporation shall conduct regular and continuous monitoring of the positions, transactions, capital and margin of Clearing Members, based upon the information reported to it in accordance with the Rules of the Corporation and other information made available to the Corporation.

Section 11. Rights and Obligations of Borrowers and Lenders.

The rights and obligations of borrowers and lenders in Stock Loan transactions, including but not limited to rights and obligations in respect of clearing and settlement, shall be as set forth in the Rules of the Corporation. Without limiting the generality of the foregoing, the Corporation agrees that it will use its cash settlement system to effect payments between Borrowing Clearing Members and Lending Clearing Members of (i) stock loan rebates and (ii)

dividend equivalent payments (in the case where the Corporation, in its discretion, determines to effect dividend equivalent payments in respect of one or more Market Loans through the Corporation's cash settlement system instead of through the Depository's Dividend Service), in each case as directed by the Market, and the Corporation shall guarantee such payments subject to the Rules of the Corporation.

Section 12. Fees for Clearing Services.

(a) The Corporation shall establish fee structures for the services it performs for Clearing Members consistent with the provisions of the Rules of the Corporation. Fees charged to subscribers of the Market for services performed by the Corporation under this Agreement shall not be greater than the fees charged by the Corporation in respect of substantially similar services performed for other markets in connection with Stock Loan transactions. Notwithstanding the foregoing, the Corporation may offer alternative fee structures to such markets so long as it offers the same alternatives to the Market on substantially the same terms and so long as the alternative fee structure provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members, including Clearing Members that are subscribers of the Market. Actual clearing fees paid (net of any rebates) may therefore differ among markets that select different fee structures.

(b) For the Corporation's agreement to provide the clearing and settlement services to be rendered under this Agreement, the Market has paid the Corporation one million dollars (\$1,000,000). To the extent the Market ceases to clear Stock Loan transactions through the Corporation, or this Agreement does not become effective by the date set forth in Section 25 of this Agreement, the Corporation shall refund to the Market the lesser of (i) five hundred thousand dollars (\$500,000) or (ii) fifty percent (50%) of the total aggregate clearing fees received by the Corporation in connection with all Stock Loan transactions executed on the Market.

Section 13. Information Sharing.

(a) The Corporation agrees that it will notify the Market promptly in the event that the Corporation suspends a Clearing Member that is a subscriber of the Market.

(b) The Market agrees that it will furnish to the Corporation all information within its possession related to Clearing Members that are subscribers of the Market and information regarding Stock Loan transactions matched on the market, (i) to the extent reasonably necessary for the Corporation to perform its regulatory responsibilities under SEC rules, (ii) to the extent the Market believes that such information could have a material impact on the Market or the Corporation, or (iii) to the extent reasonably necessary for the Corporation to perform its duties under this Agreement and the Rules of the Corporation.

Section 14. Indemnification.

(a) By the Corporation.

(i) The Corporation agrees to indemnify and hold harmless the Market and each of its directors, officers, committee members, agents, employees and any person or entity who controls the Market (as the term "control" is defined in Rule 405 of the Securities Act of 1933, as amended) (each a "Market Indemnified Party" and collectively referred to as the "Market Indemnified Parties") from and against any and all loss, damage and expense arising out of or based on any violation or alleged violation by the Corporation of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Corporation may otherwise have.

(ii) The Corporation agrees to indemnify and hold harmless each Market Indemnified Party from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement (collectively referred to as "Losses") in connection with any action, suit, litigation, claim or proceeding commenced by any person to which any such Market Indemnified Party is made a party defendant, or is threatened to be made such a party, arising out of or based upon any violation or alleged violation by the Corporation of any terms of this Agreement, any alleged default by the Corporation in performing its obligations in accordance with the Rules of the Corporation in respect of any Stock Loan transaction it accepts for clearing, and any violation or alleged violation by the Corporation of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Market Indemnified Party which the Corporation may otherwise have.

(b) By the Market.

(i) The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, employees and any person or entity who controls the Corporation (as the term "control" is defined in Rule 405 of the Securities Act of 1933, as amended) (each a "Corporation Indemnified Party" and collectively referred to as the "Corporation Indemnified Parties") from and against any and all loss, damage and expense (whether or not such loss, damage or expense is reimbursable by *pro rata* charges to the contributions of Clearing Members) arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement including, without limitation, any failure to perform, or any errors in the performance of, its obligations under the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Market may otherwise have.

(ii) The Market agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, to which any such Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, arising out of or based on any violation or alleged violation by the Market of any of the

terms of this Agreement or any violation or alleged violation by the Market of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Corporation Indemnified Party which the Market may otherwise have.

(c) Indemnification in Respect of Intellectual Property. Without limiting the generality of subsections (a) and (b) above: (i) the Corporation specifically agrees to indemnify and hold harmless each Market Indemnified Party, and the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party, from and against any and all Losses (whether or not in the case of the Corporation such Losses are reimbursable by *pro rata* charges to the contributions of Clearing Members) in connection with any claim or cause of action for patent infringement or other intellectual property law violation, where such claim or cause of action relates to intellectual property that is developed or used by the indemnifying party in connection with the activities to be engaged in hereunder, provided that for purposes of this provision the Corporation shall not be deemed to have used any such intellectual property developed or used by the Market solely by virtue of clearing transactions executed on the Market; and (ii) without limiting the generality of clause (i) above, the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, asserted against a Corporation Indemnified Party or to which a Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, or is subjected to discovery or testimonial obligations, arising out of or based on (A) any allegation that the Market does not have the right for any reason to conduct its stock loan market in the manner in which such market is conducted or proposed to be conducted, or (B) any allegation that the maintenance of such stock loan market by the Market, the novation by the Corporation of Stock Loans matched by the Market, or the clearance and settlement of such Stock Loans by the Corporation constitutes unfair competition or unjust enrichment or infringes, interferes with or misappropriates the intellectual property, contract, common law or other rights of a third party.

(d) Limitation on Rights Conferred. The provisions of this Section 14 are not intended to confer any rights upon any person other than the Corporation Indemnified Parties and the Market Indemnified Parties.

(e) Rights and Duties When Action Commenced. Promptly after receipt by an indemnified party under Section 14(a)(ii), 14(b)(ii) or 14(c) hereof of notice of commencement of any action, suit, litigation, claim or proceeding in which such indemnified party is made a party defendant, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under such Section, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under such Section. In case any such action is brought against any indemnified party, and it promptly notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party

similarly notified, to assume and control the defense thereof, with counsel chosen by it, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under such Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, but the indemnified party may, at its own expense, participate in such defense by counsel chosen by it, without, however, impairing the indemnifying party's control of the defense. The indemnifying party may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified party or have a material adverse impact on the business of the indemnified party. As used in this Section 14, the words "party defendant" shall include a counter-defendant, cross-defendant, respondent, and any other capacity in which a claim is asserted against an indemnified party.

(f) Indemnification in Respect of Termination of Stock Loan Transactions. The Corporation's indemnification of the Market Indemnified Parties under this Section 14 shall include indemnification against any loss, damage and expense arising out of or based on any allegation that any termination of a Stock Loan transaction initiated by the Corporation was wrongful. The Market's indemnification of the Corporation Indemnified Parties under this Section 14 shall include indemnification against any loss, damage and expense arising out of or based on any allegation that any termination of a Stock Loan transaction initiated by the Market was wrongful.

Section 15. Termination of Securities Lending Transactions.

