

**LINK CLEARING AGREEMENT**

This LINK CLEARING AGREEMENT (this “**Agreement**”) is dated as of \_\_\_\_\_, 2004 (the “**Execution Date**”) and is between EUREX CLEARING AG, FRANKFURT, a German corporation (“**Eurex Clearing**”), and THE CLEARING CORPORATION, a Delaware corporation (“**The Clearing Corporation**”). Capitalized terms not otherwise defined in this Agreement shall have the meaning assigned thereto in Section 1 of this Agreement.

**RECITALS**

WHEREAS, The Clearing Corporation provides clearing and settlement services for the futures contracts and options on futures contracts traded on FEX (“**FEX Contracts**”) pursuant to the Clearing Services Agreement dated as of September 3, 2003 among The Clearing Corporation, Eurex, and FEX (the “**Clearing Services Agreement**”);

WHEREAS, Eurex Clearing provides clearing and settlement services for futures contracts and options on futures contracts traded on Eurex; and

WHEREAS, Eurex Clearing and The Clearing Corporation desire to establish arrangements to enable (among other things) members of FEX and Eurex to clear trades in Contracts, or to cause such trades in Contracts to be cleared, through either of Eurex Clearing or The Clearing Corporation (the “**Link**”).

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and undertakings set forth herein and for other good and valuable consideration, the Parties agree as follows:

1. Definitions

In addition to the other terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

(a) “**Agreement**” has the meaning provided in the Preamble.

(b) “**Bankrupt**” means, in relation to a Clearing Member or a Clearing House, that such Clearing Member or Clearing House (A) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (B) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (D) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation; (E) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (F) seeks or becomes subject to the appointment of an

administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (G) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets; (H) causes or is subject to any event with respect to it which, under the applicable laws of any applicable jurisdiction, has an analogous effect to any of the events specified in clauses (A) through (G) (inclusive); or (I) expressly consents to any of the acts specified in the foregoing clauses (A) through (H) (inclusive).

(c) “**Book Value**” has the meaning set forth in the Stock Purchase Agreement.

(d) “**Business Day**” means a day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in Frankfurt am Main or Chicago.

(e) “**Calculation Dispute**” has the meaning provided in Section 7(d)(iv).

(f) “**Calculation Period**” has the meaning provided in Section 7(c)(ii)(A).

(g) “**Central Counterparty**” means a Clearing House which interposes itself as legal counterparty to both parties to a Contract (one of which parties may be the Partner Clearing House), thereby becoming the buyer to every seller and the seller to every buyer.

(h) “**CEO**” means the highest-ranking executive officer of a Clearing House.

(i) “**CFTC**” means the United States Commodity Futures Trading Commission.

(j) “**Change of Control**” has the meaning set forth in the Clearing Services Agreement.

(k) “**Chicago Business Day**” means a day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in Chicago.

(l) “**Clearing Houses**” means The Clearing Corporation and Eurex Clearing and “**Clearing House**” means either of them.

(m) “**Clearing Member**” means a member of or participant in Eurex Clearing or The Clearing Corporation, as the context may require.

(n) “**Clearing Services Agreement**” has the meaning provided in the Recitals.

(o) “**Clearstream**” means Clearstream Banking Frankfurt AG.

(p) “**Confidential Information**” means nonpublic proprietary information and materials, disclosed by a Party (the “**Disclosing Party**”) to the other (the “**Receiving Party**”), irrespective of the manner in which the Disclosing Party disclosed such information, in

furtherance of this Agreement, including, but not limited to, substances, formulations, techniques, methodology, software, equipment, data, reports, correspondence, know-how, manufacturing documentation and sources of supply, as well as the existence and terms of this Agreement.

(q) “**Contracts**” means Eurex Contracts, FEX Contracts and/or FEX-Traded Eurex Contracts, as required by the context, to the extent listed in Exhibit A as amended from time to time.

(r) “**Credit Support**” has the meaning provided in Section 3(b)(iii)(B).

(s) “**Creditor Clearing House**” has the meaning provided in Section 8(a).

(t) “**Debtor Clearing House**” has the meaning provided in Section 8(a).

(u) “**Default Event**” has the meaning provided in Section 8(b).

(v) “**Defaulting Clearing House**” has the meaning provided in Section 8(b).

(w) “**Delivery Failure Loss**” means any loss incurred by (i) a Home Country Clearing House because of a failure of the Debtor Clearing House to satisfy losses resulting from a failure of one or more of its Clearing Members to deliver or accept delivery of securities in accordance with the Rules of the Home Country Clearing House or (ii) a Creditor Clearing House that is not the Home Country Clearing House resulting from a failure of the Home Country Clearing House to accept deliveries from or make deliveries to the Creditor Clearing House or its Members and shall in each case include applicable fees or fines resulting therefrom that are payable to the Creditor Clearing House by the Debtor Clearing House.

