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THE OPTIONS CLEARING CORPORATION  
SEC. OF THE SECRETARIAT  
CORPORATION

December 12, 2007

**VIA E-MAIL**

Mr. David A. Stawick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

**Re: Rule Filing SR-OCC-2007-19 Rule Certification**

Dear Mr. Stawick:

Attached 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. This rule filing has been, or is concurrently being, submitted to the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (the "Exchange Act"). The filing relates to a cross-margining program between OCC (in its capacity as a registered securities clearing agency) and ICE Clear US, Inc. ("ICE Clear") (in its capacity as a registered derivatives clearing organization).

In conformity with the requirements of Regulation 40.6(a)(3), OCC states the following: The text of the rule is set forth at Item 1 of the enclosed filing. The date of implementation of the rule is when the proposed rule has been approved by the SEC and, with respect to non-proprietary cross-margining, when the Commission has issued an Order under the Commodity Exchange Act permitting OCC and ICE Clear and their clearing members to commingle customer funds held in segregated accounts maintained in accordance with Section 4d with other funds used to margin, secure or guarantee certain securities option positions cleared by OCC. No substantive opposing views were expressed to OCC by governing board or committee members, clearing members of OCC, or market participants, that were not incorporated into the rule.

JEAN M. CAWLEY

SENIOR VICE PRESIDENT AND DEPUTY GENERAL COUNSEL

ONE N. WACKER DRIVE, SUITE 500 CHICAGO, ILLINOIS 60606 TEL 312.322.6269 FAX 312.322.6280

JCAWLEY@THEOCC.COM WWW.OPTIONSCLEARING.COM

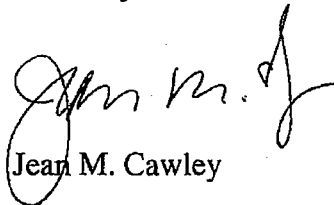


Mr. David A. Stawick  
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OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Commodity Exchange Act and the Commission's regulations thereunder.

Should you have any questions regarding this matter, please do not hesitate to contact the undersigned at (312) 322-6269.

Sincerely,



Jean M. Cawley

Attachments

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

2007-19 cftc.ltr

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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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 proposed rule change consists of a Cross-Margining Agreement (“XM Agreement”), dated November 6, 2007, between The Options Clearing Corporation (“OCC”) and ICE Clear US, Inc. (“ICE Clear”), as well as the applicable forms of agreement to be executed by clearing members and market professionals participating in OCC/ICE Clear XM. The text of the XM Agreement is set forth in Exhibit 5A, and the text of the other agreements is set forth in Exhibits 5B – 5G.

**Item 2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Board of Directors of OCC at a meeting held on July 24, 2007.

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**

The principal purpose of this rule filing is to facilitate the establishment of a program with ICE Clear for the cross-margining of certain securities options contracts cleared by OCC in its capacity as an SEC-registered clearing agency with certain futures and options on such futures cleared by ICE Clear in its capacity as a CFTC-registered derivatives clearing organization.

To establish that program, OCC and ICE Clear have entered into an XM Agreement, the text of which is set forth in Exhibit 5A hereto. The XM Agreement is based on and is substantially similar to the Cross-Margining Agreement between OCC and the Chicago Mercantile Exchange Inc. ("CME") as it relates to bilateral cross-margining.<sup>1</sup> The following highlights the principal differences between the XM Agreement and the OCC/CME Cross-Margining Agreement for bilateral cross-margining.

Section 1 of the XM Agreement contains definitional provisions. Certain definitions have been amended, while others have been deleted as unnecessary. The definition of "Business Day" (Section 1(b)) has been revised to delete the specific reference to Good Friday as a Business Day, leaving it up to OCC and ICE Clear to mutually agree on additional days that may be deemed to be Business Days for purposes of the Agreement. The definition of "Eligible Contract" (Section 1(k)) has been revised to permit the removal of a Contract as an Eligible Contract within 30 days of the written request of the Clearing Organization that clears such Contract, which period may be extended, if necessary, to provide appropriate protection for the market place, existing open positions and the holders thereof. The definition of "Market Professional" (Section 1(p)) has been revised to reflect that a market professional includes any member of ICE Futures US, Inc. to the extent such member is trading Eligible Contracts for his or its own account. The terms "Pair of Non-Proprietary X-M Accounts" and "Pair of Proprietary X-M Accounts", respectively, have replaced the terms "Sets of Non-Proprietary X-M Accounts" and "Sets of Non-Proprietary X-M Accounts" (Sections 1(r) and (v)) in order to reflect the

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<sup>1</sup>From 1997 to 2004, ICE Clear US participated in a trilateral XM program with OCC and CME under its prior names, "Commodities Clearing Corporation" and "New York Clearing Corporation". See Release No. 34-38584

bilateral nature of the OCC/ICE Clear XM program. This change has been made throughout the XM Agreement, as applicable. The term "Carrying Clearing Organization" has been deleted as unnecessary as has the term "X-M Pledge Account", given the deletion of Section 3 as described below. These changes likewise have been made throughout the XM Agreement. Other than referencing pairs of cross-margined accounts, no substantive changes have been made to Section 2 of the XM Agreement.

Section 3 of the OCC/CME XM Agreement concerns the establishment of X-M Pledge Accounts. The terms of Section 3, however, have been deleted from the XM Agreement between OCC and ICE Clear. No X-M Pledge Accounts have been established in cross-margining programs operated by OCC and other commodity clearing organizations, and OCC and ICE Clear do not expect such accounts to be established in connection with their cross-margining program. No changes have been made to Section 4 of the XM Agreement.

Section 5 relates to the calculation of margin. OCC and ICE Clear have agreed not to apply Super Margins to pairs of cross-margined accounts established under the XM Agreement. Accordingly, provisions relating to Super Margins, including Exhibit B, the Super Margins Schedule, have been eliminated. References to Base Margin have been eliminated as it is no longer necessary to identify Base Margin and Super Margin as being the components of the total Margin Requirement. See paragraph (b). Other provisions, including the fact that OCC will calculate the Margin Requirement in respect of each pair of cross-margining accounts, have been reordered and clarified. See paragraphs (a) and (b). Nevertheless, ICE Clear would have

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(May 8, 1997). The agreement governing trilateral XM also sets forth the terms and conditions governing the current bilateral cross-margining program between OCC and CME.

the right to elect to calculate margin requirements with prior notice to OCC. See paragraph (b).

Finally, the requirement that oral agreements be made on a recorded telephone line has been deleted as OCC understands that ICE Clear does not utilize such lines. See paragraph (c).

Section 6 relates to the forms and method of holding initial margin. As revised, Section 6 permits the Clearing Organizations to agree to value collateral as provided under the rules of one Clearing Organization, but if no such agreement is reached, collateral would be valued at the lowest value given under the rules of both clearing organizations. This change accommodates OCC's and ICE Clear's current agreement to use OCC's valuations for deposits of Government securities, which are substantially similar to, but not the same as, those specified by ICE Clear. See paragraph (a).<sup>2</sup> Further, OCC and ICE Clear have agreed that to the extent the form of letter of credit permits draws by only one beneficiary, one clearing organization may make such draws by providing notice to, but without obtaining consent of, the other beneficiary. *Id.* However, as in other cross-margining programs, the proceeds of any letter of credit draw must be deposited by the issuer of the letter of credit directly into the applicable joint bank account of the clearing organizations. Section 6 also has been modified to refer explicitly to the standard practice of equal sharing of interest income earned from overnight investments by the clearing organizations. See paragraph (b). In addition, investments of customer segregated funds may be made only in "permitted investments" as defined in CFTC Regulation 1.25. See paragraph (c).

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<sup>2</sup> OCC implemented a comparable change in its cross-margining program with The Clearing Corporation. See Release No. 34-51291 (March 2, 2005).

Section 7 describes daily settlement procedures, which are subject to joint coordination and authorization. For initial morning settlements, the initiating clearing organization will send settlement instructions to the other clearing organization by 6:00 a.m. (in the case of clearing member debits) and 9:00 a.m. (for clearing member credits). See paragraph (b). If approved, the non-initiating clearing organization will then send such instruction to the applicable XM clearing bank by the designated time frames. Final settlement for clearing member debits is to occur at or before 8:00 a.m. (ICE Clear's standard settlement time) and for clearing member credits at or before 10:00 a.m. (OCC's standard settlement time for such credits). See paragraphs (f) – (g). Section 7 further has been modified to update the time at which certain files (e.g., prices, positions and settlement amounts) are to be transmitted and collateral transactions may be effected by clearing members to reflect current processing cycles. See paragraphs (d) and (j). In addition, Section 7 has been amended to clarify that instructions to transfer funds to or from a bank account of a cross-margining clearing member(s) or to or from the joint settlement accounts of the clearing organizations are subject to the provisions of Section 7(a). See paragraphs (f) – (i) and (k) – (l). Other changes to Section 7 include additional references to the term "Business Day" and provisions clarifying that requests to the Designated Clearing Organization ("DCO") to generate settlement instructions are to be made during normal business hours except as the DCO may otherwise agree. See paragraph (k). Finally, Section 7 has been amended to eliminate the requirement that agreements to alter the time frames specified in Section 7 be made over a recorded telephone line. Rather, such agreements will be confirmed via e-mail and in a subsequent written document. See paragraph (a).



Section 8 concerns the suspension and liquidation of one or more cross-margining clearing member(s). Section 8 has been modified to generally provide that the clearing organizations will use good faith efforts to transfer or liquidate contracts to minimize risk, rather than to more specifically require best efforts to close out legs of hedged positions simultaneously. This change is principally intended to provide a small measure of additional flexibility and is not reflective of any substantive difference in the level of coordination expected to occur between OCC and ICE Clear with respect to the liquidation of cross-margining accounts. See paragraph (a). Section 8 also has been modified to provide that the Clearing Organizations will issue a demand for immediate payment under any letter of credit deposited as margin unless they agree not to take such action. Provisions that permitted the Clearing Organizations to defer drawing on a letter of credit on receipt of satisfactory written assurances from the issuing bank extending its irrevocable commitment under the letter have been deleted in favor of the formulation described in the preceding sentence. See paragraph (c). Provisions relating to X-M Pledge Accounts have been deleted for the reasons described above. See paragraphs (d)(i) and (e). No substantive changes have been made to Sections 9 through 12.

Section 13 concerns termination of the agreement. Section 13 has been modified to provide that common stock, if any, deposited as margin would be, on termination of the XM agreement, transferred from the applicable custody account to the custody of either clearing organization at the direction of the depositing clearing member. This change has been made for clarity. See paragraph (d). No change has been made to Section 14. Section 15 concerns information sharing between the Clearing Organizations. No substantive change has been made to Section 15 other than to reflect that ICE Clear will notify OCC if ICE Futures has applied any

special surveillance procedures to any Clearing Member participating in OCC/ICE Clear cross-margining. See paragraph (a)(i). For the reason previously identified, Section 15 has been further amended to eliminate the requirement that a recorded line be used for purposes of providing notices issued pursuant to Section 15. See paragraph (d).

Section 16 contains general provisions relating to the Agreement. A new paragraph (m) has been added to Section 16, which sets forth the acknowledgment of each clearing organization that it does not have any intellectual property rights with respect to Eligible Contracts, including with respect to Contract prices, settlement prices, open interest, trading volume or any other data related to the Eligible Contracts cleared by the other Clearing Organization. However, paragraph (m) permits the use of such data by a Clearing Organization as necessary to carry out its functions under the Agreement. Remedies for any alleged violation of the paragraph are limited to equitable relief. Furthermore, the terms of paragraph (m) make it clear that the paragraph is in no way intended to limit or adversely affect the security interest of either clearing organization in Eligible Contracts or margin collateral. Section 17, which provides for arbitration of disputes, has been amended to provide an additional office where an arbitration proceeding may be held. Any other changes made to the XM Agreement not specifically described above are not material in nature.

Exhibit A to the XM Agreement contains the list of Eligible Contracts initially to be included in the OCC/ICE Clear Cross-Margining Program. Under prior orders approving cross-margining programs, the Commission required notice from OCC when proposing to add new options classes to a cross-margining program. OCC now requests that the Commission terminate this notice requirement for all OCC cross-margining programs. OCC believes that

such notification should no longer be required given its substantial experience in safely operating various cross-margining programs since 1988. The addition of new options classes to cross-margining will be expedited by eliminating the notice requirement. Except for changes to the list of Eligible Contracts, OCC would continue to submit other modifications to cross-margining agreements as a part of a rule filing submitted pursuant to Section 19(b) of the Securities Exchange Act of 1934. The Commission's staff has indicated that it has no objection to OCC's request.<sup>3</sup>

In addition to Exhibit 5A, the following are attached as exhibits:

<u>EXHIBIT</u>	<u>NAME</u>
EXHIBIT 5B	Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member)
EXHIBIT 5C	Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members)
EXHIBIT 5D	Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member)
EXHIBIT 5E	Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members)
EXHIBIT 5F	Market Professional's Agreement for Cross-Margining (Joint Clearing Member)
EXHIBIT 5G	Market Professional's Agreement for Cross-Margining (Affiliated Clearing Members)

These forms of agreements are also based on the comparable forms of agreement used in OCC/CME cross-margining with slight modifications. Those modifications include: (i) identifying the cross-margining program as being a bilateral program between OCC and ICE Clear; (ii) making other non-substantive, technical changes (e.g., eliminating the term "Carrying

<sup>3</sup> Telephone call, November 14, 2006, between Jean M. Cawley, SVP and Deputy General Counsel, OCC, and Jerry W. Carpenter, Assistant Director, Division of Trading and Markets.

Clearing Organization,” which was a concept needed only in the tri-lateral program), (iii) reflecting the updated definition of “market professional” as used in the XM Agreement; and (iv) eliminating the requirement that clearing members and market professionals furnish the clearing organizations with financing statements relating to positions, collateral and property maintained with respect to accounts subject to cross-margining. The adoption by all 50 states of revisions to Articles 8 and 9 of the Uniform Commercial Code (“UCC”) has eliminated the need to obtain financing statements that were required to perfect security interests in futures and options under earlier versions of those Articles.

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The Commission has previously found that cross-margining programs are consistent with clearing agency responsibilities under Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). *See, e.g.*, Release No. 34-38584 (May 8, 1997). In so finding, the Commission noted that cross-margining enhances clearing member liquidity and systemic liquidity both in times of normal trading and in times of market stress. *Id.* Accordingly, the proposed rule change is consistent with the Exchange Act in that it implements another cross-margining program which will facilitate the removal of impediments to and help perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other 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 impose any burden 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 have been received.

**Item 6. Extension of Time Period for Commission Action**

OCC does not consent to an extension of the time period for Commission action on the proposed rule change.

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

OCC requests that the Commission approve this rule filing on an accelerated basis, to the extent necessary, so that it is effective by January 11, 2008. OCC and ICE Clear desire to be able to implement their cross-margining program during January, 2008. No novel issues are presented by this rule filing as the proposed OCC/ICE Clear XM program is substantially similar to other cross-margining programs operated by OCC. Although the termination of OCC's obligation to notify the Commission when adding new options classes to a cross-margining program would represent a change from existing practice, the Commission's staff has indicated that it has no objection to OCC's request for such termination and the rights

of clearing members and the public would be unaffected.

**Item 8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**Item 9. Exhibits**

Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5A. Cross-Margining Agreement.

Exhibit 5B. Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member).

Exhibit 5C. Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members)

Exhibit 5D. Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member)

Exhibit 5E. Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members)

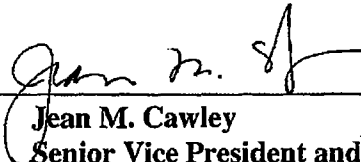
Exhibit 5F. Market Professional's Agreement for Cross-Margining (Joint Clearing Member)

Exhibit 5G. Market Professional's Agreement for Cross-Margining (Affiliated Clearing Members)

**SIGNATURE**

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

**THE OPTIONS CLEARING CORPORATION**

By:   
\_\_\_\_\_  
**Jean M. Cawley**  
**Senior Vice President and**  
**Deputy General Counsel**

CROSS-MARGINING AGREEMENT

This Cross-Margining Agreement (the "Agreement") is entered into this 4<sup>th</sup> day of November, 2007 by The Options Clearing Corporation ("OCC"), a Delaware corporation and ICE Clear US, Inc. ("ICE Clear"), a New York corporation.