(a) By the Corporation. The Rules of the Corporation shall give the Corporation the right, upon notice to the Market and affected Clearing Members, to cause the prompt termination and close out of any open stock loan or stock borrow positions in any account of any Clearing Member. If the Corporation determines to exercise such authority, it shall furnish notice to the Market of such termination, and the Market shall assign the obligation to return the Loaned Stock against payment of the settlement price or to pay the settlement price against receipt of the Loaned Stock, as the case may be, to open stock borrow or loan positions that have matching terms. In the event that an affected Clearing Member fails to complete the return of the Loaned Stock or the payment of the settlement price, as the case may be, in accordance with the Rules of the Corporation, the buy-in, sell-out or cash settlement procedures of the Corporation shall be applicable.

(b) By the Market. The Rules of the Corporation shall give the Market the right, upon notice to the Corporation and affected Clearing Members, to cause the prompt termination and close-out of any open stock loan or stock borrow positions in any account of any Clearing Member. The procedures referred to in the preceding paragraph shall apply to a close-out initiated by the Market except that the initial notice shall be issued by the Market.

Section 16. Notices.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given (i) when delivered by hand, (ii) three business days after having been mailed by first class registered mail, return receipt requested, postage and registry fees prepaid to the address set forth below, or (iii) when sent by facsimile transmission to the facsimile number set forth below, provided that the burden of proving receipt of a facsimile will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine.

(i) If to the Corporation:

The Options Clearing Corporation
One North Wacker Drive, Suite 500
Chicago, IL 60606

Attn: General Counsel

Facsimile Number: 312-322-2593
Telephone Number: 312-322-6200

(ii) If to the Market:

Automated Equity Finance Markets, Inc.
529 Fifth Ave, 14th Floor
New York, NY 10017

Attn: General Counsel

Facsimile Number: 212-905-5237
Telephone Number: 212-905-2675

Section 17. Miscellaneous.

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought. All of the terms of this Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned by either party hereto without the prior written consent of the other party, but a merger, consolidation, reorganization or reincorporation by, or sale of all or substantially all of the assets of, either party shall not require the consent of the other party so

long as the successor entity or transferee is qualified to carry on the business contemplated herein. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The headings of this Agreement are for the purpose of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together constitute one and the same instrument. Terms used in this Agreement (whether or not initially capitalized) that are defined in the Rules of the Corporation have the meanings given to them therein, unless expressly defined otherwise in this Agreement or unless the context requires a different meaning.

Section 18. Term and Termination – Breach of Agreement.

(a) Voluntary Termination. Either party to this agreement may terminate this Agreement at any time by giving the other party at least twelve (12) months prior written notice. If open interest is not transferred to another clearing organization pursuant to paragraph (e) of this Section 18, then all open stock loan and borrow positions shall be closed out through return or recall transactions prior to termination of this Agreement.

(b) Breach by Corporation or the Market. If the Corporation or the Market, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of this Agreement, then the non-breaching party may give notice to the other party of termination of this Agreement. If the Corporation is the breaching party, the Market shall have the right immediately upon giving notice of termination to cease to submit new Stock Loan transactions to the Corporation, and if the Market is the breaching party, the Corporation shall have the right immediately upon giving notice of termination to cease to accept any new Stock Loan transactions. Upon the giving of any such notice, the Market shall exercise its authority to direct the close-out of all open stock loan and stock borrow positions effected through the Market, and the Market and the Corporation shall continue to be obligated to provide all services hereunder with respect to stock loan and borrow positions and the effecting of return and recall transactions until all such positions have been closed out.

(c) Other Grounds for Termination. The Corporation may give notice of termination of this Agreement to the Market and may cease to accept opening Stock Loan transactions from the Market immediately if (i)(A) the Market ceases to meet any legal or regulatory requirement necessary to effect Stock Loan transactions and/or to act as an ATS following the Effective Date, (B) the Market ceases to effect Stock Loan Transactions, or (C) any of the representations of the Market in Section 1 hereof cease to be accurate in any material respect, or (ii)(A) the Corporation ceases to be registered as a securities clearing agency, or (B) the Rules of the Corporation cease to be in effect in a material respect. In the event that the Corporation terminates this Agreement in accordance with this Section 18(c), then, in accordance with the terms of this Agreement and the Rules of the Corporation, the Corporation and the Market shall take steps to immediately close all open stock loan and borrow positions.

(d) Services by the Market and the Corporation Pending Termination. This Agreement shall remain in effect from the time that any notice of termination is given or any event of termination occurs under the provisions of this Section 18 until such time as all stock loan and borrow positions have been closed or transferred to an alternative clearing organization, and the Corporation and the Market shall continue to provide all services and perform all of their respective obligations under this Agreement and the Rules of the Corporation to the extent necessary or appropriate to service open stock loan and borrow positions in accordance with the Rules of the Corporation. This Agreement shall terminate when all such open positions have been transferred or closed out; subject, however, to the provisions of Section 19 hereof.

(e) Transfer of Open Positions to Successor Clearing Organization. If notice of termination of this Agreement is given and the Market makes alternative clearing arrangements for Stock Loan transactions executed on the Market thereafter, the Corporation shall use reasonable efforts to effect transfer of the open interest to the Market's successor clearing organization (the "Successor") subject to reasonable agreements with the Successor, the Market and/or Clearing Members whose positions are being transferred, as appropriate, that protect the interests of the Corporation. Such agreements may include, without limitation, agreements that: (i) the Successor assumes all of the Corporation's obligations in respect of such open positions, and (ii) the Successor and each such Clearing Member agree to indemnify the Corporation and hold the Corporation harmless against any liability or obligation in respect of such positions arising from and after the effective time of such transfer. The Market shall reimburse the Corporation's reasonably incurred expenses in connection with such transfer on a fully allocated basis.

Section 19. Survival of Obligations.

The provisions of this Agreement shall survive the termination of this Agreement with respect to any rights and obligations of the parties arising during the term of this Agreement including, without limitation, the indemnification provisions of Section 14 hereof.

Section 20. Dispute Resolution.

If a dispute arises between the Market and the Corporation relating to the clearing services that are the subject of this Agreement, and the most senior employee actively involved in the dispute on behalf of a party (in either case, the "Senior Disputant") believes that the Corporation's timely and unimpeded conduct of clearing services for the Market is threatened by the unresolved dispute, the Senior Disputant may notify the other party that a dispute exists. Such notice having been given, the Senior Disputant of each party shall without delay notify the Chief Executive Officer of such party, or if the Chief Executive Officer is not immediately available, the most senior officer of such party that is immediately available (in either case, the "Responsible Officer"), that a dispute exists between the parties. The Responsible Officers of the two parties shall thereupon endeavor in good faith to resolve the dispute and to mitigate its deleterious effects and shall confer with each other to those ends. For the judicial resolution of disputes the parties consent to the exclusive jurisdiction of the United States District Court in Chicago, Illinois, if such court has subject matter jurisdiction over the dispute; otherwise, the

courts of Illinois situated in Chicago shall have exclusive jurisdiction. Each party waives any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such party.

Section 21. Notice of Regulatory Action.

The Corporation shall notify the Market of any action taken by any regulatory body or agency that, in the judgment of the Corporation, has or will have a material adverse effect on the Corporation's performance of its obligations under this Agreement. The Market shall notify the Corporation of any action taken by any regulatory body or agency that, in the judgment of the Market, has or will have a material adverse effect on the Market's performance of its obligations under this Agreement.

Section 22. System Redundancy, Disaster Recovery.

The Corporation maintains, and will continue to maintain, appropriate facilities for system redundancy and disaster recovery, subject to the general oversight of the SEC.

Section 23. Quality Standards.

All services provided by the Corporation to the Market shall be performed substantially in accordance with the Rules of the Corporation and applicable legal and regulatory requirements. All services to be provided by the Market shall be performed substantially in accordance with the terms of this Agreement, agreements and procedures in place between the Market and its subscribers, applicable legal and regulatory requirements, and in a manner sufficient to permit the Corporation to perform clearing services to Clearing Members clearing Stock Loan transactions through the Market in accordance with the Rules of the Corporation.