(x) “**Destination Clearing House**” means with respect to a trade in a Contract, (i) Eurex Clearing for Members of Eurex Clearing, (ii) The Clearing Corporation for Members of The Clearing Corporation, and (iii) the Clearing House selected by a Clearing Member where it is a Member of both Clearing Houses.

(y) “**Discharged Rights and Obligations**” has the meaning provided in Section 5(a)(iii)(A).

(z) “**Dispute**” has the meaning provided in Section 7(d)(iii).

(aa) “**Dispute Notice**” has the meaning provided in Section 7(d)(iv)(A).

(bb) “**Draw Event**” has the meaning provided in Section 8(a).

(cc) “**EUR**” means the lawful currency of the participating member states of the European Union that adopt a single currency in accordance with the Treaty establishing the European Communities, as amended by the Treaty on European Union.

(dd) “**Eurex**” means Eurex Frankfurt AG, a German corporation. When used in reference to the trading of Eurex Contracts, “Eurex” includes Eurex Deutschland and Eurex Zürich, each a derivatives exchange.

(ee) “**Eurex Clearing**” has the meaning provided in the Preamble.

(ff) “**Eurex Contract**” means futures contracts and options on futures contracts executed on or subject to the Rules of Eurex that are capable of being cleared through the Link, to the extent listed in Exhibit A as amended from time to time.

(gg) “**Eurex-Traded FEX Contracts**” has the meaning provided in Section 2(c).

(hh) “**Exchanges**” means FEX and Eurex and “**Exchange**” means either of them.

(ii) “**Exchange Member**” means a Member of Eurex or FEX, as the case may be.

(jj) “**Execution Date**” has the meaning provided in the Preamble.

(kk) “**FEX**” means U.S. Futures Exchange, L.L.C., a Delaware limited liability company.

(ll) “**FEX Contracts**” has the meaning provided in the Recitals and, unless the context otherwise requires, includes FEX-Traded Eurex Contracts, in either case to the extent listed in Exhibit A as amended from time to time.

(mm) “**FEX-Traded Eurex Contracts**” means futures contracts and options on futures contracts (i) that are traded on FEX pursuant to an agreement with Eurex, (ii) that are denominated in a currency other than the U.S. Dollar, and (iii) as to which Variation Margin payments and collections, final settlements, deliveries and option exercises must be effected in a manner consistent with the Rules of Eurex and Eurex Clearing, to the extent listed in Exhibit A as amended from time to time.

(nn) “**Force Majeure Event**” has the meaning provided in Section 22.

(oo) “**German Business Day**” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in Frankfurt am Main.

(pp) “**Governmental Authority**” means any federal, state or local government, governmental, regulatory or administrative authority, agency or commission of the United States, the Federal Republic of Germany or Switzerland, and any court, tribunal, or judicial or arbitral body of competent jurisdiction.

(qq) “**Home Country Clearing House**” means (i) The Clearing Corporation with respect to FEX Contracts (but not including FEX-Traded Eurex Contracts), and (ii) Eurex Clearing with respect to Eurex Contracts and FEX-Traded Eurex Contracts.

(rr) “**Home Country Contracts**” means (i) with respect to Eurex Clearing, Eurex Contracts and FEX-Traded Eurex Contracts, and (ii) with respect to The Clearing Corporation, FEX Contracts (but not including FEX-Traded Eurex Contracts).

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(tt) “**Indemnified Party**” has the meaning provided in Section 12(c).

(uu) “**Indemnifying Party**” has the meaning provided in Section 12(c).

(vv) “**LIBOR**” means the London interbank offered rate for USD deposits having a maturity generally equal to one month.

(ww) “**Link**” has the meaning provided in the Recitals.

(xx) “**Link Effective Date**” has the meaning provided in Section 15.

(yy) •

(zz) “**Losses**” has the meaning provided in Section 12(a).

(aaa) “**Margin**” means Original Margin, Variation Margin, Option Premium and any payment similar to any of the foregoing for which a Clearing House is entitled by its Rules to call from its Members.

(bbb) “**Margin Parameters**” means, as to derivative contracts cleared by a Clearing House (whether or not through the Link), the expected market price movement over one day with a 99 percent confidence level.

(ccc) “**Marginal Lending Rate**” means the European Central Bank’s interest rate for overnight lending.

(ddd) “**Market Interest Rate**” means the Marginal Lending Rate for payments in EUR and LIBOR for payments in USD.

(eee) “**Member Default**” has the meaning provided in Section 16(a).

(fff) “**Members**” means, in relation to an Exchange, its members as provided in the Rules of such Exchange, and in relation to a Clearing House, its Clearing Members, and a “**Member**” means any of them.

(ggg) “**Methodology Dispute**” has the meaning provided in Section 7(d)(iv).

(hhh) “**Non-defaulting Clearing House**” has the meaning provided in Section 8(b).

(iii) “**Omnibus Account**” has the meaning provided in Section 3(b)(i).

(jjj) “**Omnibus Sub-Account**” has the meaning provided in Section 3(c).