RECITALS

A. OCC is a clearing agency registered with the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (the "Exchange Act") and acts as the clearing organization for all securities options presently listed and traded on national securities exchanges.

B. ICE Clear is a derivatives clearing organization registered with the Commodity Futures Trading Commission ("CFTC") under the Commodity Exchange Act ("CEA") and acts as the clearing organization for certain futures contracts and options on futures contracts for which ICE Futures US, Inc. ("ICE Futures US") has been designated as a contract market by the CFTC pursuant to the CEA.

C. OCC and ICE Clear desire to establish cross-margining arrangements applicable to proprietary transactions and transactions of market professionals whereby (i) joint clearing members and (ii) pairs of affiliated clearing members that are prepared to deposit margin and pledge contracts to secure each other's obligations as described herein, may elect to have certain futures contracts and option contracts cleared by the respective clearing organizations carried in special pairs of accounts (proprietary or non-proprietary), each pair to be combined and margined as a single account based upon the net risk presented by the contracts carried in such accounts.

D. In order to facilitate such cross-margining arrangements, OCC and ICE Clear desire to establish procedures whereby all margin deposited by clearing members in respect of such pairs of accounts would be held jointly by OCC and ICE Clear, and OCC and ICE Clear would have a joint security interest in contracts, margin and other property in the pairs of accounts, to secure all obligations of the clearing members to them.



**FOR EXECUTION**

**CROSS-MARGINING AGREEMENT**

This Cross-Margining Agreement (the "Agreement") is entered into this 4<sup>th</sup> day of November, 2007 by The Options Clearing Corporation ("OCC"), a Delaware corporation and ICE Clear US, Inc. ("ICE Clear"), a New York corporation.

**RECITALS**

A. OCC is a clearing agency registered with the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (the "Exchange Act") and acts as the clearing organization for all securities options presently listed and traded on national securities exchanges.

B. ICE Clear is a derivatives clearing organization registered with the Commodity Futures Trading Commission ("CFTC") under the Commodity Exchange Act ("CEA") and acts as the clearing organization for certain futures contracts and options on futures contracts for which ICE Futures US, Inc. ("ICE Futures US") has been designated as a contract market by the CFTC pursuant to the CEA.

C. OCC and ICE Clear desire to establish cross-margining arrangements applicable to proprietary transactions and transactions of market professionals whereby (i) joint clearing members and (ii) pairs of affiliated clearing members that are prepared to deposit margin and pledge contracts to secure each other's obligations as described herein, may elect to have certain futures contracts and option contracts cleared by the respective clearing organizations carried in special pairs of accounts (proprietary or non-proprietary), each pair to be combined and margined as a single account based upon the net risk presented by the contracts carried in such accounts.

D. In order to facilitate such cross-margining arrangements, OCC and ICE Clear desire to establish procedures whereby all margin deposited by clearing members in respect of such pairs of accounts would be held jointly by OCC and ICE Clear, and OCC and ICE Clear would have a joint security interest in contracts, margin and other property in the pairs of accounts, to secure all obligations of the clearing members to them.

## AGREEMENTS

In consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Definitions. In addition to the terms defined above, certain other terms used in this Agreement shall be defined as follows:

(a) "Affiliate," except as provided in Section 15 of this Agreement, means, when used in respect of a particular Clearing Member, a Clearing Member of a Clearing Organization who directly or indirectly controls a Clearing Member of the other Clearing Organization, or who is directly or indirectly controlled by or under common control with such Clearing Member. Ownership of 10% or more of the common stock of the relevant entity will be deemed prima facie control of that entity for purposes of this definition.

(b) "Business Day" means each day on which trading in Contracts is conducted and on which OCC and ICE Clear conduct money settlements; provided, however, that if trading in Contracts occurs on a bank holiday when money transfers cannot be made, such day shall be a Business Day for purposes of certain provisions of this Agreement but not for others as the context requires and as may be agreed upon from time to time by the parties; provided, further that OCC and ICE Clear may agree in writing to designate other days as Business Day for purposes of Section 7 of this Agreement.

(c) "Cash Settlement Amount" means the cash amount due to or from a Joint Clearing Member or pair of Affiliated Clearing Members on each Business Day in respect of a pair of X-M Accounts as described in Section 7 of this Agreement.

(d) "Clearing Member" means a Clearing Member as defined in the OCC Rules ("OCC Clearing Member") or the ICE Clear Rules ("ICE Clear Clearing Member"). "Joint Clearing Member" means a Clearing Member of each Clearing Organization. "Affiliated Clearing Members" means two Clearing Members that are Affiliates of one another, one of which is an OCC Clearing Member and the other of which is an ICE Clear Clearing Member.

(e) "Clearing Organization" means either OCC or ICE Clear.

(f) "Contract" means a long or short OCC-cleared option contract, a long or short ICE Clear-cleared futures contract or a long or short ICE Clear-cleared options contract.

(g) "Customers' Segregated Joint Custody Account" means one or more accounts established in the joint names of OCC and ICE Clear at one or more X-M Clearing Banks for the purpose of holding U.S. Treasury securities and GSE debt securities deposited by Clearing Members as Initial Margin in respect of Pairs of Non-Proprietary X-M Accounts.

(h) "Customers' Segregated Joint Margin Account" means one or more bank accounts established in the joint names of OCC and ICE Clear for the purpose of making daily money settlement and holding cash Margin in respect of Pairs of Non-Proprietary X-M Accounts.

(i) "Designated Clearing Organization" means the Clearing Organization designated by a Clearing Member or a pair of Affiliated Clearing Members in accordance with Section 2 of this Agreement.

(j) "Effective Date" shall mean the date established pursuant to Section 16(j) of this Agreement.

(k) "Eligible Contracts" means Contracts belonging to one of the classes of ICE Clear-cleared Contracts and OCC-cleared Contracts listed on Exhibit A hereto and any other classes of such Contracts as OCC and ICE Clear may agree in writing to include within this definition, provided, however, that any Contract will be removed as an Eligible Contract within 30 days of a written request of the Clearing Organization that clears the Contract, which 30 day period may be extended by mutual agreement of ICE Clear and OCC if necessary to make appropriate provisions for the protection of the market place, existing open positions and the holders thereof.

(l) "GSE debt securities" means certain debt securities issued by Congressionally chartered corporations. The following GSE debt securities are acceptable as a form of Initial Margin: (i) non-callable debt securities issued by the Federal Home Loan

Mortgage Corporation under its Reference Debt Program and (ii) non-callable debt securities issued by the Federal National Mortgage Association under its Benchmark Debt Program.

(m) "Margin" means both Initial Margin and Variation Margin. "Initial Margin" means cash, securities or other property deposited with or held by OCC and ICE Clear in accordance with Section 5 of this Agreement to secure certain obligations of a Clearing Member or its Affiliated Clearing Member, if any, to OCC or ICE Clear. "Variation Margin" means daily mark-to-market payments in respect of futures contracts and shall include similar payments in respect of options contracts in the event that the terms of any option contract that is an Eligible Contract should provide for such futures-style or similar Variation Margin.

(n) "Margin and Settlement Report" means the report distributed by a Designated Clearing Organization to its Clearing Members in respect of pairs of X-M Accounts as provided in Section 7 of this Agreement.

(o) "Margin Requirement" means the amount of Initial Margin required by the Clearing Organizations with respect to a pair of X-M Accounts as provided in Section 5 of this Agreement. "Margin Deficit" means the amount by which the Initial Margin held by OCC and ICE Clear in respect of a pair of X-M Accounts is less than the Margin Requirement for such accounts, and "Margin Excess" means the amount by which such Initial Margin exceeds such Margin Requirement.

(p) "Market Professional" means (1) any Market-Maker, specialist, or Registered Trader as defined in the OCC Rules and (2) any Member as defined in the Rules of ICE Futures U.S., Inc., but only to the extent (for purposes of both (1) and (2) above) he or it is trading for his or its own account and not for others, and only if such person or entity actively trades for his or its own account Eligible Contracts cleared by each Clearing Organization.

(q) A "Non-Customer" of an OCC Clearing Member means a person whose account with such OCC Clearing Member would not be the account of a "customer" within the meaning of SEC Rules 8c-1 and 15c2-1 or whose positions are otherwise permitted under the OCC Rules to be carried in a Proprietary X-M Account. A "Non-Customer" of a ICE Clear Clearing Member means a person whose account with such Clearing Member would be a

“proprietary account” within the meaning of Section 1.3(y) of the General Regulations of the CFTC.

(r) “Non-Proprietary X-M Account” means a cross-margined account limited to transactions and positions of Market Professionals and carried for an OCC Clearing Member by OCC or for a ICE Clear Clearing Member by ICE Clear as the context requires, but shall not include any transactions and positions of a Non-Customer of that Clearing Member. The term “Pair of Non-Proprietary X-M Accounts” means the Non-Proprietary X-M Account of a Joint Clearing Member or a pair of Affiliated Clearing Members at each Clearing Organization. The term “Non-Proprietary X-M Account” includes a Non-Proprietary X-M Pledge Account.

(s) “Non-Proprietary Liquidating Account” means one or more bank accounts established by the Clearing Organizations in connection with the liquidation of the Pair of Non-Proprietary X-M Accounts of a suspended Clearing Member or pair of Affiliated Clearing Members in accordance with Section 8 of this Agreement.

(t) “Proprietary Joint Custody Account” means one or more accounts established in the joint names of OCC and ICE Clear at one or more X-M Clearing Banks for the purpose of holding U.S. Treasury securities and GSE debt securities deposited by Clearing Members as Initial Margin in respect of Pairs of Proprietary X-M Accounts.

(u) “Proprietary Joint Settlement Account” means one or more bank accounts established in the joint names of OCC and ICE Clear for the purpose of making daily money settlement and holding cash Margin in respect of X-M Accounts to the extent that such funds are not required to be held in the Customers’ Segregated Joint Margin Account.

(v) “Proprietary X-M Account” means a cross-margined account limited to transactions and positions of Non-Customers and carried for an OCC Clearing Member by OCC or an ICE Clear Clearing Member by ICE Clear, as the context requires. The term “Pair of Proprietary X-M Accounts” means the Proprietary X-M Account of a Joint Clearing Member or a pair of Affiliated Clearing Members at each Clearing Organization. The term “Proprietary X-M Account” includes a Proprietary X-M Pledge Account.

(w) "Proprietary Liquidating Account" means one or more bank accounts established by the Clearing Organizations in connection with the liquidation of the Pair of Proprietary X-M Accounts of a suspended Clearing Member or pair of Affiliated Clearing Members in accordance with Section 8 of this Agreement.

(x) "Rules" means the By-Laws and Rules of OCC ("OCC Rules") and the By-Laws and Rules of ICE Clear ("ICE Clear Rules") as may be in effect from time to time.

(y) "X-M Account" means a Proprietary X-M Account or a Non-Proprietary X-M Account. The term "X-M Account" includes an X-M Pledge Account.

(z) "X-M Clearing Bank" means a bank designated by OCC and ICE Clear in accordance with Section 2 of this Agreement for purposes of making daily money settlement in respect of Pairs of Proprietary X-M Accounts and Pairs of Non-Proprietary X-M Accounts.

2. Establishment of X-M Accounts.

(a) Subject to the approval of both Clearing Organizations, each Joint Clearing Member or pair of Affiliated Clearing Members may establish one pair of Proprietary X-M Accounts and one pair of Non-Proprietary X-M Accounts. A pair of Proprietary X-M Accounts consists of two accounts: a Proprietary X-M Account at each of ICE Clear and OCC. A pair of Non-Proprietary X-M Accounts consists of two accounts: a Non-Proprietary X-M Account at each of ICE Clear and OCC. Each X-M Account, and the Contracts and Margin contained therein or deposited in respect thereof, shall be treated in accordance with this Agreement, and each Clearing Organization agrees to adopt and seek regulatory approval of all necessary Rules to effectuate this purpose. It is understood that each X-M Account shall be subject also to other applicable Rules of the Clearing Organization at which it is carried to the extent not inconsistent with the provisions of this Agreement, and in the event of any such inconsistency, the provisions of this Agreement shall govern.

(b) Either OCC or ICE Clear will act as the Designated Clearing Organization for each Joint Clearing Member or pair of Affiliated Clearing Members electing

cross-margining, as agreed in each case among OCC, ICE Clear and such Clearing Member(s). Except as otherwise permitted in writing by the Clearing Organizations, in the case of Affiliated Clearing Members, one Clearing Member that is a Clearing Member of the Designated Clearing Organization shall be appointed by the other Clearing Member as its agent for purposes of receiving daily Margin and Settlement Reports, depositing Margin in respect of the X-M Accounts, making money settlement in respect of such X-M Accounts, and otherwise interacting with the Designated Clearing Organization in respect of such X-M Accounts. Each Joint Clearing Member or pair of Affiliated Clearing Members shall be required to designate a bank account in an X-M Clearing Bank for purposes of daily money settlement in respect of its Pair of Proprietary X-M Accounts (“proprietary bank account”) and a bank account for purposes of daily money settlement in respect of its Pair of Non-Proprietary X-M Accounts (“segregated funds bank account”).

(c) Each Joint Clearing Member electing to establish a Pair of Proprietary X-M Accounts shall be required to execute a Proprietary Cross-Margin Account Agreement in the form prescribed by OCC and ICE Clear.

(d) Each pair of Affiliated Clearing Members electing to establish a Pair of Proprietary X-M Accounts shall be required to execute a Proprietary Cross-Margin Account Agreement in the form prescribed by OCC and ICE Clear.

(e) Each Joint Clearing Member electing to establish a Pair of Non-Proprietary X-M Accounts shall be required to execute a Non-Proprietary Cross-Margin Account Agreement in the form prescribed by OCC and ICE Clear.

(f) Each pair of Affiliated Clearing Members electing to establish a Pair of Non-Proprietary X-M Accounts shall be required to execute a Non-Proprietary Cross-Margin Account Agreement in the form prescribed by OCC and ICE Clear.

3. [Intentionally Omitted]

4. Transactions and Positions Permitted in X-M Accounts. In an X-M Account a Clearing Member may purchase and sell Contracts, exercise option Contracts (and be assigned exercise notices in respect of option Contracts), and effect all other transactions in

accordance with the Rules; provided, however, that X-M Accounts shall be limited to transactions and positions in Eligible Contracts.

5. Initial Margin Required for X-M Accounts.

(a) Subject to the right of ICE Clear to elect the joint procedure described in Section 5(b) below, the parties have agreed that OCC shall determine the Margin Requirement for each pair of X-M Accounts using its margin system to determine the amount of margin that it would ordinarily require with respect to all Contracts carried in such Pair of X-M Accounts (without regard to Contracts carried in other accounts) as if such Contracts were carried in a single account at OCC.

(b) In the event that ICE Clear so elects at any time on notice to OCC, the Clearing Organizations shall, from and after a mutually agreed upon date not later than 30 days from the date of such notice, which 30 day period may be extended by mutual agreement of ICE Clear and OCC, jointly determine the Margin Requirement for each pair of X-M Accounts as follows: each Clearing Organization shall use its margin system to determine the amount of margin that it would ordinarily require with respect to all Contracts carried in such Pair of X-M Accounts (without regard to Contracts carried in other accounts) as if such Contracts were carried in a single account at such Clearing Organization, and the Margin Requirement for such Pair of X-M Accounts shall be the average of such amounts.

(c) Notwithstanding the foregoing Sections 5(a) and (b), either Clearing Organization may in its discretion elect to use the margin calculation produced by the other Clearing Organization's margin system for determining the Margin Requirement for any pair of X-M Accounts. Furthermore, if the Clearing Organizations mutually agree, in writing or orally, to use, on any day or for any period, one Clearing Organization's system for purposes of calculating the Margin Requirement, the other Clearing Organization need not use its systems for such purpose on such day or during such period. Any such oral agreement pursuant to this paragraph shall be promptly confirmed in writing, but the failure to do so shall not affect the validity of such oral agreement.