Section 24. Limitation of Liability.

(a) Neither party shall be liable under any circumstances for incidental, consequential or special damages sustained by the other party under this Agreement, whether or not such damages relate to services covered by this Agreement, even if the party against which an award of damages is sought has been advised of the possibility of such damages; provided, however, that this Section is not intended to limit the indemnification provisions of Section 14 or any other indemnification provisions in this Agreement to the extent that such provisions would otherwise cover incidental, consequential or special damages asserted by third parties against an indemnified party.

(b) Neither party shall be liable for its inability to perform its obligations under this Agreement when such inability arises out of causes beyond its control, including, without limitation, any act of God, act of war or terrorism, accident, labor dispute, or the failure of any third party to provide any electronic, telecommunication or other service used in connection with

the services covered by this Agreement. Each party agrees to notify the other promptly upon learning that any such event has occurred and shall cooperate with the other, upon request, in arranging alternative procedures and in otherwise taking reasonable steps to mitigate the effects of any inability to perform or any delay in performing.

Section 25. Effectiveness of Agreement.

On the Effective Date, and as conditions to the effectiveness of this Agreement, the regulatory authorities, as applicable, shall have approved the rule change filed in respect of this Agreement or allowed such rule change to become effective; the Market shall deliver to the Corporation a certificate of a senior officer, in form and substance satisfactory to the Corporation, to the effect that the representations of the Market set forth in Section 1 hereof are true and accurate on such date, and the Corporation shall deliver to the Market a certificate of a senior officer, in form and substance satisfactory to the Market, to the effect that the representations of the Corporation set forth in Section 2 hereof are true and accurate on such date. The "Effective Date" of this Agreement shall be the date first above written provided that all conditions exist on that date such that the representations to be made under Sections 1 and 2 would be true or such later date when such conditions exist.

Section 26. Nonexclusive Agreement.

This Agreement is nonexclusive and nothing in this Agreement shall prevent the Market from obtaining clearing arrangements from another party during the term of this Agreement or thereafter for Stock Loan transactions effected on the Market, nor shall the Corporation be prohibited from performing clearing services for other similar stock loan markets.

Section 27. Amendment and Restatement.

This Agreement amends and restates the Original Agreement in its entirety. This Agreement will be effective without the requirement for the Corporation and the Market to deliver to each other certificates of senior officers, as is otherwise required in Section 25 of this Agreement.

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

THE OPTIONS CLEARING CORPORATION

By: _____

Name:

Title:

**AUTOMATED EQUITY FINANCE MARKETS,
INC.**

By: _____

Name:

Title:

SCHEDULE A
DESCRIPTION OF OTHER SERVICES

Fee Collections. The Corporation will collect on behalf of the Market any fees assessed by the Market against Clearing Members engaging in transactions in Stock Loan transactions on the Market under the same procedures used to collect fees assessed by the Options Exchanges in respect of security option transactions.

**SCHEDULE B
CERTAIN OBLIGATIONS OF THE MARKET**

- **General Obligations:** The Market agrees to perform any and all obligations specified for the Market in the Rules of the Corporation. The Corporation shall furnish to the Market copies of, and provide opportunity to comment on, any proposed change to the Rules of the Corporation that adds, removes, modifies or changes any of the Market's obligations under the Rules of the Corporation. To the extent any terms or obligations differ in any manner between the Rules of the Corporation and this Agreement, the Rules of the Corporation shall be controlling and govern.
- **Matched Transactions:** The Market shall furnish information regarding matched Stock Loan transactions to the Corporation for clearance in accordance with this Agreement and the Rules of the Corporation and shall retain records of such transactions and the terms of such Stock Loans and shall furnish such information to the Corporation as necessary to permit the Corporation to fulfill its obligations under this Agreement and the Rules of the Corporation.
- **Corporate Events:** The Market shall monitor corporate events affecting Loaned Stocks and shall provide the Corporation with timely information concerning such events sufficient to permit the Corporation to: (i) adjust the Loaned Stock as appropriate to include any non-cash assets distributed to shareholders, and (ii) effect settlement of dividend equivalent payments (in the case where the Corporation, in its discretion, determines to effect dividend equivalent payments in respect of one or more Market Loans through the Corporation's cash settlement system instead of through the Depository's Dividend Service) as appropriate to reflect cash dividends and distributions to shareholders.
- **Recalls and Returns:** The Market shall accept notices of recalls and returns from Lending Clearing Members and Borrowing Clearing Members in respect of open stock loan and borrow positions, respectively, and shall process such notices and match such notices to open stock borrow or loan positions that correspond in terms of Eligible Stock, number of shares, settlement price and any other necessary term. The Market shall provide instructions and the necessary information to the Corporation so that the Corporation can validate such information and to allow the Corporation to instruct the Depository to effect settlement of returns and recalls. The Market shall distinguish return/recall transactions from new Stock Loan transactions when submitting such matched return/recall transactions to the Corporation.
- **Buy-Ins.** To the extent that a Borrowing Clearing Member fails to return the specified quantity of the Loaned Stock within the time periods set forth in the Rules of the Corporation, the Lending Clearing Member may execute a buy-in of the Loaned Stock in

accordance with the Rules of the Corporation, as well as all federal and state securities laws, and any applicable rules of the Market or any other exchange or self-regulatory organization. Upon receipt of notice from a Lending Clearing Member of an execution of a buy-in transaction, the Market shall immediately give written notice to the Corporation and the Borrowing Clearing Member of all the necessary information regarding the buy-in including, but not limited to, the quantity of the securities purchased, time of execution, the price paid for such securities and commissions. If the Lending Clearing Member notifies the Market that the Lending Clearing Member is unable to complete the buy-in in accordance with the Rules of the Corporation, the Market also shall provide the Corporation and the Borrowing Clearing Member with immediate written notice thereof in a form specified by the Corporation from time to time. The Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of the Market or any exchange or self-regulatory organization. In addition to the foregoing, the Market shall instruct Clearing Members, through the Market's subscription agreement or otherwise, that Clearing Members are obligated to maintain in their books and records any requisite information related to a buy-in transaction, as necessary, to meet such Clearing Member's regulatory obligations.

- **Sell-Outs.** To the extent that a Lending Clearing Member fails to return the Collateral, as defined in the Rules of the Corporation, the Borrowing Clearing Member may execute a sell-out of the Loaned Stock in accordance with the Rules of the Corporation, as well as all federal and state securities laws, and any applicable rules of the Market or any other exchange or self-regulatory organization. Upon receipt of notice from a Borrowing Clearing Member of an execution of a sell-out transaction, the Market shall immediately give written notice to the Corporation and the Lending Clearing Member of all the necessary information regarding the sell-out including, but not limited to, the quantity of the securities sold, time of execution, the price received for such securities and commissions. The Corporation shall not be held liable for any Clearing Member's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of the Market or any exchange or self-regulatory organization. In addition to the foregoing, the Market shall instruct Clearing Members, through the Market's subscription agreement or otherwise, that Clearing Members are obligated to maintain in their books and records any and all requisite information related to the sell-out transaction, as necessary to meet such Clearing Member's regulatory obligations.

- **Rebates:** The Market shall retain records of the rebates agreed upon between the Lending Clearing Member and the Borrowing Clearing Member in each Stock Loan transaction that is accepted by the Corporation, and shall provide the Corporation with instructions as to the amount of such payments (and any other necessary information) to be debited from or credited to the accounts of the lending Clearing Member and borrowing Clearing Member two business days prior to the date on which such debits and credits are to be effected. In addition, the Market shall provide information to the

Corporation on a daily basis regarding all accrued rebate amounts on a Clearing Member by Clearing Member basis.