(kkk) “**Open Interest**” means (i) with respect to a futures Contract, the total number of open Contracts (either long or short) in a delivery month that have not yet been fulfilled by delivery or liquidated by an offsetting transaction; and (ii) with respect to an option Contract, the total number of open Contracts (either long or short) in an expiration month that have not yet been liquidated by an offsetting transaction, exercised or expired, in each case determined separately for puts and calls and by strike price.

(lll) “**Option Premium**” means the price of a Contract that is an option contract.

(mmm) “**Original Margin**” means the collateral collected by a Clearing House from its Members in accordance with its Rules to secure the Clearing House against the risks associated with the clearing of Contracts. As used herein, “Original Margin” means and includes, irrespective of the terminology used in the Rules of a Clearing House, original margin, spread margin and additional margin. For the avoidance of doubt, Original Margin does not include Variation Margin, Option Premiums or additional deposits required to be made to the guaranty or clearing fund of a Clearing House.

(nnn) “**Parties**” means each of Eurex Clearing and The Clearing Corporation.

(ooo) “**Partner Clearing House**” means, with respect to Eurex Clearing, The Clearing Corporation, and with respect to The Clearing Corporation, Eurex Clearing.

(ppp) “**Partner Clearing House Business Day**” means a German Business Day in case of Credit Support provided by The Clearing Corporation, or a Chicago Business Day in case of Credit Support provided by Eurex Clearing.

(qqq) “**Payee**” has the meaning provided in Section 8(d)(iii).

(rrr) “**Payee Amount**” has the meaning provided in Section 8(d)(iii).

(sss) “**Payer**” has the meaning provided in Section 8(d)(iii).

(ttt) “**Payer Amount**” has the meaning provided in Section 8(d)(iii).

(uuu) “**Periodic Adjustment**” has the meaning provided in Section 7(c)(ii)(A).

(vvv) “**Post-Trade Transactions**” has the meaning provided in Section 5(a)(i).

(www) “**Primary Clearing House**” means (i) The Clearing Corporation with respect to FEX Contracts (including FEX-Traded Eurex Contracts), and (ii) Eurex Clearing with respect to Eurex Contracts.

(xxx) “**Proceeding**” has the meaning provided in Section 12(a)(i).

(yyy) “**Receiving Clearing House**” has the meaning provided in Section 5(a)(ii).

(zzz) “**Representative**” means, as to a Party, such Party’s governors, directors, officers, employees, agents and professional advisers.

(aaaa) “**Required Credit Support Amount**” has the meaning provided in Section 7(a).

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(cccc) “**Rules**” means, in relation to an Exchange or Clearing House, the provisions of its constitutional documents, by-laws, rules, regulations, procedures, customs, practices, contract specifications, notices or resolutions in whatever form adopted by such Exchange or Clearing House, as the case may be, and any amendment, variation or addition thereto and “**Rule**” means a provision of the Rules.

(dddd) “**Settlement Account**” means one or more securities settlement accounts established by a Clearing Member, on terms reasonably satisfactory to the Home Country Clearing House, for the purpose of making and accepting delivery on Contracts.

(eeee) “**Shareholder Approval**” has the meaning set forth in the Stock Purchase Agreement.

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(gggg) “**Special Clearing Member**” has the meaning provided in Section 3(b)(v).

(hhhh) “**Stock Purchase Agreement**” means that certain Stock Purchase Agreement between and among The Clearing Corporation, Eurex and U.S. Exchange Holdings, Inc., dated as of September 3, 2003.

(iiii) “**Stress Test Scenario**” has the meaning provided in Section 7(a).

(jjjj) “**The Clearing Corporation**” has the meaning provided in the Preamble.

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(mmmm) “**Transferring Clearing House**” has the meaning provided in Section 5(a)(ii).

(nnnn) “**Trust Amounts**” means the amounts held by the Home Country Clearing House in trust for the Partner Clearing House under Section 6(b).

(oooo) “**USD**” and “**U.S. \$**” each mean the lawful currency of the United States.

(pppp) “**Variation Margin**” means the daily settlement of profits and losses on futures contracts and, to the extent applicable, options on futures contracts, transferred by a Clearing House in accordance with its Rules. As used herein, “Variation Margin” means and includes, irrespective of the terminology used in the Rules of a Clearing House, variation settlement, daily variation, pay/collect and Option Premiums, and shall, for the avoidance of doubt, include any settlement amount payable on the maturity of a Contract in accordance with such Rules.

(qqqq) “**Variation Margin Settlement Account**” means one or more bank accounts established by a Clearing Member or a Clearing House, on terms reasonably satisfactory to the Home Country Clearing House, for the purpose of making and receiving Variation Margin payments as well as any other payments (including, but not limited to, fees but excluding Original Margin) required by the Rules of the Home Country Clearing House. Where a Variation Margin Settlement Account is established by a Destination Clearing House for the convenience of its Clearing Members, such Destination Clearing House shall have all of the rights and obligations in respect of Variation Margin of those of its Clearing Members are party to a Variation Margin Settlement Agreement with such Destination Clearing House, and references in this Agreement to a Clearing Member’s Variation Margin Settlement Account shall to that extent apply, *mutatis mutandis*, to the Variation Margin Settlement Account established by such Destination Clearing House.