(d) Either Clearing Organization may determine to increase the Margin Requirement for any pair of X-M Accounts at any time and in any amount as it deems appropriate in its discretion to reflect the financial condition of a Clearing Member (or its Affiliated Clearing Member), size of positions carried by a Clearing Member (or its Affiliated Clearing Member), unusual market conditions, changes in market prices or other special circumstances. The Margin Requirement with respect to any pair of X-M Accounts may not be decreased without the consent of both Clearing Organizations.

(e) Each Clearing Organization assumes the responsibility of determining to its satisfaction that the Margin Requirement for any Pair of X-M Accounts is adequate, and, notwithstanding any other provision of this Agreement, no Clearing Organization shall have liability to the other Clearing Organization or to any other person based upon an allegation that any margin calculation made by such Clearing Organization was inaccurate or inadequate.

6. Forms of Initial Margin and Method of Holding Initial Margin.

(a) Initial Margin deposited in respect of X-M Accounts shall be deposited in the form of cash, United States Treasury securities, GSE debt securities, letters of credit, common stocks, or a combination of the foregoing. Treasury securities, GSE debt securities and common stocks deposited as Initial Margin shall meet the requirements of both Clearing Organizations and shall be valued at the lowest value that would be given to them under the Rules of OCC or ICE Clear unless the Clearing Organizations mutually agree to value such securities under the Rules of one or the other Clearing Organization. Letters of credit shall be in a form mutually acceptable to both Clearing Organizations, and OCC and ICE Clear shall be joint beneficiaries thereof and each letter of credit shall provide that the proceeds of any demand for payment thereunder shall be deposited in a bank account in the names of the joint beneficiaries. In the event that the form of demand for payment under any such letter of credit provides for execution by only one beneficiary, such Clearing Organization may execute such a demand for payment, in which event it will provide notice to the other beneficiary. Letters of credit shall be issued by institutions approved for that purpose by both Clearing Organizations.

(b) Initial Margin deposited in the form of cash by a Clearing Member or pair of Affiliated Clearing Members in respect of a Pair of Proprietary X-M Accounts shall be deposited by the Designated Clearing Organization in a Proprietary Joint Settlement Account and shall be held there until returned to the Clearing Member(s) or applied in accordance with this Agreement; provided, however, that such funds may be invested overnight by the Designated Clearing Organization subject to such arrangements as may be mutually agreed to by OCC and ICE Clear, in which event any income on such investments shall be shared equally by the Clearing Organizations. To the extent that such investment requires a transfer of funds from a Proprietary Joint Settlement Account by the Designated Clearing Organization, such transfer shall not require the approval of the other Clearing Organization. Treasury securities and GSE debt securities deposited in respect of a Pair of Proprietary X-M Accounts shall be held in book-entry form in a Proprietary Joint Custody Account. Common stock deposited in respect of a Pair of Proprietary X-M Accounts will be held in an account at the Depository Trust Company ("DTC") and will be subject to the joint control of OCC and ICE Clear.

(c) Initial Margin deposited in the form of cash by a Clearing Member in respect of a Pair of Non-Proprietary X-M Accounts shall be deposited by the Designated Clearing Organization in a Customers' Segregated Joint Margin Account and shall be held there until returned to the Clearing Member(s) or applied in accordance with this Agreement; provided, however, that such funds may be invested overnight by the Designated Clearing Organization subject to such arrangements as may be mutually agreed to by OCC and ICE Clear, in which event any income on such investments shall be shared equally by the Clearing Organizations. Without limiting the foregoing, such funds shall only be invested in "permitted investments" as defined in Section 1.25 of the General Regulations of the CFTC or any successor rule or regulation of the CFTC. To the extent that such investment requires a transfer of funds from a Customers' Segregated Joint Margin Account by the Designated Clearing Organization, such transfer shall not require the approval of the other Clearing Organization. Treasury securities and GSE debt securities deposited in respect of a Pair of Non-Proprietary X-M Accounts shall be held in book-entry form in a Customers' Segregated Joint Custody Account. Common stock deposited in respect of a Pair of Non-Proprietary X-M Accounts will be held in an account at DTC which is designated as containing customer segregated funds, and will be subject to the joint control of OCC and ICE Clear.

(d) Letters of credit deposited by a Clearing Member or a pair of Affiliated Clearing Members in respect of a pair of X-M Accounts will be held by the Designated Clearing Organization on behalf of both Clearing Organizations. If a Clearing Member deposits a letter of credit which indicates on its face that it is being deposited to serve as Margin for a Pair of Non-Proprietary X-M Accounts, such letter of credit shall not constitute Margin for any other account.

7. Daily Settlement Procedures.

(a) Settlement shall be conducted on each Business Day in accordance with the procedures set forth below. All times specified refer to local time in effect in Chicago, Illinois, and all such times may be changed from time to time as the parties agree in writing or orally. Any such oral agreement shall be promptly confirmed by email and subsequently in writing, but the failure to do so shall not affect the validity of such oral agreement. All instructions issued by a Clearing Organization pursuant to this Section 7 directing an X-M Clearing Bank to transfer funds to or from a Proprietary Joint Settlement Account or a Customers' Segregated Joint Margin Account, or directing transfers to or from the designated bank account of any Clearing Member in respect of X-M Accounts, shall be transmitted by facsimile, by other electronic means acceptable to the Clearing Organizations or by hand delivery in advance to the other Clearing Organization, and, except as otherwise provided in Section 6(b) or 6(c) of this Agreement, all such instructions directing the transfer of funds from a Proprietary Joint Settlement Account or a Customers' Segregated Joint Margin Account, or directing transfers to or from the designated bank account of any Clearing Member in respect of X-M Accounts, shall require the approval of the other Clearing Organization.

(b) Not later than 6:00 a.m., in the case of a debit instruction for transfers from the designated bank account of a clearing member, and 9:00 a.m., in the case of a credit instruction for transfer from the designated bank account of a clearing member, on each Business Day, the Clearing Organization issuing any instruction provided for in paragraphs (f) through (j) of this Section 7 ("Initial Morning Settlement") shall transmit a copy of such instruction to the other Clearing Organization. In the case of any instruction provided for in paragraphs (k) through (m) of this Section 7 ("Other Settlements"), the issuing Clearing

Organization shall transmit the instruction to the other Clearing Organization as far in advance of the intended time of transfer as possible. The non-issuing Clearing Organization shall promptly acknowledge receipt of any instruction transmitted to them as provided in this paragraph and, if the instruction requires the approval of such Clearing Organization, then the issuing Clearing Organization shall either (A) indicate its approval by authorizing the instruction and forwarding it to the applicable X-M Clearing Bank or (B) indicate its non-approval by informing the issuing Clearing Organization (in writing if so requested) of the reason for the non-approval of the instruction. The non-issuing Clearing Organization shall so indicate its approval or non-approval: (A) in the case of an Initial Morning Settlement, at or prior to the later of 6:40 a.m. or 30 minutes from the time of receipt of such instruction and (B) in the case of Other Settlements, within 30 minutes of receipt of such instruction. A Clearing Organization may withhold its approval of an instruction only if it reasonably believes one or more of the following to be true: (i) the amount of the transfer requested was incorrectly calculated, (ii) if the transfer is from an account of a Clearing Member, the Clearing Member is not obligated to make the payment represented by the transfer, (iii) if the transfer is to an account of a Clearing Member or the other Clearing Organization, such Clearing Member or Clearing Organization is not entitled to receive the payment represented by the transfer, (iv) the transfer is otherwise not authorized under the terms of this Agreement, or (v) the Clearing Organization withholding approval has not received the information required to be provided to it pursuant to paragraph (d) of this Section 7 and is therefore unable to determine whether the instruction is proper. The withholding of approval of an instruction other than as permitted in the preceding sentence, or the negligent or willful failure by a Clearing Organization to indicate its approval or non-approval of a settlement instruction to the issuing Clearing Organization within the time specified above shall constitute a failure to perform a material obligation of this Agreement, and the Clearing Organization so failing shall be liable to the other Clearing Organization for any loss, cost or expense to such other Clearing Organization resulting from such failure. Each Clearing Organization acknowledges that time is of the essence with respect to its obligations under this Section 7. Any remedy referred to in this Section 7 shall be cumulative to any other remedies at law or equity that such Clearing Organization may have. Any dispute arising under this paragraph shall be subject to the arbitration procedures set forth in Section 16 of this Agreement; provided, however, that in the case of any arbitration proceeding relating to any such dispute, the notice referred to in paragraph

(d) of Section 16 may be furnished at any time prior to, or concurrently with, the institution of arbitration proceedings.

(c) In the event that either Clearing Organization withholds approval of a Settlement Instruction, the Clearing Organization initiating such Settlement Instruction shall as promptly as practicable initiate a revised Settlement Instruction reflecting any item, or any portion of any item, that is not in dispute. Such revised Settlement Instruction shall be transmitted to the other Clearing Organization for approval or non-approval as provided in paragraph (a) of this Section; provided, however, that such approval or non-approval shall be indicated as promptly as practicable and in no event later than 15 minutes after receipt of such revised Settlement Instruction. If such revised Settlement Instruction is approved, settlement shall be effected in accordance with the usual procedures. In the event that any funds in a Proprietary Joint Settlement Account or a Customers' Segregated Joint Margin Account are subject to a dispute between the Clearing Organizations as to their proper disposition, including a failure by a Clearing Organization to approve a Settlement Instruction, and such dispute is not resolved within one hour after the time specified in paragraph (b) of this Section for approval or non-approval of Settlement Instructions, the funds subject to the dispute shall be transferred to a separate bank account established at an X-M Clearing Bank for that purpose by the Designated Clearing Organization on behalf of itself and the other Clearing Organization. Any withdrawal of funds from such account shall require the approval of both Clearing Organizations.

(d) At or prior to 5:30 p.m. on each Business Day, the non-Designated Clearing Organization shall furnish to the Designated Clearing Organization (in such form as may from time to time be agreed upon) information respecting daily futures settlement prices and options marking prices. In addition, at or prior to 1:00 a.m. on each Business Day, each Clearing Organization shall furnish to the other (in such form as may from time to time be agreed upon) information respecting: (i) the positions in each X-M Account carried at such Clearing Organization reflecting the preceding Business Day's trading activity and any transfers or other position adjustments affecting such accounts; (ii) settlement amounts for each such X-M Account reflecting option premiums, exercise settlement amounts, and any Variation Margin due to or from the Clearing Member in such account; and (iii) such other information as may reasonably be requested for the purposes of this Agreement by the Clearing Organization

receiving such information. At or prior to 4:30 a.m. or such other time as may be agreed upon, the Clearing Organizations shall jointly determine the Margin Requirement for each pair of X-M Accounts in accordance with Section 5 of this Agreement.

(e) At or prior to 6:00 a.m. on each Business Day, each Clearing Organization shall issue to each Clearing Member or pair of Affiliated Clearing Members for which it is the Designated Clearing Organization a Margin and Settlement Report. Such report shall show the Margin Requirement for each pair of X-M Accounts of such Clearing Member(s), the amount of Initial Margin previously deposited by the Clearing Member(s) in respect of such X-M Accounts, and any Margin Deficit or Margin Excess in respect of such accounts. Such report shall also show the net amount of premiums and exercise settlement amounts due to or from the Clearing Member(s) in respect of OCC options and ICE Clear options and the net amount of Variation Margin due to or from the Clearing Member(s) in such accounts. Option premiums, exercise settlement amounts and Variation Margin will be identified to the Clearing Organization at which they arise. These amounts shall be netted together with any Margin Deficit to obtain a single net Cash Settlement Amount due to or from the Clearing Member(s) in respect of each pair of X-M Accounts on that day. If the Cash Settlement Amount in respect of any pair of X-M Accounts is due from the Clearing Member(s), such Cash Settlement Amount shall be reduced by the amount of any Margin Excess held by the Clearing Organizations in respect of such pair of X-M Accounts in the form of cash.

(f) If a Cash Settlement Amount remains due from the Clearing Member(s) in respect of its or their Pair of Proprietary X-M Accounts after application of such Margin Excess, the Clearing Organizations shall issue instructions directing the applicable X-M Clearing Bank to transfer such amount from the designated proprietary bank account of the Clearing Member(s) to the Proprietary Joint Settlement Account; and if a Cash Settlement Amount remains due from the Clearing Member(s) with respect to its or their Pair of Non-Proprietary X-M Accounts after application of such Margin Excess, the Clearing Organizations shall issue instructions to the applicable X-M Clearing Bank to transfer such amount from the designated segregated funds bank account of the Clearing Member(s) to the Customers' Segregated Joint Margin Account. This paragraph refers to transfers that are to be effected by the X-M Clearing Banks at or prior to 8:00 a.m. on each Business Day. Instructions issued

pursuant to this paragraph (f) to an X-M Clearing Bank are subject to paragraph (a) of this Section 7.

(g) ICE Clear shall issue instructions directing the applicable X-M Clearing Bank(s) (i) to transfer to or from the Proprietary Joint Settlement Account from or to ICE Clear's bank account the net amount of all premiums and Variation Margin due from or to ICE Clear as shown on the Margin and Settlement Reports for that day in respect of all Proprietary X-M Accounts carried at ICE Clear, and (ii) to transfer to or from the Customers' Segregated Joint Margin Account from or to ICE Clear's bank account the net amount of all premiums and Variation Margin due from or to ICE Clear as shown on the Margin and Settlement Reports for that day in respect of all Non-Proprietary X-M Accounts carried at ICE Clear. This paragraph refers to transfers that are to be effected by the X-M Clearing Banks at or prior to 8:00 a.m. on each Business Day. Instructions issued pursuant to this paragraph (g) to an X-M Clearing Bank with respect to the transfer of funds from either the Proprietary Joint Settlement Account or the Customers' Segregated Joint Margin Account are subject to paragraph (a) of this Section 7.

(h) OCC shall issue instructions directing the applicable X-M Clearing Bank(s) (i) to transfer to or from the Proprietary Joint Settlement Account from or to OCC's bank account the net amount of all premiums and exercise settlement amounts due from or to OCC as shown on the Margin and Settlement Reports for that day in respect of all Proprietary X-M Accounts carried at OCC, and (ii) to transfer to or from the Customers' Segregated Joint Margin Account from or to OCC's bank account the net amount of all premiums and exercise settlement amounts due from or to OCC as shown on the Margin and Settlement Reports for that day in respect of all Non-Proprietary X-M Accounts carried at OCC. This paragraph refers to transfers that are to be effected by the X-M Clearing Banks at or prior to 9:00 a.m. (in the case of amounts due to OCC) or 10:00 a.m. (in the case of amounts due from OCC) on each Business Day. Instructions issued pursuant to this paragraph (h) to an X-M Clearing Bank with respect to the transfer of funds from either the Proprietary Joint Settlement Account or the Customers' Segregated Joint Margin Account are subject paragraph (a) of this Section 7.

(i) If a Cash Settlement Amount is due to a Clearing Member or pair of Affiliated Clearing Members in respect of its or their Pair of Proprietary X-M Accounts, the Clearing Organizations shall issue instructions directing the applicable X-M Clearing Bank to transfer the Cash Settlement Amount from the Proprietary Joint Settlement Account to the designated proprietary bank account of the Clearing Member(s); provided, however, that no such instructions shall be issued until the Clearing Organizations have received confirmation that the Clearing Member(s) has (have) completed its or their morning settlement obligations in respect of all other accounts carried by it or them at both Clearing Organizations. If a Cash Settlement Amount is due to a Clearing Member or pair of Affiliated Clearing Members in respect of its or their Pair of Non-Proprietary X-M Accounts, the Clearing Organization shall issue instructions directing the applicable X-M Clearing Bank to transfer the Cash Settlement Amount from the Customers' Segregated Joint Margin Account to the designated segregated funds bank account of the Clearing Member(s); provided, however, that no such instruction shall be issued until the Clearing Organizations have received confirmation that the Clearing Member(s) has (have) completed its or their morning settlement obligations in respect of all other non-proprietary accounts carried by it or them at the Clearing Organizations. This paragraph refers to transfers that are to be effected by the X-M Clearing Banks at or prior to 10:00 a.m. on each Business Day. Instructions issued pursuant to this paragraph (i) to an X-M Clearing Bank are subject to paragraph (a) of this Section 7.