AMENDED AND RESTATED AGREEMENT FOR CLEARING AND SETTLEMENT SERVICES

This Amended and Restated Agreement for Clearing and Settlement Services, including any Schedules attached hereto (collectively, this "Agreement") is entered into as of ~~December 22, 2008~~ [, 20] between The Options Clearing Corporation, a Delaware corporation (the "Corporation"), and Automated Equity Finance Markets, Inc., a Delaware corporation (the "Market").

WHEREAS, the Corporation is registered as a clearing agency with the Securities and Exchange Commission ("SEC") pursuant to Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and, as part of its business, provides clearing and settlement services in respect of stock loan and borrow transactions;

WHEREAS, the Market is ~~or will be (i) a broker-dealer registered with the SEC pursuant to Section 15 of the Exchange Act, (ii) an~~ and Alternative Trading System ("ATS") registered with the SEC (iii) pursuant to Section 15 of the Exchange Act, and is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA") on or before the Effective Date (as defined herein););

WHEREAS, the Market operates an automated marketplace for stock loan and borrow transactions through which lenders and borrowers are matched based on loan terms that each party is willing to accept ("Stock Loans");

WHEREAS, the Market has engaged and wishes to continue to engage the Corporation to provide clearing and settlement services in respect of Stock Loans effected through the Market and reported by the Market to the Corporation; ~~and~~

WHEREAS, the Corporation has provided and is prepared to continue to provide such services to the Market, subject to the terms and conditions of this Agreement and the applicable By-Laws and Rules of the Corporation as in effect from time to time (such By-Laws and Rules referred to collectively hereafter as the "Rules of the Corporation");

WHEREAS, the relationship between the Corporation and the Market had been governed by an Agreement for Clearing and Settlement Services (the "Original Agreement") dated as of December 22, 2008; and

WHEREAS, the Corporation and the Market desire to amend and restate the Original Agreement in its entirety as set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants, terms and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Market Representations.

The Market represents that, as of the Effective Date, (i) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it is duly registered as a broker-dealer, and has filed an initial operation report on Form ATS with the SEC (and has neither ceased operation as an ATS nor filed a cessation of operation report on Form ATS with the SEC), (iii) it is a member of FINRA, (iv) it has procedures (as amended from time to time, the "Market Procedures") that comply with the requirements of Regulation ATS, (v) it has filed with the SEC any required information with respect to the Market Procedures on Form ATS, (vi) the Market Procedures are in full force and effect, (vii) it has all requisite power and authority, whether arising under applicable federal or state law or the rules and regulations of any regulatory or self-regulatory organization to which Market is subject, to enter into and perform its obligations hereunder and to conduct its business as currently conducted and proposed to be conducted, (viii) this Agreement is the legal, valid and binding obligation of the Market, enforceable against the Market in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (ix) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any other agreement binding on or affecting it or any of its assets, and (x) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with.

Section 2. Corporation Representations.

The Corporation represents that, as of the Effective Date, (i) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it is registered as a clearing agency under Section 17A(b) of the Exchange Act and is permitted to provide facilities for the clearance and settlement of Stock Loans, subject to applicable rules and regulations of the SEC, (iii) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (iv) the Agreement is the legal, valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (v) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets, (vi) it is in compliance with all regulations of the SEC applicable to the clearing of Stock Loans, (vii) the SEC has approved or permitted to become effective appropriate amendments to the Rules of the Corporation relating to Stock Loans effected through the Market,

(viii) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with, and (ix) it is prepared to provide clearing and settlement services for Stock Loans.

Section 3. Selection of Eligible Stocks for Stock Loans.

(a) Initial Criteria. The Market may select the securities that may be the subject of Stock Loan transactions effected on the Market and cleared by the Corporation provided that such securities meet the definition of "Eligible Stock" as set forth in the Rules of the Corporation; provided, however, that in the event that the Corporation determines that it would be unlawful or likely to subject the Corporation to liability for the Corporation to clear transactions in Stock Loans on a security otherwise meeting the definition of an Eligible Stock, the Corporation may give notice to the Market that the Market shall not submit Stock Loan transactions in such security to the Corporation for clearance and the Corporation shall be under no obligation to clear any such transactions thereafter reported to it by the Market for clearance.

(b) Loaned Stock Ceases to Meet Requirements. In the event that the Corporation shall determine that a Loaned Stock, as defined in the Rules of the Corporation, has ceased to be an Eligible Stock or that it has become unlawful or likely to subject the Corporation to liability for the Corporation to clear transactions in Stock Loans on such security, the Corporation may give notice to the Market that it must (i) cease to submit further Stock Loan transactions in such security to be cleared by the Corporation and require all open Stock Loan transactions to be closed immediately, and/or (ii) restrict Stock Loan transactions effected on the Market in such security to return and recall transactions (as those terms are defined in the Rules of the Corporation). The Corporation shall not be required to accept for clearance any Stock Loan transaction effected in violation of such notice. Any action taken by the Corporation under the foregoing provisions shall be consistent with the Rules of the Corporation.

Section 4. Comparison of Transactions; Settlement Prices.

(a) Matched Transaction Reports. The Market agrees that it will submit to the Corporation for clearance on each business day all matched Stock Loan transactions effected by its subscribers on that business day. The Market shall make such submissions in a format and in accordance with procedures that are reasonably established by the Corporation and communicated to the Market with reasonable advance notice. Such submissions shall be made by such time or times as the Corporation may reasonably prescribe taking into consideration the ability of the Market to provide such information within such time frames on a cost-effective basis. Unless the Corporation agrees otherwise, matched Stock Loan transactions will be submitted on a real-time basis. For each business day, any Stock Loan transaction received by the Corporation after the Depository's (as defined in the Rules of the Corporation) end of day window closing will need to be resubmitted by the Market, and will be processed, on the next business day.

(b) Settlement Prices. In connection with calculating the settlement price, as defined in the Rules of the Corporation, the Corporation shall, on each business day, obtain pricing information from industry pricing vendors that have been selected by the Corporation in its sole discretion.

Section 5. Clearance of Stock Loan Transactions.

(a) Provision of Clearing Services. The Corporation will provide, pursuant to and in accordance with the Rules of the Corporation and applicable regulatory requirements, all services reasonably necessary to perform its obligations under this Agreement and the other services identified in Schedule A attached hereto and incorporated herein. The Rules of the Corporation will provide that the Corporation will have no obligation to any borrower or lender arising out of any delay or error in the filing by the Market of any report of matched Stock Loan transactions and/or any delay or error with respect to any report provided by the Depository concerning any matched Stock Loan transactions; provided, however, that nothing in this Section 5(a) will be construed to relieve the Corporation of its obligation to accept and clear such matched Stock Loan transactions once the Corporation has received, validated and processed any report of such matched Stock Loan transactions by the Market and/or the Depository. To the extent any discrepancy exists, for any reason, between any report provided to the Corporation by the Market and a report provided by the Depository relating to a matched Stock Loan transaction, the information in any such report provided by the Depository shall be controlling. The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, and employees for any loss or damage incurred resulting from any delay in the filing by the Market of any report or from any error in the information so filed, other than an error in information submitted to the Market by a subscriber of the Market or delays or errors in the filing of information caused by the Corporation or systems under the control of the Corporation. The provisions of Section 14 hereof shall apply to such indemnity as if such indemnity were provided under Section 14(b)(ii) hereof.