(rrrr) “**Variation Margin Settlement Agreement**” means an agreement between a Clearing Member and its Destination Clearing House, providing for Variation Margin to be paid directly to or by the Destination Clearing House and the Home Country Clearing House, in lieu of payment to or by such Clearing Member and the Home Country Clearing House.

## 2. Eligible Contracts

(a) *Initial Eligible Contracts.* The Contracts listed in Exhibit A may be cleared through the Link as set forth in this Agreement.

(b) *Additional Eligible Contracts.* Either Clearing House may request that the other clear additional Contracts through the Link, and in such a case, subject to the consent of the Partner Clearing House and both Exchanges, Exhibit A shall be amended as appropriate.

(c) *Eurex-Traded FEX Contracts.* The Parties recognize that they and the Exchanges may agree in the future that futures contracts and options on futures contracts that are denominated in U.S. Dollars and traded on FEX are to be traded on Eurex and cleared through

the Link (“**Eurex-Traded FEX Contracts**”). In such an event, the Parties agree to use reasonable efforts to enter into an amendment to this Agreement, or to enter into a separate agreement, that in either case will provide for terms and processes for the clearing of Eurex-Traded FEX Contracts that correspond as closely as possible to those set forth in this Agreement.

### 3. Linked Clearing Arrangements

#### (a) *Clearing Members Authorized for Clearing Through the Link.*

(i) A Clearing Member shall be authorized to clear Contracts through the Link provided such Clearing Member is in compliance with the requirements established by the Destination Clearing House for membership or participation therein and participation in the Link.

(ii) Each Clearing House shall amend its Rules such that each of its Members that clears Contracts through the Link is required to:

(A) Comply with such requirements applicable to the Contracts cleared through the Link (other than membership or capital requirements) as may be established by the Partner Clearing House or any Governmental Authority competent for the Partner Clearing House; and

(B) Become party to a Variation Margin Settlement Agreement with such Clearing House, or open and maintain an account at a bank reasonably acceptable to the Home Country Clearing House to serve as a Variation Margin Settlement Account for such Member’s positions, and grant a power of attorney substantially in the form attached in Exhibit B to the Home Country Clearing House to directly debit or credit such Variation Margin Settlement Account in the amount of each payment of Variation Margin as and when due with respect to such Member. Subject to Section 6(b)(i), the Home Country Clearing House shall debit and credit such Variation Margin Settlement Accounts on terms that are not materially different than those that are applied by such Clearing House to the Variation Margin Settlement Accounts of its Clearing Members in similar circumstances. When Eurex Clearing is the Home Country Clearing House, all such Variation Margin Settlement Accounts must be at Deutsche Bundesbank (if eligible) or a correspondent bank which holds an account at Deutsche Bundesbank. When The Clearing Corporation is the Home Country Clearing House, all such Variation Margin Settlement Accounts must be at one or more U.S. commercial banks reasonably acceptable to The Clearing Corporation or at a correspondent bank reasonably acceptable to The Clearing Corporation that holds an account at such a U.S. commercial bank.

(iii) The Clearing Corporation shall amend its Rules to require those of its Clearing Members that trade Contracts that settle by physical delivery and for which Eurex Clearing is the Home Country Clearing House (A) to open and maintain one or more accounts, at Clearstream or at a custodian bank which has an account at Clearstream, to serve as Settlement Account(s) for physical deliveries, and (B) to grant a power of attorney to Eurex Clearing to directly debit or credit such Settlement Account(s) as necessary to timely satisfy such Clearing Member’s obligations to make or take delivery on such Contracts. Eurex Clearing shall debit and credit such Settlement Accounts on terms that are not materially different than those that are

applied by Eurex Clearing to the Settlement Accounts of its Clearing Members in similar circumstances.

(iv) Eurex Clearing shall amend its Rules to require those of its Clearing Members that trade Contracts that settle by physical delivery and for which The Clearing Corporation is the Home Country Clearing House to open and maintain one or more accounts at a U.S. commercial bank reasonably acceptable to The Clearing Corporation or at a custodian bank reasonably acceptable to The Clearing Corporation that has an account at such a U.S. commercial bank to serve as Settlement Account(s) for physical deliveries. The Clearing Corporation shall give members of Eurex Clearing instructions to make and take delivery in satisfaction of such futures contracts on terms that are not materially different from those given by The Clearing Corporation to its Clearing Members in similar circumstances.