(j) If there is a Margin Excess in respect of a Pair of X-M Accounts, the Clearing Member or pair of Affiliated Clearing Members may withdraw the amount of the excess upon submission to the Designated Clearing Organization between 6:00 a.m. and 12:00 noon (or between such other times as the Designated Clearing Organization may specify) of a withdrawal request in such form as the Designated Clearing Organization prescribes. Notwithstanding the foregoing, a Clearing Member or pair of Affiliated Clearing Members may not withdraw a Margin Excess in any form or currency in an amount in excess of the amount of margin of that form deposited by the Clearing Member in the pair of X-M Accounts from which the withdrawal is requested.

(k) Instructions to the applicable X-M Clearing Bank shall be produced by the Designated Clearing Organization at such time or times as may be specified by



the other Clearing Organization during the Designated Clearing Organization's normal business hours unless the Designated Clearing Organization otherwise agrees (i) to transfer from the designated proprietary bank account of a Clearing Member or pair of Affiliated Clearing Members to the Proprietary Joint Settlement Account the amount of any intra-day call for additional Initial Margin or Variation Margin required by such Clearing Organization for a Pair of Proprietary X-M Accounts, or (ii) to transfer from the designated segregated funds bank account of a Clearing Member or pair of Affiliated Clearing Members to the Customers' Segregated Joint Margin Account the amount of any intra-day call for additional Initial Margin or Variation Margin required by such Clearing Organization for a Pair of Non-Proprietary X-M Accounts. Instructions issued pursuant to this paragraph (k) to an X-M Clearing Bank are subject to paragraph (a) of this Section 7.

(l) At the time or times determined by ICE Clear following the settlement time for any Intra Day Margin Call, ICE Clear shall produce instructions directing the X-M Clearing Banks: (i) to transfer to or from the Proprietary Joint Settlement Account from or to ICE Clear's bank account the net amount of intra-day Variation Margin due from or to ICE Clear in respect of all Proprietary X-M Accounts carried at ICE Clear, and (ii) to transfer to or from the Customers' Segregated Joint Margin Account from or to ICE Clear's bank account the net amount of intra-day Variation Margin due from or to ICE Clear in respect of all Non-Proprietary X-M Accounts carried at ICE Clear. Intra-day Variation Margin due to a Clearing Member or pair of Affiliated Clearing Members in respect of its or their Proprietary X-M Account at ICE Clear shall be held in the Proprietary Joint Settlement Account (or invested in accordance with Section 6 of this Agreement) overnight, except that the Clearing Member(s) may be permitted upon request to withdraw such intra-day Variation Margin to the extent that it does not exceed the amount of Margin Excess not withdrawn by such Clearing Member(s) in accordance with paragraph (k) of this Section, and any such intra-day Variation Margin not so withdrawn shall be a credit to the Clearing Member(s) in calculating the Cash Settlement Amount due to or from the Clearing Member(s) in respect of its or their Pair of Proprietary X-M Accounts on the following Business Day. Intra-day Variation Margin due to a Clearing Member or pair of Affiliated Clearing Members in respect of its or their Non-Proprietary X-M Account at ICE Clear shall be held in the Customers' Segregated Joint Margin Account (or invested in accordance with Section 6 of this Agreement) overnight, except that the Clearing Member(s)

may be permitted upon request to withdraw such intra-day Variation Margin to the extent that it does not exceed the amount of Margin Excess not withdrawn by such Clearing Member(s) in accordance with paragraph (k) of this Section, and any intra-day Variation Margin not so withdrawn shall be a credit to the Clearing Member(s) in calculating the Cash Settlement Amount due to or from the Clearing Member(s) in respect of its or their Pair of Non-Proprietary X-M Accounts on the following Business Day. Instructions issued pursuant to this paragraph (l) to an X-M Clearing Bank with respect to the transfer of funds from either the Proprietary Joint Settlement Account or the Customers' Segregated Joint Margin Account are subject to paragraph (a) of this Section 7.

8. Suspension and Liquidation of Clearing Member.

(a) Either Clearing Organization may suspend a Clearing Member in accordance with its Rules. Upon such suspension, the suspending Clearing Organization shall immediately by telephone or in person, and thereafter in writing, notify such the other Clearing Organization of such suspension, and each Clearing Organization shall immediately liquidate the Contracts in each X-M Account carried for the suspended Clearing Member or its Affiliated Clearing Member at that Clearing Organization except to the extent that both Clearing Organizations agree, consistent with their respective Rules, (i) to transfer Contracts carried in the Non-Proprietary X-M Accounts of such Clearing Member(s), or (ii) to delay liquidation of some or all of such Contracts. Each Clearing Organization shall coordinate with the other in good faith the transfer or liquidation of such Contracts so as to minimize risk. Any funds received by either Clearing Organization upon liquidation of the X-M Accounts of a Clearing Member pursuant to this Section shall be applied in accordance with the following paragraphs of this Section.

(b) Each Clearing Organization may apply any funds received on the liquidation of the Proprietary X-M Account of the suspended Clearing Member at such Clearing Organization to set off funds expended in liquidating such Proprietary X-M Account. Additionally, each Clearing Organization may apply any funds received on the liquidation of the Non-Proprietary X-M Account of such Clearing Member at such Clearing Organization to set off funds expended in liquidating such Non-Proprietary X-M Account. Following the initial setoffs

referred to in the preceding sentences, any remaining proceeds from the liquidation of the Proprietary X-M Account may be applied to set off any remaining deficit incurred by such Clearing Organization in liquidating the Clearing Member's Non-Proprietary X-M Account. Funds received or expended in liquidating an X-M Account shall include funds received or expended in liquidating Contracts in such account, funds received or expended with respect to pending premium or Variation Margin settlements in such account, and any other funds received or expended by the Clearing Organizations in liquidating such account or in effecting transfers of positions in such account.

(c) The Clearing Organizations shall establish, in their joint names, a Proprietary Liquidating Account and a Non-Proprietary Liquidating Account at a bank that is acceptable to OCC and ICE Clear. Any net proceeds from Contracts in the Proprietary X-M Accounts that remain after the setoffs referred to in the preceding paragraph shall be deposited in the Proprietary Liquidating Account, and any net proceeds from Contracts in the Non-Proprietary X-M Accounts that remain after such setoffs shall be deposited in the Non-Proprietary Liquidating Account. Cash margin deposited in respect of the Proprietary X-M Accounts shall be deposited in the Proprietary Liquidating Account, and cash margin deposited in respect of the Non-Proprietary X-M Accounts shall be deposited in the Non-Proprietary Liquidating Account. The Clearing Organizations shall also promptly convert to cash, in the most orderly manner practicable, all other Margin jointly held by them in respect of the X-M Accounts; including demanding immediate payment of any letter of credit deposited as Margin unless both Clearing Organizations agree not to take such action. Cash proceeds of Margin deposited in respect of the Non-Proprietary X-M Accounts shall be deposited in the Non-Proprietary Liquidating Account, and cash proceeds of Margin deposited in respect of the Proprietary X-M Accounts shall be deposited in the Proprietary Liquidating Account.

(d) (i) The funds in the Non-Proprietary Liquidating Account shall be applied to set off any liquidating deficits in, and to satisfy any settlement obligations with respect to, the Non-Proprietary X-M Accounts at both Clearing Organizations (including to reimburse the Proprietary Liquidating Account to the extent that proceeds of any Proprietary X-M Account were applied pursuant to paragraph (b) of this Section to set off a liquidating deficit in any Non-Proprietary X-M Account). The funds in the Proprietary Liquidating Account

shall be applied first to set off any liquidating deficits in, and to satisfy any settlement obligations with respect to, the Proprietary X-M Accounts at both Clearing Organizations, and, if such funds are more than sufficient to cover any net liquidating deficit in and settlement obligations with respect to such Proprietary X-M Accounts, the surplus may next be applied to set off any net liquidating deficits in, and to satisfy any settlement obligations with respect to, the Non-Proprietary X-M Accounts at both Clearing Organizations.

(ii) If any surplus remains in the Proprietary Liquidating Account after all of the foregoing setoffs, each Clearing Organization shall be entitled to retain or receive 50% of the surplus (including all amounts available to be drawn under letters of credit deposited as margin in respect of the X-M Accounts that have not been identified as deposited in respect of Non-Proprietary X-M Accounts), for application against any losses whatsoever to such Clearing Organization resulting from defaults in other obligations of the defaulting Clearing Member (or either of the Affiliated Clearing Members in the case of a pair of Affiliated Clearing Members); provided that if the net loss sustained by a Clearing Organization resulting from defaults in such other obligations (“other losses”), before any assessment against non-defaulting Clearing Members or their clearing or guarantee fund deposits, amounts to less than their share of the surplus, then (i) such Clearing Organization shall be entitled to retain or receive only an amount equal to its other losses, and (ii) the other Clearing Organization shall be entitled to retain or receive the balance of the surplus up to the amount of its other losses, if any.

(e) [Intentionally omitted]

(f) If the funds in the Proprietary and Non-Proprietary Liquidating Accounts, when applied to the full extent permitted in accordance with this Section 8, are insufficient to offset the aggregate of the liquidating deficits in all X-M Accounts of the Clearing Member or pair of Affiliated Clearing Members at both Clearing Organizations, OCC and ICE Clear shall bear such shortfall equally (i.e., the Clearing Organization with the smaller (or no) liquidating deficit shall pay to the other Clearing Organization an amount sufficient to equalize the loss borne by each Clearing Organization), and each Clearing Organization agrees that it will, in accordance with its Rules, apply its clearing or guarantee fund and exercise any rights to make additional assessments against Clearing Members to the extent necessary to satisfy any

obligation to the other Clearing Organization under the preceding sentence. Funds owed by one Clearing Organization under this paragraph to another shall be paid promptly upon demand after a provisional determination of the amount thereof has been made, and any funds owed by one Clearing Organization to another resulting from a subsequent adjustment to such a provisional determination shall be paid promptly upon demand after a determination of the amount of such adjustment. In calculating the net proceeds or liquidating deficit in respect of an X-M Account, each Clearing Organization shall include all expenses reasonably incurred in liquidating such account including, but not limited to, the cost of borrowing funds pursuant to paragraph (h) of this Section or otherwise in connection with such liquidation.

(g) Any amounts remaining in the Proprietary and Non-Proprietary Liquidating Accounts after all of the applications referred to in this Section shall be paid to the Clearing Member or pair of Affiliated Clearing Members or its or their respective representatives for distribution to the persons entitled thereto.

(h) Nothing in this Agreement shall be construed to require either Clearing Organization to deliver funds to the other Clearing Organization at any time when such Clearing Organization is subject to an expressly applicable stay or other order of a court or regulatory agency prohibiting it from doing so; provided, however, that such Clearing Organization shall use its best efforts to borrow funds equal in amount to those which it is stayed from delivering and deliver such borrowed funds to the other Clearing Organization pending the lifting of the stay or other order, and the cost of borrowing such funds shall be shared equally by the Clearing Organizations to the extent not chargeable against the Clearing Member. If it is determined that such Clearing Organization has no right to the funds subject to the stay, the Clearing Organizations shall share equally in any additional loss caused thereby.

9. Confidentiality.

(a) Except as expressly authorized in this Agreement, each Clearing Organization shall maintain in confidence any and all information obtained by it in connection with this Agreement or the transactions or activities contemplated herein with respect to the other Clearing Organization or the positions, transactions or financial condition of any Clearing Member of such other Clearing Organizations ("Confidential Information"). The foregoing shall

not apply to any information which is or becomes generally known to the public, other than through an action or failure to act by such Clearing Organization. The foregoing shall not prohibit a Clearing Organization from furnishing Confidential Information to the CFTC or the SEC or, pursuant to any surveillance agreement or similar arrangement to which such Clearing Organization is a party, to any "self-regulatory organization" within the meaning of the CEA or the Exchange Act or to any foreign government or regulatory body.

(b) In the event that either Clearing Organization is required by subpoena, or by any other order of court, law or regulation to disclose any Confidential Information in the possession of such Clearing Organization, it is agreed that the Clearing Organization which is subject to such requirement shall provide the other Clearing Organization with prompt notice of such requirement so that the other Clearing Organization may seek an appropriate protective order and/or waive compliance with the provisions of this Section with respect to such required disclosure. In the event that such other Clearing Organization determines to seek a protective order, the Clearing Organization subject to the requirement shall cooperate to the extent reasonably requested by the other Clearing Organization. It is further agreed that if in the absence of a protective order or the receipt of a waiver hereunder, the Clearing Organization subject to the requirement is nonetheless, in the opinion of its counsel, compelled to disclose such Confidential Information to any tribunal or regulatory agency or else stand liable for contempt or suffer other censure or penalty, such Clearing Organization may produce such Confidential Information without liability under this Section 9.

(c) The provisions of this Section 9 shall survive the termination of this Agreement.

10. Indemnification.

(a) Each Clearing Organization (the "indemnitor") shall indemnify, defend and hold harmless the other Clearing Organization, its directors, officers, employees and each person, if any, who controls each such Clearing Organization ("indemnified party") against any Claims and Losses (as defined below) incurred by an indemnified party as the result, or arising from allegations, of:

(i) any action or failure to act by the indemnitor in connection with this Agreement or the cross-margining procedures contemplated under this Agreement, if any such action or failure to act constitutes a violation of this Agreement or any obligation undertaken in connection with this Agreement or the cross-margining procedures, any Rule of the indemnitor (except to the extent that such Rule is inconsistent with the provisions of this Agreement), or any law or governmental regulation applicable to the indemnitor;

(ii) without limiting the generality of the foregoing, in the case of an indemnitor that undertakes responsibility for directing the investment of cash deposited as Margin in respect of X-M Accounts, any unauthorized investment of such funds or any defalcation or theft of funds or investments by an employee of the indemnitor.

(b) As used in this Section 10, the term "Claims and Losses" means any and all losses, damages and expenses whatsoever (whether direct or arising from claims of third parties) including, without limitation, liabilities, judgments, damages, costs of investigation, reasonable attorneys fees and other expenses and amounts paid in settlement (pursuant to consent of the indemnitor, which consent shall not be unreasonably withheld) in connection with any action, suit, litigation, claim or proceeding to which an indemnified party is made a party defendant, or is threatened to be made such a party.

(c) Promptly after receipt by an indemnified party of notice of the commencement of any action or the assertion of any claim against such indemnified party, such indemnified party shall, if a claim in respect thereof is to be made against the indemnitor, notify the indemnitor in writing of the commencement of such action or assertion of such claim; but the omission so to notify the indemnitor will not relieve the indemnitor from any liability which it may have to any indemnified party except to the extent that the indemnitor has been prejudiced by the lack of prompt notice and shall in any event not relieve the indemnitor of any liability which it may have to an indemnified party otherwise than under this Section 10. In case any such action is brought against any indemnified party, and such party promptly notifies the indemnitor of the commencement thereof, the indemnitor will be entitled to participate in, and, to the extent that it may wish, to assume and control the defense thereof, with counsel chosen by it, and, after notice from the indemnitor to such indemnified party of its election so to assume the

defense thereof, the indemnitor will not be liable to such indemnified party under this Section 10 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 indemnitor's control of the defense. In any action in which the named parties include the indemnitor and one or more indemnified parties, the indemnitor shall have the right to assume control of any legal defenses that are available to it and any of the indemnified parties. Notwithstanding the foregoing, in any action in which the named parties include both the indemnitor and an indemnified party and in which the indemnified party shall have been advised by its counsel that there may be legal defenses available to the indemnified party that are different from or additional to those available to the indemnitor, the indemnitor shall not have the right to assume such different or additional legal defenses; and provided further that the indemnitor shall not, in connection with one action or separate but substantially similar actions arising out of the same general allegations or circumstances, be liable for more than the reasonable fees and disbursements of one separate firm of attorneys for all of the indemnified parties for the purpose of conducting such different or additional legal defenses. The indemnitor may negotiate a compromise or settlement of any such action or claim provided that such compromise or settlement does not require a contribution by, or otherwise adversely affect the rights of, the indemnified party.