(b) Clearing Members. For purposes of this Agreement "Clearing Member" means a Borrowing Clearing Member or a Lending Clearing Member (or both) as defined in the Rules of the Corporation. Unless otherwise restricted or suspended by the Corporation and/or the Market, any Clearing Member that is a subscriber of the Market may clear through the Corporation Stock Loan transactions that are matched on the Market, provided that the Clearing Member has been approved as a Market Loan Clearing Member (as defined in the Rules of the Corporation). To the extent that a Clearing Member has been restricted or suspended by the Market, the Market shall promptly provide the Corporation with notice of all relevant information related to such restriction or suspension, and the Market agrees to (i) promptly take action to terminate any open Stock Loan transactions with respect to such Clearing Member, and (ii) submit no additional matched Stock Loan transactions of such Clearing Member.

(c) Obligations of the Market. The Market shall be obligated to the Corporation to provide certain services in connection with the clearance and settlement of Stock Loan transactions, the servicing of stock loan and borrow positions in the accounts of Clearing

Members, the making of dividend equivalent payments and rebate payments, and other matters. The obligations of the Market are set forth in more detail in Schedule B to this Agreement.

Section 6. Acceptance of Stock Loan Transactions.

The Corporation agrees to accept, in accordance with and subject to the Rules of the Corporation, all matched Stock Loan transactions that are properly submitted to it by the Market in accordance with procedures and practices of which the Market is informed with reasonable advance notice. The Corporation shall not be obligated to accept any Stock Loan transaction until the Depository has confirmed to the Corporation, in form satisfactory to the Corporation, that the Loaned Stock has been delivered to the account of the Borrowing Clearing Member at the Depository and the settlement price has been delivered to the account of the Lending Clearing Member at the Depository. Upon acceptance of a matched Stock Loan transaction by the Corporation, the Corporation shall be substituted through contractual novation, as provided in the Rules of the Corporation, as the counterparty to each of the Clearing Members that were parties to the matched Stock Loan transaction.

Section 7. Non-Discrimination and Consultation.

(a) Certain Agreements. So long as all conditions on the obligations of the Corporation to clear Stock Loan transactions for the Market, as set forth in the Rules of the Corporation, continue to be satisfied, the Corporation agrees not to amend the Rules of the Corporation in any manner so as to limit its obligations hereunder to clear and settle Stock Loan transactions effected on the Market, and further agrees that, in the event that the Corporation provides clearing services for other similar stock loan markets, it will not unfairly discriminate among such markets with regard to the nature or quality of the services that it provides or the priority that it assigns to providing such services.

(b) Proposed Rule Changes. Each party shall furnish copies to the other party of all proposed rule changes, procedure changes or membership agreement changes that would have any material impact on the other party, its Clearing Members or subscribers, or the Stock Loan transactions matched on the Market and cleared by the Corporation. For the elimination of doubt, the foregoing shall include, with respect to the Market, any submission by the Market to the SEC pursuant to Regulation ATS. Such copies shall be mailed to the other party no later than the time that they are filed with the SEC, FINRA, the CFTC or any other state or federal regulatory authority, as applicable; and if no such filing is made, then no later than the time that the change is made available to Clearing Members or subscribers of the party or is otherwise made public or placed into effect. Each party shall consider in good faith comments of the other party on any proposed rule change. This Section does not require disclosure to the other party of any information contained in a filing for which the filing party has sought confidential treatment from the agency with which it is filed or which is otherwise non-public information.

(c) Adjustment Provisions Applicable to Stock Loan Transactions. The Corporation shall adjust stock loan and borrow positions to reflect corporate events affecting the Stock Loan generally in accordance with its existing practices with respect to its existing stock loan/hedge

program. Notwithstanding the foregoing, the Market shall retain the right to direct the close out of open stock loan and borrow positions in advance of the record date for any corporate action if the Market determines in its discretion to do so. The obligations of the Market with respect to corporate events are set forth in more detail in Schedule B to this Agreement.

Section 8. Limitations of Authority and Responsibility.

The Corporation shall have no authority or responsibility to establish or enforce standards relating to the conduct of Stock Loan transactions on the Market by its subscribers or the supervision of any aspect of the conduct of such subscribers with their customers, except as specifically provided in the Rules of the Corporation. The Corporation shall have no responsibility for making disclosure to subscribers of the Market or other customers regarding Stock Loan transactions on the Market except that the Corporation shall furnish to the Market such information regarding the Corporation and the clearance by it of Stock Loan transactions as may reasonably be requested by the Market for purposes of disclosure to customers.

Section 9. Margin Requirements of Corporation

The Corporation shall establish in the Rules of the Corporation, and shall have the responsibility to enforce, requirements for mark-to-market payments to be made between the Corporation and its Clearing Members in respect of stock loan and borrow positions that are generally consistent with practices in the stock loan market. In addition, the Corporation will assess and hold risk margin in respect of stock loan and borrow positions held in any Clearing Member account by including such positions within the portfolio of positions on which a risk determination is made. The amount and form of margin assets to be deposited or maintained with the Corporation by its Clearing Members in respect of such positions shall be made using such risk management systems as the Corporation shall determine in its sole discretion, and the Corporation shall retain full discretion to make adjustments to its margin requirements in accordance with the Rules of the Corporation.

Section 10. Financial Requirements for Clearing Members.

The Corporation has established in the Rules of the Corporation financial responsibility standards with which its Clearing Members must comply. The Corporation shall conduct regular and continuous monitoring of the positions, transactions, capital and margin of Clearing Members, based upon the information reported to it in accordance with the Rules of the Corporation and other information made available to the Corporation.

Section 11. Rights and Obligations of Borrowers and Lenders.

The rights and obligations of borrowers and lenders in Stock Loan transactions, including but not limited to rights and obligations in respect of clearing and settlement, shall be as set forth in the Rules of the Corporation. Without limiting the generality of the foregoing, the Corporation agrees that it will use its cash settlement system to effect payments between Borrowing Clearing Members and Lending Clearing Members of (i) stock loan rebates and (ii)

dividend equivalent payments, (in the case where the Corporation, in its discretion, determines to effect dividend equivalent payments in respect of one or more Market Loans through the Corporation's cash settlement system instead of through the Depository's Dividend Service), in each case as directed by the Market, and the Corporation shall guarantee such payments subject to the Rules of the Corporation.

Section 12. Fees for Clearing Services.

(a) The Corporation shall establish fee structures for the services it performs for Clearing Members consistent with the provisions of the Rules of the Corporation. Fees charged to subscribers of the Market for services performed by the Corporation under this Agreement shall not be greater than the fees charged by the Corporation in respect of substantially similar services performed for other markets in connection with Stock Loan transactions. Notwithstanding the foregoing, the Corporation may offer alternative fee structures to such markets so long as it offers the same alternatives to the Market on substantially the same terms and so long as the alternative fee structure provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members, including Clearing Members that are subscribers of the Market. Actual clearing fees paid (net of any rebates) may therefore differ among markets that select different fee structures.

(b) For the Corporation's agreement to provide the clearing and settlement services to be rendered under this Agreement, the Market has paid the Corporation one million dollars (\$1,000,000). To the extent the Market ceases to clear Stock Loan transactions through the Corporation, or this Agreement does not become effective by the date set forth in Section 25 of this Agreement, the Corporation shall refund to the Market the lesser of (i) five hundred thousand dollars (\$500,000) or (ii) fifty percent (50%) of the total aggregate clearing fees received by the Corporation in connection with all Stock Loan transactions executed on the Market.

Section 13. Information Sharing.

(a) The Corporation agrees that it will notify the Market promptly in the event that the Corporation suspends a Clearing Member that is a subscriber of the Market.

(b) The Market agrees that it will furnish to the Corporation all information within its possession related to Clearing Members that are subscribers of the Market and information regarding Stock Loan transactions matched on the market, (i) to the extent reasonably necessary for the Corporation to perform its regulatory responsibilities under SEC rules, (ii) to the extent the Market believes that such information could have a material impact on the Market or the Corporation, or (iii) to the extent reasonably necessary for the Corporation to perform its duties under this Agreement and the Rules of the Corporation.