(v) Each Clearing House shall make available to the Partner Clearing House at all times a current list of its Clearing Members who are authorized to clear Contracts through the Link. In the event that a Destination Clearing House, acting in accordance with Section 16(a)(ii), has declared one of its Clearing Members to be in default under its Rules or has suspended or otherwise limited such Clearing Member's clearing privileges, the Destination Clearing House shall promptly notify the Partner Clearing House and the Exchanges (in each case, by telephone, with confirmation in writing in accordance with Section 16(b)), that such Clearing Member has been suspended or has withdrawn or is for any other reason no longer authorized to clear Contracts. Upon the delivery of such oral notification, the Exchanges shall terminate the ability of their Members to submit additional trades or transactions for clearing in the account of such Clearing Member in accordance with their respective Rules. Each Clearing House shall use its reasonable best efforts to cause such a termination by the Exchange for which it is the Primary Clearing House to become effective as soon as possible after notification, but the Destination Clearing House shall in no event be responsible for clearing or settling Contracts submitted by an Exchange for the account of such Clearing Member more than fifteen minutes after the delivery of such notification to the Exchange.

(b) *Partner Clearing Houses; Omnibus Accounts.* In connection with the establishment and operation of the Link:

(i) Each Clearing House shall establish an omnibus account (an "**Omnibus Account**") at the Partner Clearing House to hold such trades as are herein described in connection with the Link;

(ii) Each Destination Clearing House shall open and maintain an account at a bank reasonably acceptable to the Home Country Clearing House to serve as a Variation Margin Settlement Account, and grant a power of attorney substantially in the form attached in Exhibit C to the Home Country Clearing House to debit such Variation Margin Settlement Account in an amount equal to any payment of Variation Margin that is, for whatever reason, not received by the Home Country Clearing House as and when due from one or more of the Destination Clearing House's Clearing Members with trades or positions in the Omnibus Account. When Eurex Clearing is the Home Country Clearing House, the Variation Margin Settlement Account must be at Deutsche Bundesbank (if eligible) or a correspondent bank which

holds an account at Deutsche Bundesbank. When The Clearing Corporation is the Home Country Clearing House, the Variation Margin Settlement Account must be with a U.S. commercial bank reasonably acceptable to The Clearing Corporation;

(iii) Each Clearing House shall use its reasonable best efforts to deliver to the Partner Clearing House as of the first Link Effective Date, and to assist its Partner Clearing House in its efforts to obtain, credit support in an amount determined as set forth in Section 7 and for the purpose as set forth in Section 0, it being understood that:

(A) the credit support to be provided by The Clearing Corporation to Eurex Clearing shall be •; and

(B) the credit support to be provided by Eurex Clearing to The Clearing Corporation shall be •,

(such credit support, whether provided under clause (A) or clause (B), the “**Credit Support**”).

(iv) Each Clearing House shall have obtained financing or otherwise established banking relationships on terms acceptable to it in its sole and absolute discretion sufficient to enable it to operate the Link as contemplated by this Agreement;

(v) Each Clearing House shall amend its Rules to accept the Partner Clearing House as a special Clearing Member (a “**Special Clearing Member**”) and to require such Special Clearing Member to deposit Original Margin in an amount to be agreed upon by the Parties taking into consideration the Credit Support provided by the Partner Clearing House and the lines of defense of the Partner Clearing House;

(vi) Each Clearing House covenants and agrees that unless required by applicable law, it will not, without the prior written consent of the Partner Clearing House, such consent not to be unreasonably withheld, amend the Rules attached hereto as Exhibit F;

(vii) Each Clearing House covenants and agrees that unless required by applicable law, it will not, without the prior written consent of the Partner Clearing House, such consent not to be unreasonably withheld, amend the Rules attached hereto as Exhibit G if such amendment could reasonably be expected to materially increase the credit risk of the Partner Clearing House;

(viii) Each Clearing House covenants and agrees that it will amend its Rules to provide that in the event of a default by one of its Clearing Members, the Partner Clearing House will have the same priority and other rights as such Clearing House (and, to the extent relevant, its Clearing Members) with respect to distributions from such Clearing House’s guaranty fund; provided, that neither Clearing House shall be obligated to make contributions to the guaranty fund of the Partner Clearing House; and

(ix) Each Clearing House covenants and agrees that unless required by applicable law it will not without the prior written consent of the Partner Clearing House, such

consent not to be unreasonably withheld, amend its Rules if such amendment would have a material adverse effect on the Partner Clearing House.

(c) *Omnibus Sub-Accounts.* Each Omnibus Account maintained on the books of a Home Country Clearing House for the Partner Clearing House shall contain one or more sub-accounts (each, an “**Omnibus Sub-Account**”). Each such Omnibus Sub-Account will reflect, for the purposes described in this Agreement, trades and positions in the Home Country Contracts of the Home Country Clearing House submitted by a Clearing Member of the Partner Clearing House.

(d) *Choice of Clearing House.* A Member of FEX making a trade in a FEX Contract shall have the option to have such Contract cleared and its position maintained with The Clearing Corporation, either in its own account (if such FEX Member is a Member of The Clearing Corporation) or the account of its Clearing Member, or to have such Contract cleared and position maintained by a Member of Eurex Clearing, either in its own account (if such FEX Member is a Member of Eurex Clearing) or the account of its Clearing Member. A Member of Eurex making a trade in a Eurex Contract may elect to have such Contract cleared and its position maintained with Eurex Clearing, either in its own account (if such Eurex Member is a Member of Eurex Clearing) or the account of its Clearing Member, or to have such Contract cleared and position maintained by a Member of The Clearing Corporation, either in its own account (if such Eurex Member is a Member of The Clearing Corporation) or the account of its Clearing Member.