11. Limitation of Liability of Designated Clearing Organization. No Clearing Organization shall have any liability to the other Clearing Organization as the result of any action taken, or omitted to be taken, by it in the course of performing its responsibilities as a Designated Clearing Organization under this Agreement unless such action or omission constitutes willful misconduct.

12. Representations and Warranties.

(a) Each Clearing Organization represents and warrants that as of the date hereof and as of the Effective Date:

(i) Good Standing. It is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, has the



power and authority to own its assets and to transact the business in which it is now engaged or proposed to be engaged and is duly qualified and authorized to do business as a foreign corporation and is in good standing under the laws of each jurisdiction in which failure to so qualify could have a material adverse effect on its financial condition, business or operations.

(ii) Corporate Power and Authority. It has all requisite corporate power and authority to enter into this Agreement and the agreements referenced in this Agreement, as applicable, and full power and authority to take all actions required of it pursuant to such agreements. This Agreement and the applicable agreements referenced in this Agreement will constitute, when executed and delivered, valid and binding obligations of such Clearing Organization, and the execution, delivery and performance of all of its obligations under this Agreement and the applicable agreements referenced in this Agreement have been duly authorized by all necessary corporate action on the part of such Clearing Organization.

(iii) No Violation. Except for provisions as to which waivers have been obtained, the execution and delivery of this Agreement and the applicable agreements referenced in this Agreement by the Clearing Organization and the performance of its obligations under this Agreement and the applicable agreements referenced in this Agreement: (i) do not result in a violation or breach of, do not conflict with or constitute a default under, and will not accelerate or permit the acceleration of performance required by, any of the terms and provisions of its certificate or articles of incorporation, by-laws, rules or other governing documents, any note, debt instrument, or any other agreement to which it is a party or to which any of its assets or properties is subject, and will not be an event which after notice or lapse of time or both will result in any such violation, breach, conflict, default or acceleration; and (ii) do not result in a violation or breach of any law, judgment, decree, order, rule or regulation of any governmental authority or court, whether federal, state or local, at law or in equity, applicable to it or any of its assets or properties.

(b) Each Clearing Organization represents and warrants to the other that as of the Effective Date all authorizations, permits, approvals or consents required to be obtained from, and all notifications and filings required to be made with, all governmental authorities and regulatory bodies and third parties to permit such Clearing Organization to place

into effect this Agreement and the applicable agreements referenced in this Agreement and to perform its obligations under this Agreement and under the applicable agreements referenced in this Agreement have been obtained.

13. Termination.

(a) Either Clearing Organization may terminate this Agreement without cause by delivering written notice of termination to the other specifying a termination date not less than 90 days following the date on which such notice is sent.

(b) In the event that either party fails to perform any material obligation under this Agreement and such failure is not promptly cured after written notice thereof is sent to such party, a nondefaulting party may terminate this Agreement by delivering written notice of such termination to the other parties specifying a termination date not less than five Business Days following the date on which such notice of termination is sent.

(c) This Agreement will be terminated on the termination date established under paragraph (a) or (b) above except to the extent otherwise provided in this Agreement.

(d) In the event that a termination date is established under paragraph (a) or (b) above, each Clearing Organization shall promptly notify all of its affected Clearing Members that maintain X-M Accounts as of the termination date. On and after the termination date, each Clearing Organization may calculate Margin on Contracts, and may clear and settle transactions, in each X-M Account maintained at that Clearing Organization in accordance with its Rules and procedures applicable to other accounts. Settlement in respect of options that were exercised on or prior to the termination date but that have not been settled prior to the termination date will be effected separately at the applicable Clearing Organization. Margin held jointly by OCC and ICE Clear in the form of cash, Treasury securities, GSE debt securities, or property other than letters of credit shall be transferred from the Joint Custody Account to the custody of either OCC or ICE Clear at the direction of the Clearing Member that deposited them. Common stock shall be transferred from the applicable joint DTC account to either the custody of OCC or ICE Clear at the direction of the Clearing Member that deposited them. Letters of

credit shall be returned to the Clearing Member. Each Clearing Organization shall cooperate fully in exchanging all necessary data, records, computer files and other information, and in executing documents and taking other action necessary or appropriate to effect transfers, releases, etc. in order to effect termination of the cross-margining arrangement as contemplated in this Agreement. Notwithstanding the foregoing, neither Clearing Organization shall be required to release its interest in any Margin held in respect of X-M Accounts of a Clearing Member until such Clearing Member's Contracts are fully margined at such Clearing Organization. In the event that a liquidation of a Clearing Member is pending on the termination date or prior to the time all Margin is released, the provisions of Section 8 of this Agreement shall survive the termination until such liquidation has been completed and any amount due from one Clearing Organization to the others in respect of such liquidation has been paid.

14. Forbearance of Authority to Reject Transactions. Neither Clearing Organization shall, without the express consent of the other, exercise any authority contained in its Rules to reject a transaction effected in an X-M Account (whether a purchasing or selling transaction) that was reported to such Clearing Organization in a report of matched trades.

15. Information Sharing.

(a) OCC and ICE Clear hereby agree to provide one another with the following information regarding their respective Clearing Members that have established X-M Accounts and any of their Clearing Members who are affiliates of such Clearing Members ("Reportable Clearing Members"):

(i) If a Clearing Organization applies certain special surveillance procedures to a Reportable Clearing Member, such Clearing Organization will inform the other Clearing Organization of that fact. In the case of an OCC Clearing Member, this notification will be required if OCC places a Reportable Clearing Member on its "Watch Level III" or "Watch Level IV." In the case of an ICE Clear Clearing Member, this notification will be required if ICE Clear is notified by ICE Futures US of the application of any special surveillance procedures.

(ii) If a Clearing Organization requires more frequent reporting of financial information by a Reportable Clearing Member, that Clearing Organization will inform the other Clearing Organization of that fact and the period of reporting.

(iii) If a Clearing Organization increases the capital requirement for any Reportable Clearing Member, that Clearing Organization will notify the other Clearing Organization of that fact, the amount of the additional capital required and the deadline for meeting the requirement.

(iv) If a Clearing Organization imposes higher margin requirements with respect to a particular Reportable Clearing Member, or issues a special intra-day call for margin or settlement variation in respect of any account of a Reportable Clearing Member, that Clearing Organization shall notify the other Clearing Organization of that fact and the amount of the additional margin required.

(v) Each Clearing Organization shall, upon request by the other Clearing Organization, furnish the following information with respect to each account carried by the Reportable Clearing Member with the Clearing Organization from whom the information is requested: (A) margin required and on deposit in respect of such account, and (B) the dollar amount of any current settlement obligations owed to or by the Reportable Clearing Member that have been determined for such account in respect of variation margin, premiums, option exercises and any other settlements.

(vi) Each Clearing Organization shall notify the other Clearing Organization of any disciplinary action (other than an appeal from an administrative fine) taken by its governing board, or committee or subcommittee thereof, against a Reportable Clearing Member involving non-compliance with financial or financial reporting requirements, or violation of the rules of OCC or the clearing rules of ICE Clear.

(vii) Each Clearing Organization shall notify the other Clearing Organization in the event that the notifying Clearing Organization learns of any major processing difficulties (including, but not limited to, back-office computer problems) or operational errors of a Reportable Clearing Member.

(viii) Each Clearing Organization agrees to notify the other Clearing Organization in the event that a Reportable Clearing Member defaults in any settlement obligation (other than routine delays of not more than forty-eight hours in the physical delivery of underlying interests).

(ix) For purposes of this paragraph 15(a), a Clearing Member shall be considered an "affiliate" of another Clearing Member if it controls or is controlled by such other Clearing Member; and "control" of one Clearing Member by another shall mean the direct or indirect ownership by such Clearing Member of at least 50% of the equity of such other Clearing Member. Clearing Members that are related to one another in other ways shall also be considered "affiliates" of one another for purposes of this paragraph 15(a) in cases where the Clearing Organizations agree, whether in terms of a general rule or on a case-by-case basis, that the financial condition of the related Clearing Member could have a material impact on the financial condition of the cross-margining Clearing Member.

(b) OCC and ICE Clear hereby agree to notify one another in the event that the notifying Clearing Organization learns of any major processing difficulties (including, but not limited to, computer problems) or operational errors of an X-M Clearing Bank.

(c) OCC and ICE Clear hereby agree to inform one another, on a monthly basis, of the total size of, and aggregate amount of required contributions to, such Clearing Organization's clearing or guarantee fund.

(d) Any notice required to be given pursuant to this Section 15 shall be given by telephone or facsimile promptly upon the occurrence of the event giving rise to the requirement of notification, and any such notice given by telephone shall be promptly confirmed in writing. Each such notice shall be directed as follows:

If to OCC:

First Vice President – Risk Management  
Telephone: 877-501-1931  
Facsimile: 312-322-4534

If to ICE Clear:

Vice President – Risk Management  
Telephone: 212-748-4122  
Facsimile: 212-748-4004

In case of the absence or unavailability of any officer named above, any telephone calls shall be directed to another individual who has been designated in writing by the Clearing Organizations as authorized to receive such telephone calls. Prior to the Effective Date of this Agreement, each Clearing Organization shall provide the others with the name and telephone number of any other individual designated by such Clearing Organization pursuant to the preceding sentence.

16. General Provisions.

(a) Further Assurances. Each party agrees, without additional consideration, to execute and deliver such instruments and take such other actions as shall be reasonably required or as shall be reasonably requested by one or both of the other parties in order to carry out the transactions, agreements and covenants contemplated by this Agreement.

(b) Amendment, Modification and Waiver. Unless otherwise expressly provided herein, this Agreement may be permanently modified, amended or supplemented only by mutual written agreement of the parties. A party may temporarily waive or modify any condition intended to be for its benefit provided such waiver shall be in writing signed by the party or parties to be charged. Any delay or failure of any party hereto at any time to require performance by one or both of the other parties of any provision of this Agreement shall in no way affect the right of such party to require future performance of that or any other provision of this Agreement and shall not be construed as a waiver of any subsequent breach of any provision, a waiver of this provision itself or a waiver of any other right under this Agreement.

(c) Governing Law. This Agreement shall be governed by and construed in accordance with the laws (without regard to principles of conflicts of laws) of the State of Illinois.

(d) Notices. Unless otherwise expressly provided in this Agreement, all notices to be given by any party under this Agreement shall be in writing and shall be given by hand delivery, recognized courier delivery service, or by confirmed telecopy, to the other parties at the following addresses (or such other addresses as any party may furnish to the others in writing for such purpose):

If to OCC:           The Options Clearing Corporation  
One North Wacker Drive  
Suite 500  
Chicago, Illinois 60606  
Attention: Chairman

Copy to:            The Options Clearing Corporation  
One North Wacker Drive  
Suite 500  
Chicago, Illinois 60606  
Attention: General Counsel

If to ICE Clear:    ICE Clear US., Inc.  
One North End Avenue  
13<sup>th</sup> Floor  
New York, New York 10282-1101  
Attention: President

Copy to:            ICE Futures US, Inc.  
One North End Avenue  
13<sup>th</sup> Floor  
New York, New York 10282-1101  
Attention: General Counsel

(e) Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any party hereto without the prior written consent of the other parties, nor is this Agreement intended to confer upon any other person except the parties any rights or remedies hereunder.

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

(g) Headings. The section and paragraph headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not affect in any way the meaning or interpretation of this Agreement.

(h) Entire Agreement. Except as set forth expressly herein or in another instrument in writing signed by the party to be bound thereby which makes reference to this Agreement, this Agreement, including the exhibits hereto, embodies the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and no other restrictions, promises, representations, warranties, covenants, or undertakings in relation thereto exist among the parties. This Agreement supersedes all prior agreements (including, but not limited to, the Original Agreement) and understandings among the parties with respect to such subject matter.

(i) Invalid Provision. In the event that any provision, or any portion of any provision, of 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, or any other portion of any provision, of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(j) Effective Date. This Agreement shall become effective on a date mutually agreed to by the parties, which date shall be not earlier than the date on which all necessary regulatory approval has been received and not later than 60 days after such date.

(k) Force Majeure. Notwithstanding any other provision of this Agreement, no party hereto shall be liable for any failure to perform or delay in performing its obligations hereunder if such failure or delay is caused by fire, strike, power failure, riot or other civil commotion, acts of nature, acts of terrorism, acts of federal, state or municipal public authorities, governmentally ordered business or banking moratoria or orders to refrain from



using power (whether or not such moratoria or orders are legally authorized), equipment failure or any other condition or event beyond the reasonable control of the party whose performance is prevented or delayed. Each party agrees to notify the others promptly upon learning that any such condition or event has occurred and shall cooperate with the others, 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.

(l) For purposes of Title IV, Subtitle A of the Federal Deposit Insurance Corporation Improvement Act of 1991 [12 USC 4401- 4407], this Agreement shall be deemed to be a “netting contract” and all payments made or to be made hereunder, including payments made in accordance with this Agreement in connection with the liquidation of a Clearing Member or Pair of Affiliated Clearing Members, shall be deemed to be “Covered Contractual Payment Obligations” or “Covered Contractual Payment Entitlements”, as the case may be, as well as “Covered Clearing Obligations”.

(m) Each Clearing Organization acknowledges that it has no intellectual property or other rights with respect to the Eligible Contracts cleared by the other Clearing Organization, including, but not limited to, any rights with respect to Contract prices, settlement prices, open interest, trading volume or any other data related to Eligible Contracts cleared by the other Clearing Organization except those rights specifically granted pursuant to the terms of this Agreement or reasonably necessary or appropriate to carry out the functions of such Clearing Organization under this Agreement in a manner consistent with the manner in which other similar cross-margining agreements between OCC and other futures clearing organizations are presently conducted. Each Clearing Organization agrees that it shall not disclose, transfer or use any such data related to the Eligible Contracts cleared by the other Clearing Organization except to the extent necessary to perform its obligations pursuant to this Agreement or as may be required by applicable law or reasonably necessary or appropriate to carry out its functions under this Agreement in a manner consistent with the manner in which other similar cross-margining agreements between OCC and other futures clearing organizations are presently conducted. The Clearing Organizations agree that, in the event of any violation or alleged violation of this paragraph by either Clearing Organization, the sole remedy of the other Clearing Organization shall be to provide notice of the alleged violation to the alleged violator,

and, if such violation does not cease, to seek injunctive or similar equitable relief to terminate the violation; and in no event shall either party be liable to the other for damages based on a violation of this paragraph. For the elimination of doubt, the Clearing Organizations acknowledge that nothing in this paragraph shall limit or adversely affect the security interest of either Clearing Organization in Eligible Contracts or Margin held in, or in connection with, X-M Accounts or any rights or remedies arising as the result of the suspension and liquidation of a defaulting Clearing Member.

17. Arbitration.

(a) Any controversy or claim arising out of or relating to this Agreement, any amendments or modifications thereto hereafter entered into among OCC and ICE Clear, or the breach, termination or invalidity of any of the foregoing, shall be settled by arbitration before the American Arbitration Association (the "AAA") in accordance with the then current Commercial Arbitration Rules of the AAA to the extent that such Rules do not conflict with any provisions of this section.

(b) The arbitration shall be held at the Chicago office of the AAA if brought by ICE Clear and in the New York office of the AAA if brought by OCC. The arbitration shall be held before a panel of three arbitrators: one appointed by each party and one neutral arbitrator to be appointed by agreement of the two party-appointed arbitrators. The neutral arbitrator shall be an attorney with not less than an aggregate of 12 years of experience in legal practice, legal teaching or adjudication. Only a neutral arbitrator shall act as chairman.

(c) No party hereto shall institute an arbitration proceeding hereunder unless, at least 30 days prior thereto, such party shall have furnished to the others party written notice of its intent to do so and of the basis therefor.