Section 14. Indemnification.

(a) By the Corporation.

(i) The Corporation agrees to indemnify and hold harmless the Market and each of its directors, officers, committee members, agents, employees and any person or entity who controls the Market (as the term "control" is defined in Rule 405 of the Securities Act of 1933, as amended) (each a "Market Indemnified Party" and collectively referred to as the "Market Indemnified Parties") from and against any and all loss, damage and expense arising out of or based on any violation or alleged violation by the Corporation of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Corporation may otherwise have.

(ii) The Corporation agrees to indemnify and hold harmless each Market Indemnified Party from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement (collectively referred to as "Losses") in connection with any action, suit, litigation, claim or proceeding commenced by any person to which any such Market Indemnified Party is made a party defendant, or is threatened to be made such a party, arising out of or based upon any violation or alleged violation by the Corporation of any terms of this Agreement, any alleged default by the Corporation in performing its obligations in accordance with the Rules of the Corporation in respect of any Stock Loan transaction it accepts for clearing, and any violation or alleged violation by the Corporation of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Market Indemnified Party which the Corporation may otherwise have.

(b) By the Market.

(i) The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, employees and any person or entity who controls the Corporation (as the term "control" is defined in Rule 405 of the Securities Act of 1933, as amended) (each a "Corporation Indemnified Party" and collectively referred to as the "Corporation Indemnified Parties") from and against any and all loss, damage and expense (whether or not such loss, damage or expense is reimbursable by *pro rata* charges to the contributions of Clearing Members) arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement including, without limitation, any failure to perform, or any errors in the performance of, its obligations under the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Market may otherwise have.

(ii) The Market agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, to which any such Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, arising out of or based on any violation or alleged violation by the Market of any of the

terms of this Agreement or any violation or alleged violation by the Market of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Corporation Indemnified Party which the Market may otherwise have.

(c) Indemnification in Respect of Intellectual Property. Without limiting the generality of subsections (a) and (b) above: (i) the Corporation specifically agrees to indemnify and hold harmless each Market Indemnified Party, and the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party, from and against any and all Losses (whether or not in the case of the Corporation such Losses are reimbursable by *pro rata* charges to the contributions of Clearing Members) in connection with any claim or cause of action for patent infringement or other intellectual property law violation, where such claim or cause of action relates to intellectual property that is developed or used by the indemnifying party in connection with the activities to be engaged in hereunder, provided that for purposes of this provision the Corporation shall not be deemed to have used any such intellectual property developed or used by the Market solely by virtue of clearing transactions executed on the Market; and (ii) without limiting the generality of clause (i) above, the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, asserted against a Corporation Indemnified Party or to which a Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, or is subjected to discovery or testimonial obligations, arising out of or based on (A) any allegation that the Market does not have the right for any reason to conduct its stock loan market in the manner in which such market is conducted or proposed to be conducted, or (B) any allegation that the maintenance of such stock loan market by the Market, the novation by the Corporation of Stock Loans matched by the Market, or the clearance and settlement of such Stock Loans by the Corporation constitutes unfair competition or unjust enrichment or infringes, interferes with or misappropriates the intellectual property, contract, common law or other rights of a third party.

(d) Limitation on Rights Conferred. The provisions of this Section 14 are not intended to confer any rights upon any person other than the Corporation Indemnified Parties and the Market Indemnified Parties.

(e) Rights and Duties When Action Commenced. Promptly after receipt by an indemnified party under Section 14(a)(ii), 14(b)(ii) or 14(c) hereof of notice of commencement of any action, suit, litigation, claim or proceeding in which such indemnified party is made a party defendant, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under such Section, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under such Section. In case any such action is brought against any indemnified party, and it promptly notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party

similarly notified, to assume and control the defense thereof, with counsel chosen by it, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under such Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, but the indemnified party may, at its own expense, participate in such defense by counsel chosen by it, without, however, impairing the indemnifying party's control of the defense. The indemnifying party may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified party or have a material adverse impact on the business of the indemnified party. As used in this Section 14, the words "party defendant" shall include a counter-defendant, cross-defendant, respondent, and any other capacity in which a claim is asserted against an indemnified party.

(f) Indemnification in Respect of Termination of Stock Loan Transactions. The Corporation's indemnification of the Market Indemnified Parties under this Section 14 shall include indemnification against any loss, damage and expense arising out of or based on any allegation that any termination of a Stock Loan transaction initiated by the Corporation was wrongful. The Market's indemnification of the Corporation Indemnified Parties under this Section 14 shall include indemnification against any loss, damage and expense arising out of or based on any allegation that any termination of a Stock Loan transaction initiated by the Market was wrongful.

Section 15. Termination of Securities Lending Transactions.

(a) By the Corporation. The Rules of the Corporation shall give the Corporation the right, upon notice to the Market and affected Clearing Members, to cause the prompt termination and close out of any open stock loan or stock borrow positions in any account of any Clearing Member. If the Corporation determines to exercise such authority, it shall furnish notice to the Market of such termination, and the Market shall assign the obligation to return the Loaned Stock against payment of the settlement price or to pay the settlement price against receipt of the Loaned Stock, as the case may be, to open stock borrow or loan positions that have matching terms. In the event that an affected Clearing Member fails to complete the return of the Loaned Stock or the payment of the settlement price, as the case may be, in accordance with the Rules of the Corporation, the buy-in-~~or~~, sell-out or cash settlement procedures of the Corporation shall be applicable.

(b) By the Market. The Rules of the Corporation shall give the Market the right, upon notice to the Corporation and affected Clearing Members, to cause the prompt termination and close-out of any open stock loan or stock borrow positions in any account of any Clearing Member. The procedures referred to in the preceding paragraph shall apply to a close-out initiated by the Market except that the initial notice shall be issued by the Market.

Section 16. Notices.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given (i) when delivered by hand, (ii) three business days after having been mailed by first class registered mail, return receipt requested, postage and registry fees prepaid to the address set forth below, or (iii) when sent by facsimile transmission to the facsimile number set forth below, provided that the burden of proving receipt of a facsimile will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine.

(i) If to the Corporation:

The Options Clearing Corporation
One North Wacker Drive, Suite 500
Chicago, IL 60606

Attn: General Counsel

Facsimile Number: 312-322-2593

Telephone Number: 312-322-6200

(ii) If to the Market:

Automated Equity Finance Markets, Inc.
529 Fifth Ave, 14th Floor
New York, NY 10017

Attn: General Counsel

Facsimile Number: 212-905-5237

Telephone Number: 212-905-2675

Section 17. Miscellaneous.

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought. All of the terms of this Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned by either party hereto without the prior written consent of the other party, but a merger, consolidation, reorganization or reincorporation by, or sale of all or substantially all of the assets of, either party shall not require the consent of the other party so

long as the successor entity or transferee is qualified to carry on the business contemplated herein. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The headings of this Agreement are for the purpose of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together constitute one and the same instrument. Terms used in this Agreement (whether or not initially capitalized) that are defined in the Rules of the Corporation have the meanings given to them therein, unless expressly defined otherwise in this Agreement or unless the context requires a different meaning.

Section 18. Term and Termination – Breach of Agreement.

(a) Voluntary Termination. Either party to this agreement may terminate this Agreement at any time by giving the other party at least twelve (12) months prior written notice. If open interest is not transferred to another clearing organization pursuant to paragraph (e) of this Section 18, then all open stock loan and borrow positions shall be closed out through return or recall transactions prior to termination of this Agreement.