(e) *Clearing Through the Link.* Clearing of a Contract through the Link shall take place if (i) the relevant Exchange Member has elected to have the trade cleared by a Clearing Member of the Partner Clearing House of the Primary Clearing House, or (ii) the Contract is a FEX-Traded Eurex Contract, regardless of whether the FEX Member has selected a Clearing Member of The Clearing Corporation or of Eurex Clearing to clear the trade.

(f) *Clearing House as Counterparty.* The Primary Clearing House shall become the Central Counterparty as set forth in its Rules. Subject to Section 3(a)(v), with respect to Contracts that are cleared through the Link, the Partner Clearing House shall (i) become a counterparty to the Primary Clearing House, and (ii) if applicable, shall additionally become counterparty to its own Clearing Member(s), simultaneously and in parallel to the Primary Clearing House becoming the Central Counterparty.

(g) *Trade Processing and Accounting.* Where the Partner Clearing House becomes counterparty to the Primary Clearing House as set forth in paragraph (f), trades recorded in the Partner Clearing House’s Omnibus Account at the Primary Clearing House shall be simultaneously and irrevocably deemed to have been recorded in parallel in the Omnibus Account of the Primary Clearing House at the Partner Clearing House, with the effect that a purchase (sale) in the Partner Clearing House’s Omnibus Account at the Primary Clearing House shall be recorded as a sale (purchase) in the Primary Clearing House’s Omnibus Account at the Partner Clearing House. Without limiting the generality of the foregoing, processing at the Clearing Houses in the relevant accounts shall take place as follows:

(i) If an Exchange Member elects to have a trade in a Contract (other than a FEX-Traded Eurex Contract) cleared by a Clearing Member of the Partner Clearing House of the Primary Clearing House, such trade will be cleared, and any resulting position maintained, (x) in the account of such Clearing Member at the Partner Clearing House, and (y) solely for purposes of the Link, (A) in the Partner Clearing House's Omnibus Account at the Primary Clearing House (with further designation to the Omnibus Sub-Account maintained for the Clearing Member of the Partner Clearing House), and (B) in the Primary Clearing House's Omnibus Account at the Partner Clearing House, thereby mirroring the trades and positions cleared and maintained in the Partner Clearing House's Omnibus Account at the Primary Clearing House pursuant to clause (A).

(ii) If a FEX Member elects to have a trade in a FEX-Traded Eurex Contract cleared by a Member of The Clearing Corporation, such trade will be cleared, and any resulting position maintained, (x) in the account of such Clearing Member at The Clearing Corporation, and (y) solely for purposes of the Link, (A) in Eurex Clearing's Omnibus Account at The Clearing Corporation (but not in an Omnibus Sub-Account), and (B) in The Clearing Corporation's Omnibus Account at Eurex Clearing (with further designation to the Omnibus Sub-Account maintained for the Clearing Member of The Clearing Corporation), thereby mirroring the trades and positions cleared and maintained in Eurex Clearing's Omnibus Account at The Clearing Corporation pursuant to clause (A).

(iii) If a FEX Member elects to have a trade in a FEX-Traded Eurex Contract cleared by a Member of Eurex Clearing, such trade will be cleared, and any resulting position maintained, (x) in the account of such Clearing Member at Eurex Clearing, and (y) solely for purposes of the Link, (A) in Eurex Clearing's Omnibus Account at The Clearing Corporation (but not in an Omnibus Sub-Account), and (B) in The Clearing Corporation's Omnibus Account at Eurex Clearing, thereby mirroring the trades and positions cleared and maintained in Eurex Clearing's Omnibus Account at The Clearing Corporation pursuant to clause (A).

(h) *Clearing House Rules; Rule Conformity.* Each Clearing House shall, to the extent permitted by applicable law, amend its Rules as necessary for the implementation of the Link and the fulfillment of its obligations under this Agreement. With respect to Contracts for which a Clearing House is not the Home Country Clearing House, it shall, on an ongoing basis, amend its Rules, as appropriate, such that they conform at all times and in all material respects to the Rules of the Home Country Clearing House relating to (i) the payment and collection of Variation Margin; (ii) the exercise and assignment process for option contracts; (iii) the notification and allocation process for deliveries on futures contracts; (iv) physical deliveries (including delivery default procedures and penalties); (v) give-up and take-up processing; (vi) cash payments (including fees and charges for late deliveries and Variation Margin defaults); (vii) trade and position management; (viii) position and Open Interest reporting; (ix) timelines, holiday calendars, schedules and deadlines; (x) the offsetting of Contracts between the Clearing Houses; and (x) such other matters as the Parties may agree. Each Clearing House shall promptly notify the Partner Clearing House of any amendments to its Rules that relate to the implementation or operation of the Link and shall, except in the event of a physical or financial

emergency or if prevented by applicable law, consult with the Partner Clearing House prior to the implementation of such amendments to its Rules.