(d) Any award, order or judgment pursuant to such arbitration shall be deemed final and may be entered and enforced in any state or federal court of competent jurisdiction. Each party agrees to submit to the jurisdiction of any such court for purposes of the enforcement of any such award, order or judgment.

(e) Any award of damages pursuant to such arbitration shall be included in a written decision which shall state the reasons upon which the award was based, including all the elements involved in the calculation of any award of damages.

(f) Any arbitration proceeding hereunder shall be conducted on a confidential basis.

(g) Notwithstanding any other provision of this Agreement, each party shall have the right to apply to any court of competent jurisdiction for temporary injunctive or other preliminary relief.

(h) The parties agree to permit discovery proceedings in accordance with the Federal Rules of Civil Procedure both in advance of, and during recesses of, the arbitration hearings. Any disputes relating to such discovery will be resolved by the arbitrators.

(i) No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the Clearing Organizations that are parties to the arbitration. Any such written consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein or with any person not named or described therein.

(j) The provisions of this Section 17 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

ICE Clear US, INC.

By: \_\_\_\_\_  
Name:  
Title:

**FOR EXECUTION**

**EXHIBIT A**

Date: November \_\_, 2007

**LIST OF ELIGIBLE CONTRACTS**

**OCC ELIGIBLE CONTRACTS**

**[TO BE PROVIDED]**

**ICE CLEAR ELIGIBLE CONTRACTS**

**[TO BE PROVIDED]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

THE OPTIONS CLEARING CORPORATION

By: Michael E. Cahill  
Name: MICHAEL E. CAHILL  
Title: PRESIDENT & COO

ICE Clear US, INC.

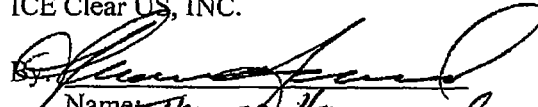
By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

THE OPTIONS CLEARING CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

ICE Clear US, INC.

By:   
Name: *Thomas Hammond*  
Title: *President + COO*

**EXHIBIT A**

Date: November 6, 2007

**LIST OF ELIGIBLE CONTRACTS**

**OCC ELIGIBLE CONTRACTS**

**PUT AND CALL OPTIONS ON:**

- Russell 1000 Index
- Russell 2000 Index
- iShares Russell 1000 Index Fund
- iShares Russell 1000 Value Index Fund
- iShares Russell 1000 Growth Index Fund
- iShares Russell 2000 Index Fund
- iShares Russell 2000 Value Index Fund
- iShares Russell 2000 Growth Index Fund
- iShares Russell 3000 Index Fund
- ProShares Ultra Russell 1000 Value Index Fund
- ProShares UltraShort Russell 1000 Value Index Fund
- ProShares Ultra Russell 1000 Growth Index Fund
- ProShares UltraShort Russell 1000 Growth Index Fund
- ProShares Ultra Russell MidCap Value Index Fund
- ProShares UltraShort Russell MidCap Value Index Fund
- ProShares Ultra Russell MidCap Growth Index Fund
- ProShares UltraShort Russell MidCap Growth Index Fund
- ProShares Ultra Russell 2000 Index Fund
- ProShares Short Russell 2000 Index Fund
- ProShares UltraShort Russell 2000 Index Fund
- ProShares Ultra Russell 2000 Value Index Fund
- ProShares UltraShort Russell 2000 Value Index Fund
- ProShares Ultra Russell 2000 Growth Index Fund
- ProShares UltraShort Russell 2000 Growth Index Fund

**ICE CLEAR ELIGIBLE CONTRACTS**

- Russell 1000 Index Futures
- Russell 1000 Value Index Futures
- Russell 1000 Growth Index Futures
- Russell 2000 Index Futures
- Russell 2000 Value Index Futures
- Russell 2000 Growth Index Futures
- Russell 3000 Index Futures

**PUT AND CALL OPTIONS ON:**

- Russell 1000 Index Futures
- Russell 1000 Value Index Futures
- Russell 1000 Growth Index Futures
- Russell 2000 Index Futures
- Russell 3000 Index Futures



**THE OPTIONS CLEARING CORPORATION  
ICE CLEAR US, INC.**

**PROPRIETARY CROSS-MARGIN ACCOUNT  
AGREEMENT AND SECURITY AGREEMENT**

**(Joint Clearing Member)**

\_\_\_\_\_, a clearing member ("Clearing Member") of The Options Clearing Corporation ("OCC") and ICE Clear US, Inc. ("ICE Clear") (OCC and ICE Clear being hereafter collectively referred to as the "Clearing Organizations"), hereby makes application to the Clearing Organizations to establish a cross-margined proprietary account ("Proprietary X-M Account") at each Clearing Organization and agrees as follows:

1. The Proprietary X-M Accounts of the Clearing Member at each Clearing Organization shall be subject to the by-laws and rules of such Clearing Organization applicable to Proprietary X-M Accounts, and both of the Proprietary X-M Accounts shall be subject to the Cross-Margining Agreement between the Clearing Organizations (the "Cross-Margining Agreement"), a copy of which is attached hereto as Appendix I. Each capitalized term used herein shall have the meaning given to such term in the Cross-Margining Agreement unless otherwise defined in this agreement. The Clearing Member will be bound by any amendment to such by-laws and rules of the Clearing Organizations, or to the Cross-Margining Agreement (including any restatement thereof), as fully as though such amendment were now a part thereof. All such by-laws and rules, and the Cross-Margining Agreement, as the same may be in effect from time to time, are hereafter collectively referred to as "Rules."

2. For purposes of calculating margin, the Proprietary X-M Accounts of the Clearing Member will be combined and treated as a single account, and all margin deposited in respect of the Proprietary X-M Accounts shall be held jointly by the Clearing Organizations as security for all of the obligations of the Clearing Member to either or both of the Clearing Organizations, whether or not arising from the Proprietary X-M Accounts, all in accordance with the Rules.

3. \_\_\_\_\_ [insert OCC or ICE Clear] shall be the Designated Clearing Organization in respect of the Proprietary X-M Accounts and any Non-Proprietary X-M Accounts maintained by the Clearing Member. The Designated Clearing Organization shall prepare and distribute all margin and settlement reports, receive and release margin deposits, and perform such other functions in respect of the X-M Accounts as may be specified in the Rules.

4. The Proprietary X-M Account at OCC shall be limited to transactions and positions of the Clearing Member and officers, directors, partners and other related persons of the Clearing Member that are not "customers" within the meaning of Rules 8c-1 or 15c2-1 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 or whose positions are otherwise permitted under the OCC rules to be carried in a Proprietary X-M Account. The Proprietary X-M Accounts at ICE Clear shall be limited to transactions and positions of the Clearing Member and such officers, directors, partners, and other related persons of the Clearing Member whose accounts on the records of the Clearing Member are "proprietary accounts" within the meaning of Section 1.3(y) of the General Regulations promulgated by the Commodity Futures Trading Commission under the Commodity Exchange Act.

5. On behalf of itself and of each person on whose behalf positions may be maintained in the Proprietary X-M Accounts in accordance with this agreement, the Clearing Member agrees that both Clearing Organizations shall jointly have a lien on, security interest in, and right of setoff against, the Proprietary X-M Accounts and all property carried therein or held in respect thereof including, without limitation, all securities option contracts, futures contracts and options on futures contracts and other Eligible Contracts from time to time purchased or carried in any of the Proprietary X-M Accounts of the Clearing Member, all cash, securities and other property deposited with or held by the Clearing Organizations as margin in respect thereof, and all proceeds of any of the foregoing (such accounts and all such contracts, margin, and proceeds hereinafter referred to collectively as "Collateral"), as security for the obligations of the Clearing Member to either or both of the Clearing Organizations, whether or not arising from the Proprietary X-M Accounts. The rights of the Clearing Organizations that are set forth in the preceding sentence are in addition to any

other rights of either or both of the Clearing Organizations in the Collateral arising under their respective rules, statutory or common law, governmental regulation or by reason of normal business practice. The Clearing Member represents and warrants that, as of the date of this agreement, there is no outstanding lien on or security interest in the Collateral except as provided in the rules of the Clearing Organizations, and agrees that it shall not grant or permit to be created any other lien on or security interest in the Collateral without the express written consent of the Clearing Organizations; provided, however, that the foregoing prohibition shall not apply to any interest of the Clearing Member in the Collateral that is subordinate to the interest of the Clearing Organizations therein. The respective rights of the Clearing Organizations in the Collateral shall be governed by such agreements as may from time to time exist between them.

6. The Clearing Member represents and warrants to the Clearing Organizations that it has full power and authority to enter into this agreement and that neither the execution and delivery of this agreement nor any act to be performed pursuant to this agreement by any of the Clearing Organizations or by or on behalf of the Clearing Member will violate the partnership agreement or the charter or by-laws, as the case may be, of the Clearing Member or any other agreement which is binding upon the Clearing Member or any provision of law applicable to the Clearing Member.

7. This agreement may be terminated by the Clearing Member at any time provided that all positions in the Proprietary X-M Accounts have been closed or transferred to other accounts in accordance with the Rules, that all margin in respect of any such transferred positions has been deposited and that all obligations of the Clearing Member to the Clearing Organizations in respect of the Proprietary X-M Accounts have been fully satisfied. The Clearing Organizations may at any time deliver written notice to the Clearing Member requiring it to close or transfer all positions in the Proprietary X-M Accounts in accordance with the Rules not later than the close of business on the first business day following delivery of such notice, and this agreement shall thereupon terminate provided that all margin in respect of the transferred positions has been deposited and all obligations of the Clearing Member to the Clearing Organizations in respect of the Proprietary X-M Accounts have been fully satisfied.

8. This agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Any action brought against any party by any other party that involves a claim arising out of this agreement or that otherwise relates to the transactions contemplated by this agreement shall be brought in the United States District Court for the Northern District of Illinois (or, if there is no federal jurisdiction over the action, then in state court in the City of Chicago, Illinois); and each party hereby consents to the personal jurisdiction of any court in which an action is brought against it in accordance with this paragraph.

9. This agreement supersedes all previous agreements among the Clearing Member and either of the Clearing Organizations with respect to the subject matter hereof.

10. This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

\_\_\_\_\_  
**(Name of Clearing Member)**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Accepted by:**

**THE OPTIONS CLEARING CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ICE CLEAR US, Inc.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**THE OPTIONS CLEARING CORPORATION  
ICE CLEAR US, INC.**

**PROPRIETARY CROSS-MARGIN ACCOUNT  
AGREEMENT AND SECURITY AGREEMENT**

**(Affiliated Clearing Members)**

\_\_\_\_\_, a clearing member ("OCC Clearing Member) of The Options Clearing Corporation ("OCC") and \_\_\_\_\_, an Affiliate of the above-listed clearing member and a clearing member ("ICE Clear Clearing Member") of ICE Clear US, Inc. ("ICE Clear") (OCC and ICE Clear being hereafter collectively referred to as the "Clearing Organizations"), hereby make application to the Clearing Organizations to establish a cross-margined proprietary account ("Proprietary X-M Account") at each Clearing Organization in the name of the clearing member that is a clearing member of that Clearing Organization. Each such clearing member ("Clearing Member") agrees as follows:

1. The Proprietary X-M Account of each Clearing Member at its Clearing Organization shall be subject to the by-laws and rules of such Clearing Organization applicable to Proprietary X-M Accounts, and both of the Proprietary X-M Accounts shall be subject to the Cross-Margining Agreement between the Clearing Organizations (the "Cross-Margining Agreement"), a copy of which is attached hereto as Appendix I. Each capitalized term used herein shall have the meaning given to such term in the Cross-Margining Agreement unless otherwise defined in this agreement. The Clearing Members will be bound by any amendment to such by-laws and rules of the Clearing Organizations, or to the Cross-Margining Agreement (including any restatement thereof), as fully as though such amendment were now a part thereof. All such by-laws and rules, and the Cross-Margining Agreement, as the same may be in effect from time to time, are hereafter collectively referred to as "Rules."

2. The Clearing Members hereby agree to be jointly and severally liable to the Clearing Organizations for any margin, settlement or other obligation arising from transactions or positions in the Proprietary X-M Accounts maintained by the Clearing Members with the Clearing Organizations. In no event, however, shall this agreement be construed to obligate either Clearing

Member to make any contribution to the clearing or guarantee fund of, or be liable for any assessment against the members of, a Clearing Organization of which such Clearing Member is not itself a member.

3. For purposes of calculating margin, the Proprietary X-M Accounts of the Clearing Members will be combined and treated as a single account, and all margin deposited in respect of the Proprietary X-M Accounts shall be held jointly by the Clearing Organizations as security for any obligation of the Clearing Members, or either of them, to either or both of the Carrying Clearing Organizations, whether or not arising from the Proprietary X-M Accounts, all in accordance with the Rules. The Clearing Members hereby authorize the Clearing Organizations to treat all margin deposited by either of them in respect of, and all positions in, the Proprietary X-M Accounts as belonging to either or both of the Clearing Members.

4. \_\_\_\_\_ [insert OCC or ICE Clear] shall be the Designated Clearing Organization in respect of the Proprietary X-M Accounts and any Non-Proprietary X-M Accounts maintained by the Clearing Members. The Designated Clearing Organization shall prepare and distribute all margin and settlement reports, receive and release margin deposits, and perform such other functions in respect of the X-M Accounts as may be specified in the Rules. Except as otherwise permitted in writing by the Clearing Organizations, the Clearing Member of the Designated Clearing Organization shall act as the agent of both Clearing Members for purposes of receiving margin and settlement reports, depositing and requesting release of margin deposits and performing such other functions in respect of the X-M Accounts as may be specified in the Rules.

5. The Proprietary X-M Account of the OCC Clearing Member at OCC shall be limited to transactions and positions of the Clearing Member and officers, directors, partners and other related persons of the Clearing Member that are not "customers" within the meaning of Rules 8c-1 or 15c2-1 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 or whose positions are otherwise permitted under the OCC rules to be carried in a Proprietary X-M Account. The Proprietary X-M Account of the ICE Clear Clearing Member at ICE Clear shall be limited to transactions and positions of such Clearing Member and such officers, directors, partners, and other related persons of such Clearing Member whose accounts on the

records of the Clearing Member are "proprietary accounts" within the meaning of Section 1.3(y) of the General Regulations promulgated by the Commodity Futures Trading Commission under the Commodity Exchange Act.

6. On behalf of themselves and of each person on whose behalf positions may be maintained in the Proprietary X-M Accounts in accordance with this agreement, the Clearing Members agree that the Clearing Organizations shall jointly have a lien on, security interest in, and right of setoff against, the Proprietary X-M Accounts and all property carried therein or held in respect thereof including, without limitation, all securities option contracts, futures contracts and options on futures contracts and other Eligible Contracts from time to time purchased or carried in any of the Proprietary X-M Accounts, all cash, securities and other property deposited with or held by the Clearing Organizations as margin in respect thereof and all proceeds of any of the foregoing (such accounts and all such contracts, margin and proceeds hereinafter referred to collectively as "Collateral"), as security for the obligations of the Clearing Members, or either of them, to either or both of the Clearing Organizations, whether or not arising from the Proprietary X-M Accounts. The rights of the Clearing Organizations that are set forth in the preceding sentence are in addition to any other rights of either or both of the Clearing Organizations in the Collateral arising under their respective rules, statutory or common law, governmental regulation or by reason of normal business practice. The Clearing Members represent and warrant that, as of the date of this agreement, there is no outstanding lien on or security interest in the Collateral except as provided in the rules of the Clearing Organizations, and they jointly and severally agree that they shall not grant or permit to be created any other lien on or security interest in the Collateral without the express written consent of the Clearing Organizations; provided, however, that the foregoing prohibition shall not apply to any interest of a Clearing Member in the Collateral that is subordinate to the interest of the Clearing Organizations therein. The respective rights of the Clearing Organizations in the Collateral shall be governed by such agreements as may from time to time exist between them.