(b) Breach by Corporation or the Market. If the Corporation or the Market, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of this Agreement, then the non-breaching party may give notice to the other party of termination of this Agreement. If the Corporation is the breaching party, the Market shall have the right immediately upon giving notice of termination to cease to submit new Stock Loan transactions to the Corporation, and if the Market is the breaching party, the Corporation shall have the right immediately upon giving notice of termination to cease to accept any new Stock Loan transactions. Upon the giving of any such notice, the Market shall exercise its authority to direct the close-out of all open stock loan and stock borrow positions effected through the Market, and the Market and the Corporation shall continue to be obligated to provide all services hereunder with respect to stock loan and borrow positions and the effecting of return and recall transactions until all such positions have been closed out.

(c) Other Grounds for Termination. The Corporation may give notice of termination of this Agreement to the Market and may cease to accept opening Stock Loan transactions from the Market immediately if (i)(A) the Market ceases to meet any legal or regulatory requirement necessary to effect Stock Loan transactions and/or to act as an ATS following the Effective Date, (B) the Market ceases to effect Stock Loan Transactions, or (C) any of the representations of the Market in Section 1 hereof cease to be accurate in any material respect, or (ii)(A) the Corporation ceases to be registered as a securities clearing agency, or (B) the Rules of the Corporation cease to be in effect in a material respect. In the event that the Corporation terminates this Agreement in accordance with this Section 18(c), then, in accordance with the terms of this Agreement and the Rules of the Corporation, the Corporation and the Market shall take steps to immediately close all open stock loan and borrow positions.

(d) Services by the Market and the Corporation Pending Termination. This Agreement shall remain in effect from the time that any notice of termination is given or any event of termination occurs under the provisions of this Section 18 until such time as all stock loan and borrow positions have been closed or transferred to an alternative clearing organization, and the Corporation and the Market shall continue to provide all services and perform all of their respective obligations under this Agreement and the Rules of the Corporation to the extent necessary or appropriate to service open stock loan and borrow positions in accordance with the Rules of the Corporation. This Agreement shall terminate when all such open positions have been transferred or closed out; subject, however, to the provisions of Section 19 hereof.

(e) Transfer of Open Positions to Successor Clearing Organization. If notice of termination of this Agreement is given and the Market makes alternative clearing arrangements for Stock Loan transactions executed on the Market thereafter, the Corporation shall use reasonable efforts to effect transfer of the open interest to the Market's successor clearing organization (the "Successor") subject to reasonable agreements with the Successor, the Market and/or Clearing Members whose positions are being transferred, as appropriate, that protect the interests of the Corporation. Such agreements may include, without limitation, agreements that: (i) the Successor assumes all of the Corporation's obligations in respect of such open positions, and (ii) the Successor and each such Clearing Member agree to indemnify the Corporation and hold the Corporation harmless against any liability or obligation in respect of such positions arising from and after the effective time of such transfer. The Market shall reimburse the Corporation's reasonably incurred expenses in connection with such transfer on a fully allocated basis.

Section 19. Survival of Obligations.

The provisions of this Agreement shall survive the termination of this Agreement with respect to any rights and obligations of the parties arising during the term of this Agreement including, without limitation, the indemnification provisions of Section 14 hereof.

Section 20. Dispute Resolution.

If a dispute arises between the Market and the Corporation relating to the clearing services that are the subject of this Agreement, and the most senior employee actively involved in the dispute on behalf of a party (in either case, the "Senior Disputant") believes that the Corporation's timely and unimpeded conduct of clearing services for the Market is threatened by the unresolved dispute, the Senior Disputant may notify the other party that a dispute exists. Such notice having been given, the Senior Disputant of each party shall without delay notify the Chief Executive Officer of such party, or if the Chief Executive Officer is not immediately available, the most senior officer of such party that is immediately available (in either case, the "Responsible Officer"), that a dispute exists between the parties. The Responsible Officers of the two parties shall thereupon endeavor in good faith to resolve the dispute and to mitigate its deleterious effects and shall confer with each other to those ends. For the judicial resolution of disputes the parties consent to the exclusive jurisdiction of the United States District Court in Chicago, Illinois, if such court has subject matter jurisdiction over the dispute; otherwise, the

courts of Illinois situated in Chicago shall have exclusive jurisdiction. Each party waives any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such party.

Section 21. Notice of Regulatory Action.

The Corporation shall notify the Market of any action taken by any regulatory body or agency that, in the judgment of the Corporation, has or will have a material adverse effect on the Corporation's performance of its obligations under this Agreement. The Market shall notify the Corporation of any action taken by any regulatory body or agency that, in the judgment of the Market, has or will have a material adverse effect on the Market's performance of its obligations under this Agreement.

Section 22. System Redundancy, Disaster Recovery.

The Corporation maintains, and will continue to maintain, appropriate facilities for system redundancy and disaster recovery, subject to the general oversight of the SEC.

Section 23. Quality Standards.

All services provided by the Corporation to the Market shall be performed substantially in accordance with the Rules of the Corporation and applicable legal and regulatory requirements. ~~The Corporation shall use commercially reasonable efforts to maintain its counterparty credit rating of "AAA" by Standard & Poor's or a comparable rating by another nationally recognized statistical rating organization.~~ All services to be provided by the Market shall be performed substantially in accordance with the terms of this Agreement, agreements and procedures in place between the Market and its subscribers, applicable legal and regulatory requirements, and in a manner sufficient to permit the Corporation to perform clearing services to Clearing Members clearing Stock Loan transactions through the Market in accordance with the Rules of the Corporation.

Section 24. Limitation of Liability.

(a) Neither party shall be liable under any circumstances for incidental, consequential or special damages sustained by the other party under this Agreement, whether or not such damages relate to services covered by this Agreement, even if the party against which an award of damages is sought has been advised of the possibility of such damages; provided, however, that this Section is not intended to limit the indemnification provisions of Section 14 or any other indemnification provisions in this Agreement to the extent that such provisions would otherwise cover incidental, consequential or special damages asserted by third parties against an indemnified party.

(b) Neither party shall be liable for its inability to perform its obligations under this Agreement when such inability arises out of causes beyond its control, including, without limitation, any act of God, act of war or terrorism, accident, labor dispute, or the failure of any third party to provide any electronic, telecommunication or other service used in connection with the services covered by this Agreement. Each party agrees to notify the other promptly upon learning that any such event has occurred and shall cooperate with the other, upon request, in arranging alternative procedures and in otherwise taking reasonable steps to mitigate the effects of any inability to perform or any delay in performing.

Section 25. Effectiveness of Agreement.

On the Effective Date, and as conditions to the effectiveness of this Agreement, the regulatory authorities, as applicable, shall have approved the rule change filed in respect of this Agreement or allowed such rule change to become effective; the Market shall deliver to the Corporation a certificate of a senior officer, in form and substance satisfactory to the Corporation, to the effect that the representations of the Market set forth in Section 1 hereof are true and accurate on such date, and the Corporation shall deliver to the Market a certificate of a senior officer, in form and substance satisfactory to the Market, to the effect that the representations of the Corporation set forth in Section 2 hereof are true and accurate on such date. The "Effective Date" of this Agreement shall be the date first above written provided that all conditions exist on that date such that the representations to be made under Sections 1 and 2 would be true or such later date when such conditions exist. ~~If the Effective Date has not occurred on or before September 30, 2009, either party may terminate this Agreement, and each party shall bear its own costs in respect of such termination.~~

Section 26. Nonexclusive Agreement.

This Agreement is nonexclusive and nothing in this Agreement shall prevent the Market from obtaining clearing arrangements from another party during the term of this Agreement or thereafter for Stock Loan transactions effected on the Market, nor shall the Corporation be prohibited from performing clearing services for other similar stock loan markets.