#### 4. Open Interest; Fungible Contracts

(a) *Open Interest; Regulatory Reporting.* Each Clearing House shall determine the total Open Interest in Contracts for which it is the Home Country Clearing House and shall promptly share such information with the Partner Clearing House for purposes of regulatory reporting. The Partner Clearing House shall provide such assistance as the Home Country Clearing House may reasonably request in support thereof.

(b) *Fungible Contracts.* The Clearing Corporation shall not offset or otherwise make any Contract fungible with contracts that are listed for trading by any exchange or market, other than Eurex or FEX, without the prior written consent of (i) Eurex Clearing, with respect to Eurex Contracts and FEX-Traded Eurex Contracts and (ii) FEX, with respect to FEX Contracts.

#### 5. Post-Trade Transactions

##### (a) *Process for Post-Trade Transactions.*

(i) Eurex Clearing and The Clearing Corporation will facilitate post-trade transactions including position transfers, give-ups/take-ups, split-ups and such other trade and position management and similar instructions as may be authorized from time to time by a Clearing House (“**Post-Trade Transactions**”). Post-Trade Transactions pursuant to this paragraph (a) shall be conducted in accordance with the Rules of the Home Country Clearing House, and, as applicable, the Exchange for which the Home Country Clearing House is the Primary Clearing House.

(ii) In connection with trades and positions held by a Member of a Clearing House (the “**Transferring Clearing House**”) regarding which such Member agrees with a Member of the other Clearing House (the “**Receiving Clearing House**”) on a Post-Trade Transaction, the Transferring Clearing House shall transmit to the Receiving Clearing House such details as are necessary to effect such Post-Trade Transaction pursuant to the Rules of the Home Country Clearing House. Provided such transmission is complete in all material respects, the Receiving Clearing House shall promptly notify its Clearing Member. The Receiving Clearing House shall, upon acceptance of the Post-Trade Transaction by its Member, notify the Transferring Clearing House, which shall notify its Member thereof.

(iii) Subject to clause (iv), the Transferring Clearing House and its Clearing Member shall cease being counterparties and, simultaneously, the Receiving Clearing House and its Clearing Member shall become counterparties of each other with respect to the trade that is the subject of the Post-Trade Transaction, each in accordance with the Rules of the Home Country Clearing House, as follows:

(A) the Transferring Clearing House and its Clearing Member shall cease being counterparties and be released from further obligations to each other with respect to each such trade or position, and their respective rights against each other thereunder shall be

cancelled (such rights and obligations being referred to herein as “**Discharged Rights and Obligations**”); and

(B) the Receiving Clearing House and its Clearing Member shall become counterparties and acquire rights against each other and assume obligations towards each other under a new Contract which rights and obligations differ from the Discharged Rights and Obligations only insofar as (1) the Receiving Clearing House and its Member have acquired and assumed the same in place of the Transferring Clearing House and its relevant Member, and (2) such new Contract is subject to the Rules of the Receiving Clearing House, and not those of the Transferring Clearing House.

(iv) If, prior to the Transferring Clearing House ceasing from being counterparty and the Receiving Clearing House becoming counterparty as described in clause (iii), a Member Default has occurred with respect to a Clearing Member (of either the Transferring Clearing House or the Receiving Clearing House) that is party to a Post-Trade Transaction, the Post-Trade Transaction shall be cancelled in accordance with the Rules of the Home Country Clearing House and the associated trade or position shall not be given up, transferred or otherwise affected pursuant to this paragraph (a).

(v) If, on any day on which a trade or position is to be given up, transferred or otherwise affected pursuant to this paragraph (a), the Receiving Clearing House (or the Exchange for which it is the Primary Clearing House) is closed for business, then such position shall not be so transferred, but shall continue to be held by the Transferring Clearing House and its Member in accordance with the Rules of the Transferring Clearing House. On the next following day on which the Transferring Clearing House, the Receiving Clearing House (and the Exchange for which it is the Primary Clearing House) are open for business (or at such earlier time as may be agreed by the Clearing Houses), the Transferring Clearing House shall transfer such position in accordance with this paragraph (a).

(vi) If either Clearing House is prevented from effecting a Post-Trade Transaction at the time and in the manner set out in this paragraph (a) by reason of a Force Majeure Event or if it becomes unlawful or impossible for either Clearing House to do so, then, as the case may be, such trades shall not be given up and such positions shall not be so transferred but shall continue to be held by such Clearing House and maintained in accordance with its Rules. Such Clearing House shall give up such trades or transfer such positions (as the case may be) in accordance with this paragraph (a) on the first Business Day immediately following the cessation of the event or circumstance constituting the Force Majeure Event or that renders an initial transfer unlawful or impossible, as the case may be, unless timely instructed to the contrary by the Clearing Member of the Transferring Clearing House and the Clearing Member of the Receiving Clearing House.