7. The Designated Clearing Organization is hereby authorized to net all daily settlement amounts owed to or due from the Clearing Organizations in respect of all Proprietary X-M Accounts (including futures or similar variation margin, option premiums, and option exercise settlement amounts). Each Clearing Member authorizes the Clearing Organizations to draft the bank account



designated by them for any amount due from such Clearing Member in respect of the Proprietary X-M Accounts, and the Clearing Organizations are authorized to treat the funds in such bank account as belonging to either or both of the Clearing Members.

8. Each Clearing Member represents and warrants to the Clearing Organizations that it has full power and authority to enter into this agreement and that neither the execution and delivery of this agreement nor any act to be performed pursuant to this agreement by the Clearing Organizations or by or on behalf of such Clearing Member will violate the partnership agreement or the charter or by-laws, as the case may be, of such Clearing Member or any other agreement which is binding upon it or any provision of law applicable to it. Each Clearing Member further represents and warrants to the Clearing Organizations that it controls, is controlled by, or is under common control with, the other.

9. This agreement may be terminated by the Clearing Members at any time provided that all positions in the Proprietary X-M Accounts have been closed or transferred to other accounts in accordance with the Rules, that all margin in respect of any such transferred positions has been deposited and that all obligations of both Clearing Members to the Clearing Organizations in respect of the Proprietary X-M Accounts have been fully satisfied. The Clearing Organizations may at any time deliver written notice to the Clearing Members requiring them to close or transfer all positions in the Proprietary X-M Accounts in accordance with the Rules not later than the close of business on the first business day following delivery of such notice, and this agreement shall thereupon terminate provided that all margin in respect of the transferred positions has been deposited and all obligations of both Clearing Members to the Clearing Organizations in respect of the Proprietary X-M Accounts have been fully satisfied.

10. This agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Any action brought against any party by any other party that involves a claim arising out of this agreement or that otherwise relates to the transactions contemplated by this agreement shall be brought in the United States District Court for the Northern District of Illinois (or, if there is no federal jurisdiction over the action, then in state court in the City

of Chicago, Illinois); and each party hereby consents to the personal jurisdiction of any court in which an action is brought against it in accordance with this paragraph.

11. This agreement supersedes all previous agreements among the Clearing Members and either of the Clearing Organizations with respect to the subject matter hereof.

12. This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

\_\_\_\_\_  
(Name of Clearing Member)

\_\_\_\_\_  
(Name of Clearing Member)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Accepted by:**

**THE OPTIONS CLEARING CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ICE CLEAR US, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**THE OPTIONS CLEARING CORPORATION  
ICE CLEAR US, INC.**

**NON-PROPRIETARY CROSS-MARGIN ACCOUNT  
AGREEMENT AND SECURITY AGREEMENT**

**(Joint Clearing Member)**

\_\_\_\_\_, a clearing member ("Clearing Member") of The Options Clearing Corporation ("OCC") and ICE Clear US, Inc. ("ICE Clear") (OCC and ICE Clear being hereafter collectively referred to as the "Clearing Organizations"), hereby makes application to the Clearing Organizations to establish a cross-margined non-proprietary account ("Non-Proprietary X-M Account") at each Clearing Organization, in addition to any cross-margined proprietary accounts ("Proprietary X-M Accounts") maintained by the Clearing Member at the Clearing Organizations, and agrees as follows:

1. The Non-Proprietary X-M Account of the Clearing Member at each Clearing Organization shall be subject to the by-laws and rules of such Clearing Organization applicable to Non-Proprietary X-M Accounts, and both the Non-Proprietary X-M Accounts shall be subject to the Cross-Margining Agreement between the Clearing Organizations (the "Cross-Margining Agreement"), a copy of which is attached hereto as Appendix I. Each capitalized term used herein shall have the meaning given to such term in the Cross-Margining Agreement unless otherwise defined in this agreement. The Clearing Member will be bound by any amendment to such by-laws and rules of the Clearing Organizations, or to the Cross-Margining Agreement (including any restatement thereof), as fully as though such amendment were now a part thereof. All such by-laws and rules, and the Cross-Margining Agreement, as the same may be in effect from time to time, are hereafter collectively referred to as "Rules."

2. For purposes of calculating margin, the Non-Proprietary X-M Accounts of the Clearing Member will be combined and treated as a single account, and all margin deposited in respect of the Non-Proprietary X-M Accounts shall be held jointly by the Clearing Organizations as

security for the obligations of the Clearing Member to either or both of the Clearing Organizations in respect of such Non-Proprietary X-M Accounts, all in accordance with the Rules.

3. For purposes of cross-margining, the Clearing Member agrees that the Clearing Organization it has selected as the "Designated Clearing Organization" in respect of the Proprietary X-M Accounts shall be the Designated Clearing Organization in respect of the Non-Proprietary X-M Accounts. If the Clearing Member has no Proprietary X-M Accounts, then \_\_\_\_\_ **[insert OCC or ICE Clear]** shall be the Designated Clearing Organization in respect of the Non-Proprietary X-M Accounts. The Designated Clearing Organization shall prepare and distribute all margin and settlement reports, receive and release margin deposits, and perform such other functions in respect of the Non-Proprietary X-M Accounts as may be specified in the Rules.

4. The Non-Proprietary X-M Accounts shall be limited to transactions and positions carried by the Clearing Member for Market Professionals who are not Non-Customers of the Clearing Member, and who have signed a "Market Professional's Agreement" in the form of Appendix II hereto. The Clearing Member agrees that it will not commence clearing transactions through or carrying positions in the Non-Proprietary X-M Accounts for any Market Professional until the Designated Clearing Organization has received with respect to such Market Professional a duly executed copy of the Market Professional's Agreement and such other documentation as may reasonably be requested by the Designated Clearing Organization. The Clearing Member agrees to indemnify and hold harmless the Clearing Organizations, their directors, officers, employees and each person, if any, who controls any of the Clearing Organizations against any claims, losses, liabilities and expenses, including, without limitation, reasonable legal fees and expenses and amounts paid or payable in settlement of any action, proceeding or investigation arising from any claim by any party resulting from the carrying of positions in a Non-Proprietary X-M Account that belong to any person other than a Market Professional for whom a Market Professional's Agreement is in effect.

5. On behalf of itself and of each Market Professional on whose behalf positions may be maintained in the Non-Proprietary X-M Accounts in accordance with this agreement, the Clearing

Member agrees that the Clearing Organizations shall jointly have a lien on, security interest in, and right of setoff against, the Non-Proprietary X-M Accounts and all property carried therein or held in respect thereof including, without limitation, all securities option contracts, futures contracts and options on futures contracts and other Eligible Contracts from time to time purchased or carried in any of the Non-Proprietary X-M Accounts of the Clearing Member, all cash, securities and other property deposited with or held by the Clearing Organizations as margin in respect thereof, and all proceeds of any of the foregoing (such accounts and all such contracts, margin and proceeds hereinafter referred to collectively as "Collateral"), as security for the obligations of the Clearing Member to the Clearing Organizations in respect of such Non-Proprietary X-M Accounts. The rights of the Clearing Organizations that are set forth in the preceding sentence are in addition to any other rights of either or both Clearing Organizations in the Collateral arising under their respective rules, statutory or common law, governmental regulation or by reason of normal business practice. The Clearing Member represents and warrants that as of the date of this agreement, there is no outstanding lien on or security interest in the Collateral except as provided in the rules of the Clearing Organizations, and agrees that it shall not grant or permit to be created any other lien on or security interest in the Collateral without the express written consent of the Clearing Organizations; provided, however, that the foregoing prohibition shall not apply to any interest of the Clearing Member in the Collateral that is subordinate to the interest of the Clearing Organizations therein. The respective rights of the Clearing Organizations in the Collateral shall be governed by such agreements as may from time to time exist between or among them, as the case may be.

6. The Clearing Member represents and warrants to the Clearing Organizations that it has full power and authority to enter into this agreement and that neither the execution and delivery of this agreement nor any act to be performed pursuant to this agreement by any of the Clearing Organizations or by or on behalf of the Clearing Member will violate the partnership agreement or the charter or by-laws, as the case may be, of the Clearing Member or any other agreement which is binding upon the Clearing Member or any other provision of law applicable to the Clearing Member.

7. This agreement may be terminated by the Clearing Member at any time provided that all positions in the Non-Proprietary X-M Accounts have been closed or transferred to other accounts

in accordance with the Rules, that all margin in respect of any such transferred positions has been deposited and that all obligations of the Clearing Member to the Clearing Organizations in respect of the Non-Proprietary X-M Accounts have been fully satisfied. The Clearing Organizations may at any time deliver written notice to the Clearing Member requiring it to close or transfer all positions in the Non-Proprietary X-M Accounts in accordance with the Rules not later than the close of business on the first business day following delivery of such notice, and this agreement shall thereupon terminate provided that all margin in respect of the transferred positions has been deposited and all obligations of the Clearing Member to the Clearing Organizations in respect of the Non-Proprietary X-M Accounts have been fully satisfied.

8. This agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Any action brought against any party by any other party that involves a claim arising out of this agreement or that otherwise relates to the transactions contemplated by this agreement shall be brought in the United States District Court for the Northern District of Illinois (or, if there is no federal jurisdiction over the action, then in state court in the City of Chicago, Illinois); and each party hereby consents to the personal jurisdiction of any court in which an action is brought against it in accordance with this paragraph.

9. This agreement supersedes all previous agreements among the Clearing Member and each of the Clearing Organizations with respect to the subject matter hereof.

10. This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

\_\_\_\_\_  
**(Name of Clearing Member)**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Accepted by:**

**THE OPTIONS CLEARING CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ICE CLEAR US, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**THE OPTIONS CLEARING CORPORATION  
ICE CLEAR US, INC.**

**NON-PROPRIETARY CROSS-MARGIN ACCOUNT  
AGREEMENT AND SECURITY AGREEMENT**

**(Affiliated Clearing Members)**

\_\_\_\_\_, a clearing member ("OCC Clearing Member") of The Options Clearing Corporation ("OCC") and \_\_\_\_\_, an Affiliate of the above-listed clearing member and a clearing member ("ICE Clear Clearing Member") of ICE Clear US, Inc. ("ICE Clear") (OCC and ICE Clear being hereafter collectively referred to as the "Clearing Organizations"), hereby make application to the Clearing Organizations to establish a cross-margined non-proprietary account ("Non-Proprietary X-M Account") at each Clearing Organization in the name of the clearing member that is a clearing member of that Clearing Organization in addition to any cross-margined proprietary account ("Proprietary X-M Account") maintained by each clearing member at any of the Clearing Organizations. Each such clearing member ("Clearing Member") agrees as follows:

1. The Non-Proprietary X-M Account of each Clearing Member at its Clearing Organization(s) shall be subject to the by-laws and rules of such Clearing Organization applicable to Non-Proprietary X-M Accounts, and both of the Non-Proprietary X-M Accounts shall be subject to the Cross-Margining Agreement between the Clearing Organizations (the "Cross-Margining Agreement"), a copy of which is attached hereto as Appendix I. Each capitalized term used herein shall have the meaning given to such term in the Cross-Margining Agreement unless otherwise defined in this agreement. The Clearing Members will be bound by any amendment to such by-laws and rules of the Clearing Organizations, respectively, or to the Cross-Margining Agreement (including any restatement thereof), as fully as though such amendment were now a part thereof. All such by-laws and rules, and the Cross-Margining Agreement, as the same may be in effect from time to time, are hereafter collectively referred to as "Rules."



2. The Clearing Members hereby agree to be jointly and severally liable to the Clearing Organizations for any margin, settlement or other obligation arising from transactions or positions in the Non-Proprietary X-M Accounts maintained by the Clearing Members with the Clearing Organizations. In no event, however, shall this agreement be construed to obligate either Clearing Member to make any contribution to the clearing or guarantee fund of, or be liable for any assessment against the members of, a Clearing Organization of which such Clearing Member is not itself a member.

3. For purposes of calculating margin, the Non-Proprietary X-M Accounts of the Clearing Members will be combined and treated as a single account, and all margin deposited in respect of the Non-Proprietary X-M Accounts shall be held jointly by the Clearing Organizations as security for the obligations of the Clearing Members to either or both of the Clearing Organizations in respect of such Non-Proprietary X-M Accounts, all in accordance with the Rules.

4. For purposes of cross-margining, the Clearing Members agree that the Clearing Organization they have selected as the Designated Clearing Organization in respect of the Proprietary X-M Accounts shall be the Designated Clearing Organization in respect of the Non-Proprietary X-M Accounts. If the Clearing Members have no Proprietary X-M Accounts, then \_\_\_\_\_ **[insert OCC or ICE Clear]** shall be the Designated Clearing Organization in respect of the Non-Proprietary X-M Accounts. The Designated Clearing Organization shall prepare and distribute all margin and settlement reports, receive and release margin deposits, and perform such other functions in respect of the Non-Proprietary X-M Accounts as may be specified in the Rules. Except as otherwise permitted in writing by the Clearing Organizations, the Clearing Member of the Designated Clearing Organization shall act as the agent of both Clearing Members for purposes of receiving margin and settlement reports, depositing and requesting release of margin deposits and performing such other functions in respect of the Non-Proprietary X-M Accounts as may be specified in the Rules.

5. The Non-Proprietary X-M Accounts of the Clearing Members shall be limited to transactions and positions carried by the Clearing Members for Market Professionals who are not Non-Customers of the Clearing Members, and who have signed a Market Professional's Agreement" in the form of Appendix II hereto. The Clearing Members agree that they shall not commence clearing transactions through or carrying positions in the Non-Proprietary X-M Accounts for any Market Professional until the Designated Clearing Organization has received with respect to such Market Professional a duly executed copy of the Market Professional's Agreement and such other documentation as may reasonably be requested by the Designated Clearing Organization. The Clearing Members jointly and severally agree to indemnify and hold harmless the Clearing Organizations, their directors, officers, employees and each person, if any, who controls any of the Clearing Organizations against any claims, losses, liabilities and expenses, including, without limitation, reasonable legal fees and expenses and amounts paid or payable in settlement of any action, proceeding or investigation arising from any claim by any party resulting from the carrying of positions in a Non-Proprietary X-M Account that belong to any person other than a Market Professional for whom a Market Professional's Agreement is in effect.

6. On behalf of themselves and of each Market Professional on whose behalf positions may be maintained in the Non-Proprietary X-M Accounts in accordance with this agreement, the Clearing Members agree that the Clearing Organizations shall jointly have a lien on, security interest in, and right of setoff against, the Non-Proprietary X-M Accounts and all property carried therein or held in respect thereof including, without limitation, all securities option contracts, futures contracts and options on futures contracts and other Eligible Contracts from time to time purchased or carried in any of the Non-Proprietary X-M Accounts, all cash, securities and other property deposited with or held by the Clearing Organizations as margin in respect thereof and all proceeds of any of the foregoing (such accounts and all such contracts, margin, and proceeds hereinafter referred to collectively as "Collateral"), as security for the obligations of the Clearing Members to either of the Carrying Clearing Organizations in respect of such Non-Proprietary X-M Accounts. The rights of the Clearing Organizations that are set forth in the preceding sentence, are in addition to any other rights of any or all of the Clearing Organizations in the Collateral arising under their respective

Rules, statutory or common law, governmental regulation or by reason of normal business practice. The Clearing Members represent and warrant that as of the date of this agreement there is no outstanding lien on or security interest in the Collateral except as provided in the rules of the Clearing Organizations, and they jointly and severally agree that they shall not grant or permit to be created any other lien on or security interest in the Collateral without the express written consent of the Clearing Organizations; provided, however, that the foregoing prohibition shall not apply to any interest of a Clearing Member in the Collateral that is subordinate to the interest of the Clearing Organizations therein. The respective rights of the Clearing Organizations in the Collateral shall be governed by such agreements as may from time to time exist between them.

7. The Designated Clearing Organization is hereby authorized to net all daily settlement amounts owed to or due from the Clearing Organizations in respect of all Non-Proprietary X-M Accounts (including futures or similar variation margin, option premiums, and option exercise settlement amounts). Each Clearing Member authorizes the Clearing Organizations to draft the bank account designated by them for any amount due from such Clearing Member in respect of the Non-Proprietary X-M Accounts, and the Clearing Organizations are authorized to pay into such bank account any funds due either Clearing Member in respect of such Non-Proprietary X-M Accounts.