Section 27. Amendment and Restatement.

This Agreement amends and restates the Original Agreement in its entirety. This Agreement will be effective without the requirement for the Corporation and the Market to deliver to each other certificates of senior officers, as is otherwise required in Section 25 of this Agreement.

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

THE OPTIONS CLEARING CORPORATION

By: _____
Name:
Title:

AUTOMATED EQUITY FINANCE MARKETS,
INC.

By: _____
Name:
Title:

SCHEDULE A
DESCRIPTION OF OTHER SERVICES

Fee Collections. The Corporation will collect on behalf of the Market any fees assessed by the Market against Clearing Members engaging in transactions in ~~Cleared Contracts~~Stock Loan transactions on the Market under the same procedures used to collect fees assessed by the Options Exchanges in respect of security option transactions.

SCHEDULE B
CERTAIN OBLIGATIONS OF THE MARKET

- **General Obligations:** The Market agrees to perform any and all obligations specified for the Market in the Rules of the Corporation. The Corporation shall furnish to the Market copies of, and provide opportunity to comment on, any proposed change to the Rules of the Corporation that adds, removes, modifies or changes any of the Market's obligations under the Rules of the Corporation. To the extent any terms or obligations differ in any manner between the Rules of the Corporation and this Agreement, the Rules of the Corporation shall be controlling and govern.

- **Matched Transactions:** The Market shall furnish information regarding matched Stock Loan transactions to the Corporation for clearance in accordance with this Agreement and the Rules of the Corporation and shall retain records of such transactions and the terms of such Stock Loans and shall furnish such information to the Corporation as necessary to permit the Corporation to fulfill its obligations under this Agreement and the Rules of the Corporation.

- **Corporate Events:** The Market shall monitor corporate events affecting Loaned Stocks and shall provide the Corporation with timely information concerning such events sufficient to permit the Corporation to: (i) adjust the Loaned Stock as appropriate to include any non-cash assets distributed to shareholders, and (ii) effect settlement of dividend equivalent payments (in the case where the Corporation, in its discretion, determines to effect dividend equivalent payments in respect of one or more Market Loans through the Corporation's cash settlement system instead of through the Depository's Dividend Service) as appropriate to reflect cash dividends and distributions to shareholders.

- **Recalls and Returns:** The Market shall accept notices of recalls and returns from Lending Clearing Members and Borrowing Clearing Members in respect of open stock loan and borrow positions, respectively, and shall process such notices and match such notices to open stock borrow or loan positions that correspond in terms of Eligible Stock, number of shares, settlement price and any other necessary term. The Market shall provide instructions and the necessary information to the Corporation so that the Corporation can validate such information and to allow the Corporation to instruct the Depository to effect settlement of returns and recalls. The Market shall distinguish return/recall transactions from new Stock Loan transactions when submitting such matched return/recall transactions to the Corporation.

- **Buy-Ins.** To the extent that a Borrowing Clearing Member fails to return the specified quantity of the Loaned Stock Loan within the time periods set forth in the Rules of the Corporation, the Market shall instruct an independent broker, who shall be a Market Loan Lending Clearing Member and may execute a member buy-in of the Depository, to purchase an amount of securities that is equal to the quantity of the Loaned Stock Loan. The Market shall instruct the independent broker to effect the buy-in in accordance with the Rules of the Corporation, as well as all federal and state securities laws, and any applicable rules of any other exchange or self-regulatory organization. Upon execution of the buy-in by the independent broker, the Market shall instruct that the independent broker promptly, in accordance with the Rules of the Corporation, as well as all federal and state securities laws, and any applicable rules of the Market or any other exchange or self-regulatory organization, provide written notice to the Market, from a Lending Clearing Member, of an execution of a buy-in transaction, the Market shall immediately give written notice to the Corporation and the Borrowing Clearing Member and the Corporation of all the necessary information regarding the buy-in including, but not limited to, the quantity of the securities purchased, time of execution, the price paid for such securities and commissions. Upon execution of any buy-in, If the Lending Clearing Member notifies the Market shall notify the Corporation to instruct the Depository to transfer the securities purchased by the independent broker that executed the buy-in to the Corporation's account that the Lending Clearing Member is unable to complete the buy-in in accordance with the Rules of the Corporation. To the extent the buy-in cannot be, or has not been, executed by the independent broker, as required by the Rules of the Corporation, for any reason, the Market shall instruct the independent broker to immediately also shall provide written notice to the Market, Lending Clearing Member, the Corporation and the Borrowing Clearing Member and with immediate written notice thereof in a form specified by the Corporation. The Market agrees to indemnify and hold harmless the Corporation Indemnified Parties from and against any loss, damage, expense and/or claim against the Corporation in connection with any buy-in for any Clearing Member time to time. The Corporation shall not be held liable for any Clearing Member's and/or the Market's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of the Market or any exchange or self-regulatory organization. In addition to the foregoing, the Market shall instruct Clearing Members, through the Market's subscription agreement or otherwise, that Clearing Members are obligated to maintain in their books and records any requisite information related to a buy-in transaction, as necessary, to meet such Clearing Member's regulatory obligations.

- **Sell-Outs.** To the extent that a Lending Clearing Member fails to return the Collateral, as defined in the Rules of the Corporation, the Market shall instruct an independent broker, who shall be a Market Loan Borrowing Clearing Member and may execute a member sell-out of the Depository, to effect a sell-out Loaned Stock in accordance with the Rules of the Corporation, as well as all federal and state securities laws, and any applicable rules of the Market or any other exchange or self-regulatory organization. Upon receipt of

~~notice from a Borrowing Clearing Member of an execution of the sell-out by the independent broker, the Market shall instruct that the independent broker promptly, in accordance with the Rules of the Corporation, as well as all federal and state securities laws, and any applicable rules of any other exchange or self-regulatory organization, provide a sell-out transaction, the Market shall immediately give written notice to the Market, Corporation and the Lending Clearing Member, Borrowing Clearing Member and the Corporation of all the necessary information regarding the sell-out including, but not limited to, the quantity of the securities sold, time of execution, the price received for such securities and commissions. Upon execution of any sell-out, the Market shall notify the Corporation to instruct the Depository to transfer the sale proceeds from the independent broker that executed the sell-out to the Corporation's account in accordance with the Rules of the Corporation. To the extent the sell-out cannot be, or has not been, executed by the independent broker, as required by the Rules of the Corporation, for any reason, the Market shall instruct the independent broker to immediately provide written notice to the Market, Lending Clearing Member, Borrowing Clearing Member and the Corporation. The Market agrees to indemnify and hold harmless the Corporation Indemnified Parties from and against any loss, damage, expense and or claim against the Corporation in connection with any sell-out for any Clearing Member. The Corporation shall not be held liable for any Clearing Member's and/or the Market's failure to comply with its responsibilities and obligations under the federal and state securities laws, including, but not limited to, Regulation SHO, or any applicable rules of the Market or any exchange or self-regulatory organization. In addition to the foregoing, the Market shall instruct Clearing Members, through the Market's subscription agreement or otherwise, that Clearing Members are obligated to maintain in their books and records any and all requisite information related to the sell-out transaction, as necessary to meet such Clearing Member's regulatory obligations.~~

- **Rebates:** The Market shall retain records of the rebates agreed upon between the Lending Clearing Member and the Borrowing Clearing Member in each Stock Loan transaction that is accepted by the Corporation, and shall provide the Corporation with instructions as to the amount of such payments (and any other necessary information) to be debited from or credited to the accounts of the lending Clearing Member and borrowing Clearing Member two business days prior to the date on which such debits and credits are to be effected. In addition, the Market shall provide information to the Corporation on a daily basis regarding all accrued rebate amounts on a Clearing Member by Clearing Member basis.