8. In the event that the OCC Clearing Member is not a futures commission merchant registered as such with the Commodity Futures Trading Commission, then the account of each Market Professional ("Market Professional X-M Account") whose positions and transactions in Eligible Contracts are included in the Accounts shall be carried in the name of such Market Professional on the books of the **ICE Clear** Clearing Member (the "FCM"), all money and other property deposited in respect of such Market Professional X-M Accounts shall be customer segregated funds held in the name of the FCM, and positions in securities option contracts shall be carried in an omnibus account on the books of the OCC Clearing Member pursuant to arrangements requiring that all money, securities and other property deposited in respect of such Market Professional X-M Accounts or accruing in respect of the positions and transactions in such Market Professional X-M Accounts, shall be held either by the Clearing Organizations or by a bank or trust

company in the name of the FCM and shall be segregated funds held for the benefit of the customers of the FCM. The FCM agrees that it shall apply any such money, securities or other property in its possession as necessary to meet all obligations of both Clearing Members to the Clearing Organizations arising from the positions and transactions in the Non-Proprietary X-M Accounts.

9. Each Clearing Member represents and warrants to the Clearing Organizations that it has full power and authority to enter into this agreement and that neither the execution and delivery of this agreement nor any act to be performed pursuant to this agreement by either of the Clearing Organizations or by or on behalf of such Clearing Member will violate the partnership agreement or the charter or by-laws, as the case may be, of such Clearing Member or any other agreement which is binding upon it or any provision of law applicable to it. Each Clearing Member further represents and warrants to the Clearing Organizations that it controls, is controlled by, or under common control with, the other.

10. This agreement may be terminated by the Clearing Members at any time provided that all positions in the Non-Proprietary X-M Accounts have been closed or transferred to other accounts in accordance with the Rules, that all margin in respect of any such transferred positions has been deposited and that all obligations of both Clearing Members to the Clearing Organizations in respect of the Non-Proprietary X-M Accounts have been fully satisfied. The Clearing Organizations may at any time deliver written notice to the Clearing Members requiring them to close or transfer all positions in the Non-Proprietary X-M Accounts in accordance with the Rules not later than the close of business on the first business day following delivery of such notice, and this agreement shall thereupon terminate provided that all margin in respect of the transferred positions has been deposited and all obligations of both Clearing Members to the Clearing Organizations in respect of the Non-Proprietary X-M Accounts have been fully satisfied.

11. This agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Any action brought against any party by any other party that

involves a claim arising out of this agreement or that otherwise relates to the transactions contemplated by this agreement shall be brought in the United States District Court for the Northern District of Illinois (or, if there is no federal jurisdiction over the action, then in state court in the City of Chicago, Illinois); and each party hereby consents to the personal jurisdiction of any court in which an action is brought against it in accordance with this paragraph.

12. This agreement supersedes all previous agreements among the Clearing Members and either of the Clearing Organizations with respect to the subject matter hereof.

13. This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

\_\_\_\_\_  
(Name of Clearing Member)

\_\_\_\_\_  
(Name of Clearing Member)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Accepted by:**

**THE OPTIONS CLEARING CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

SR-OCC-2007-19 – Exhibit 5E

Date: \_\_\_\_\_

**ICE CLEAR US, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**THE OPTIONS CLEARING CORPORATION  
ICE CLEAR US, Inc.**

**MARKET PROFESSIONAL'S AGREEMENT  
FOR CROSS-MARGINING**

**(Joint Clearing Member)**

\_\_\_\_\_ ("Member"), and \_\_\_\_\_  
\_\_\_\_\_ ("Clearing Member"), a clearing member maintaining a cross-  
marginated non-proprietary account at The Options Clearing Corporation ("OCC") and ICE Clear US,  
Inc. ("ICE Clear") hereby enter into this Agreement to provide for cross-margining certain of  
Member's positions held by Clearing Member at one Clearing Organization with certain of Member's  
positions held by Clearing Member at the other Clearing Organization, as set forth below. As used  
in this Agreement, the term "Clearing Organizations" means OCC and ICE Clear.

1. Member represents and warrants that it is a market-maker, specialist or registered trader as defined in OCC's rules and by-laws or a "Cross-Margining Participant" or other "Member" as defined in the Rules of ICE Futures US, Inc. ("ICE Futures") (a "Market Professional"), and that it trades for its own account contracts cleared by each of the Clearing Organizations that have been designated as eligible for cross-margining by them ("Eligible Contracts").
2. Clearing Member acknowledges and understands that Member desires it to clear and maintain some or all of Member's positions in Eligible Contracts in Clearing Member's cross-marginated non-proprietary accounts ("Accounts") at the Clearing Organizations, which are subject to the terms and conditions of the Non-Proprietary Cross-Margin Account Agreement and Security Agreement among Clearing Member and the Clearing Organizations, a copy of which is attached hereto as Exhibit A. Notwithstanding the foregoing, Member agrees that Clearing Member may, at any time and in its sole discretion, determine to clear and/or maintain any one or group of such positions in accounts at the Carrying Clearing Organizations other than the Accounts.

3. Member agrees that its positions in the Accounts, all margin held by the Clearing Organizations in respect thereof, and all proceeds of any of the foregoing, may be commingled with the positions and property of other Market Professionals who clear through the Clearing Member and have elected cross-margining. Member further agrees that its property may be used by the Clearing Member to purchase, margin, secure, settle or otherwise carry securities option positions and futures and options on futures positions in the Accounts on behalf of Member and other Market Professionals. Member acknowledges and understands that the Commodity Futures Trading Commission ("CFTC") has, by order, rendered inapplicable the provisions of the Commission's Regulations (including, but not limited to, §§ 1.20(a), 1.22 and 1.24), to the extent that such regulations would prohibit the commingling and use of Member's property as provided in this paragraph, and Member acknowledges that such property will be treated in a manner consistent with applicable orders of the CFTC. Member further acknowledges and agrees that such property held on his behalf by Clearing Member will be customer property received by a futures commission merchant ("FCM") to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the Commodity Exchange Act ("CEA").

4. Member agrees that in the event of the bankruptcy, liquidation, or receivership of or other proceeding involving the distribution of funds held by Clearing Member: (i) Member's claims against Clearing Member with respect to Member's positions in the Accounts and all money, securities and property received with respect thereto, shall be subject to the distributional convention established in Appendix B to Part 190 of the CFTC's Regulations, a copy of which is attached hereto as Exhibit 1; (ii) positions in the Accounts and all cash, securities and other property carried in respect thereof shall not be "customer property" for the purposes of the federal securities laws (to extent necessary to effect cross-margining in accordance with the applicable orders of the CFTC), or for purposes of Subchapter III of Chapter 7 of the Bankruptcy Code ("Subchapter III") or the Securities Investors Protection Act of 1970 ("SIPA"), and will not be claimed as such, and shall be "customer property" for purposes of the CEA, Subchapter IV of Chapter 7 of the Bankruptcy Code and Part 190 of the Regulations of the CFTC; and (iii) any claim asserted by it against Clearing Member arising out of or based upon the Accounts, to the extent that such claim would otherwise represent a claim against or be payable from "customer property" as defined in Subchapter III or



SIPA, shall be subordinated to the claims of all other customers, as the term "customer" is defined in Subchapter III or SIPA.

5. Member hereby grants to the Clearing Organizations jointly a lien on, security interest in, and right of setoff against (i) the Accounts and all property carried therein or held in respect thereof including, without limitation, all securities option contracts, futures contracts and options on futures contracts and other Eligible Contracts from time to time purchased or carried in any of the Proprietary X-M Accounts, (ii) all cash, securities and other property deposited with or held by the Clearing Organizations as margin in respect thereof, and (iii) all proceeds of any of the foregoing (such accounts and all such contracts, margin and proceeds hereinafter referred to collectively as "Collateral"), as security for the obligations of the Clearing Member to either or both of the Clearing Organizations in respect of the Accounts. Member represents and warrants that as of the date of this Agreement, there is no outstanding lien on or security interest in the Collateral except as provided in the rules of the Clearing Organizations, and agrees that it shall not grant or permit to be created any other lien on or security interest in the Collateral without the express written consent of the Clearing Organizations; provided, however, that the foregoing prohibition shall not apply to any interest of Clearing Member in the Collateral that is subordinate to the interest of the Clearing Organizations.

6. Member acknowledges that in the event of the suspension of Clearing Member in accordance with the rules of the Clearing Organizations, respectively, it shall be within the sole discretion of the Clearing Organizations to determine whether to transfer or liquidate Member's positions in the Accounts.

7. An executed counterpart of this Agreement shall be filed with the Clearing Organizations. Member and Clearing Member agree not to modify, amend or terminate this Agreement without the prior written consent of the Carrying Clearing Organizations, and further agree not to modify this Agreement by any other instrument unless the approval of the Clearing Organizations is noted thereon.

8. This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

**FOR CORPORATIONS/PARTNERSHIPS  
ACCOUNTS**

**FOR INDIVIDUAL/JOINT ACCOUNTS  
(All account participants must sign)**

\_\_\_\_\_  
Print Name of Corporation or Partnership

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Authorized Signature Date

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Name of Clearing Member

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title

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**THE OPTIONS CLEARING CORPORATION  
ICE CLEAR US, INC.**

**MARKET PROFESSIONAL'S AGREEMENT  
FOR CROSS-MARGINING**

**(Affiliated Clearing Members)**

\_\_\_\_\_ ("Member"), \_\_\_\_\_  
("Clearing Member"), a clearing member maintaining a cross-margined non-proprietary account at  
The Options Clearing Corporation ("OCC") and \_\_\_\_\_  
("Clearing Member"), a clearing member maintaining a cross-margined non-proprietary account at  
ICE Clear US, Inc. ("ICE Clear") hereby enter into this Agreement to provide for cross-margining  
certain of Member's positions held at one Clearing Organization with certain of Member's positions  
held at the other Clearing Organization, as set forth below. As used in this Agreement, the term  
"Clearing Organizations" means OCC and ICE Clear.

1. Member represents and warrants that it is a market-maker, specialist or registered trader as defined in OCC's rules and by-laws, or a "Cross-Margining Participant" or other "Member" as defined in the rules of ICE Futures US, Inc. ("ICE Futures") (a "Market Professional"), and that it trades for its own account contracts cleared by the Clearing Organizations that have been designated as eligible for cross-margining by them ("Eligible Contracts").

2. Clearing Members acknowledge and understand that Member desires them to clear and maintain some or all of Member's positions in Eligible Contracts in their respective cross-margined non-proprietary accounts ("Accounts") at the Clearing Organizations, which are subject to the terms and conditions of the Non-Proprietary Cross-Margin Account Agreement and Security Agreement among Clearing Members and the Clearing Organizations, a copy of which is attached hereto as

Exhibit A. Member agrees that its positions in Eligible Contracts in the Accounts may be carried in Member's name on the books of the Clearing Member of the Clearing Organization that is the obligor with respect to the particular contract, and that, alternatively, all of its positions in the Accounts may be carried in Member's name on the books of one Clearing Member only. In the event that all of Member's positions are carried in Member's name on the books of one Clearing Member only, that Clearing Member may in turn carry Member's positions in certain Eligible Contracts in an omnibus account on the books of the other Clearing Member. In the event that Member's positions are carried in Member's name on the books of one Clearing Member only, Member's rights in respect of all positions and transactions in the Accounts shall be against such Clearing Member. Notwithstanding the foregoing, Member agrees that Clearing Members may, at any time and in their sole discretion, determine to clear and/or maintain any one or group of such positions in accounts at the Clearing Organizations other than the Accounts.

3. Member agrees that its positions in the Accounts, all margin held by the Clearing Organizations in respect thereof, and all proceeds of any of the foregoing, may be commingled with the positions and property of other Market Professionals who clear through the Clearing Members and have elected cross-margining. Member further agrees that its property may be used by the Clearing Members to purchase, margin, secure, settle or otherwise carry securities option positions and futures and options on futures positions in the Accounts on behalf of Member and other Market Professionals. Member acknowledges and understands that the Commodity Futures Trading Commission ("CFTC") has, by order, rendered inapplicable the provisions of the Commission's Regulations (including, but not limited to, §§1.20(a), 1.22 and 1.24), to the extent that such regulations would prohibit the commingling and use of Member's property as provided in this paragraph, and Member acknowledges that such property will be treated in a manner consistent with applicable orders of the CFTC. Member further acknowledges and agrees that such property held on its behalf by Clearing Members will be customer property received by a futures commission

merchant ("FCM") to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the Commodity Exchange Act ("CEA").

4. Member agrees that in the event of the bankruptcy, liquidation, or receivership of or other proceeding involving the distribution of funds held by either Clearing Member: (i) Member's claims against such Clearing Member, if any, with respect to Member's positions in the Accounts and all money, securities and property received with respect thereto, shall be subject to the distributional convention established in Appendix B to Part 190 of the CFTC's Regulations, a copy of which is attached hereto as Exhibit 1; (ii) positions in the Accounts and all cash, securities and other property carried in respect thereof shall not be "customer property" for purposes of the federal securities laws (to the extent necessary to effect cross-margining in accordance with applicable orders of the CFTC), or for the purposes of Subchapter III of Chapter 7 of the Bankruptcy Code ("Subchapter III") or the Securities Investor Protection Act of 1970 ("SIPA"), and will not be claimed as such, and shall be "customer property" for purposes of the CEA, Subchapter IV of Chapter 7 of the Bankruptcy Code and Part 190 of the Regulations of the CFTC; and (iii) any claim asserted by it against either Clearing Member arising out of or based upon the Accounts, to the extent that such claim would otherwise represent a claim against or be payable from "customer property" as defined in Subchapter III or SIPA, shall be subordinated to the claims of all other customers, as the term "customer" is defined in Subchapter III or SIPA.

5. Member hereby grants to the Clearing Organizations jointly a lien on, security interest in, and right of setoff against (i) the Accounts and all property carried therein or held in respect thereof including, without limitation, all securities option contracts, futures contracts and options on futures contracts and other Eligible Contracts from time to time purchased or carried in any of the Proprietary X-M Accounts, (ii) all cash, securities and other property deposited with or held by the Clearing Organizations as margin in respect thereof, and (iii) all proceeds of any of the foregoing

(such accounts and all such contracts, margin and proceeds hereinafter referred to collectively as "Collateral"), as security for the obligations of the Clearing Member carrying the Account to the Clearing Organizations in respect of the Account. Member represents and warrants that as of the date of this Agreement, there is no outstanding lien on or security interest in the Collateral except as provided in the rules of the Clearing Organizations, and agrees that it shall not grant or permit to be created any other lien on or security interest in the Collateral without the express written consent of the Clearing Organizations; provided, however, that the foregoing prohibition shall not apply to any interest of either Clearing Member in the Collateral that is subordinate to the interest of the Clearing Organizations.

6. Member acknowledges that in the event of the suspension of a Clearing Member in accordance with the rules of the Clearing Organization of which such Clearing Member is a member, it shall be within the sole discretion of the Clearing Organization to determine whether to transfer or to liquidate Member's positions in the Accounts.

7. An executed counterpart of this Agreement shall be filed with the Clearing Organization. Member and each Clearing Member agree not to modify, amend or terminate this Agreement without the prior written consent of the Clearing Organization, and further agree not to modify this Agreement by any other instrument unless the approval of the Clearing Organizations is noted thereon.

8. This Agreement shall become effective upon the later of execution of this Agreement, or on the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the Commodity Futures Trading Commission.

**FOR CORPORATIONS/PARTNERSHIPS  
ACCOUNTS**

\_\_\_\_\_  
Print Name of Corporation or Partnership

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name of Clearing Member

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Print Name and Title

**FOR INDIVIDUAL/JOINT ACCOUNTS  
(All account participants must sign)**

\_\_\_\_\_  
Signature                                      Date

\_\_\_\_\_  
Signature                                      Date

\_\_\_\_\_  
Signature                                      Date

\_\_\_\_\_  
Print Name of Clearing Member

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Print Name and Title

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