(b) *Reporting Requirements.* Each Clearing House shall report to the other Clearing House any Post-Trade Transaction between two of its Members regarding a Contract for which such Clearing House is not the Home Country Clearing House. If an open/close adjustment or re-opening of a previously closed position is made by the Member of a Clearing House with respect to a Contract for which such Clearing House is not the Home Country

Clearing House, such transaction shall be reported to the Home Country Clearing House for replication in the relevant Omnibus Sub-Account.

6. Clearing Link Services

(a) *Original Margin.* If and for as long as a position is held by a Clearing Member, the Destination Clearing House shall calculate and collect Original Margin for such position from such Member in accordance with its Rules.

(b) *Variation Margin.*

(i) The Home Country Clearing House shall be responsible for the administration of Variation Margin for its Home Country Contracts. With respect to such Contracts, the Home Country Clearing House will (x) pay and collect Variation Margin to and from its own Clearing Members; (y) pay and collect Variation Margin to and from the Partner Clearing House's Clearing Members, as agent on behalf of the Partner Clearing House; and (z) collect Variation Margin from the Partner Clearing House, but only as necessary to cover a default or other failure of a Clearing Member of the Partner Clearing House to pay timely and in full.

(A) Whenever the Home Country Clearing House calculates and collects Variation Margin on its Home Country Contracts from the Partner Clearing House's Clearing Members, it shall do so solely in its capacity as agent for the Partner Clearing House, and not in its individual capacity, it shall hold such collected amounts in trust for the benefit of the Partner Clearing House, for distribution under paragraph (C) below, and it shall identify such amounts on its books and records.

(B) Similarly, when the Home Country Clearing House (with respect to its Home Country Contracts), owes Variation Margin to the Partner Clearing House, rather than pay such amounts directly to the Partner Clearing House, the Home Country Clearing House shall, solely in its capacity as agent for the Partner Clearing House, hold such amounts in trust for the benefit of the Partner Clearing House, for distribution under paragraph (C) below, and it shall identify such amounts on its books and records.

(C) The Home Country Clearing House, solely in its capacity as agent for the Partner Clearing House, and not in its individual capacity, shall distribute the amounts that it holds in trust pursuant to paragraphs (A) and (B);

- i. first, to itself in its capacity as counterparty to the Partner Clearing House under this Agreement or, if determined by it, to its Clearing Members; and
- ii. second and subject to paragraph (D), to the Clearing Members of the Partner Clearing House. Distributions made under this clause (C)(ii) are made by the Home Country Clearing House solely in its capacity as agent for the Partner Clearing House. Distribution of

amounts collected pursuant to paragraph (A) are not in respect of, and shall not be deemed to be payment in satisfaction of, any Variation Margin due between the Clearing Houses on any Contracts.

Any such distributions to Clearing Members of the Partner Clearing House shall be made by crediting the Variation Margin Settlement Accounts of such Clearing Members.

(D) If one or more Clearing Members of the Partner Clearing House fail to make required Variation Margin payments that the Home Country Clearing House seeks to collect and the Partner Clearing House does not make such payments to the Home Country Clearing House, in each case timely and in full, the Home Country Clearing House will not distribute Variation Margin to Clearing Members of the Partner Clearing House pursuant to clause (C)(ii) until it receives instructions from the Partner Clearing House as to which Clearing Members of the Partner Clearing House Variation Margin shall be distributed and in what amounts.

(ii) Consistent therewith, the Partner Clearing House shall adopt and enforce Rules that provide for the payment and collection of Variation Margin by its Clearing Members in a form and manner, and at such time or times, as may be required by the Rules of the Home Country Clearing House.

(iii) The settlement price for each open Contract will be set by the Home Country Clearing House in accordance with its Rules and the Rules of the Exchange for which it is the Primary Clearing House, as such Rules are applicable; provided that the Partner Clearing House may apply a different settlement price for its own risk management purposes (but not for Variation Margin).

(c) *Delivery.*

(i) The Home Country Clearing House shall establish and give effect to delivery procedures for its Home Country Contracts as set forth in paragraph (f) with respect to (x) its own Members, and (y) the Clearing Members of the Partner Clearing House, as agent for the Partner Clearing House.

(ii) With respect to the physical delivery process for Contracts that are not its Home Country Contracts, the Partner Clearing House shall conform its Rules regarding the delivery process (including delivery default procedures) in all material respects to those established by the Home Country Clearing House. Without limitation of the foregoing, (A) The Clearing Corporation shall cause its Members that are clearing Contracts through the Link to authorize Eurex Clearing to debit or credit such Clearing Member's Settlement Account as contemplated in Section 3(a)(iii), and (B) Eurex Clearing shall cause Members that are clearing FEX Contracts (other than FEX-Traded Eurex Contracts) through the Link to make and take delivery in satisfaction of such futures contracts in accordance with instructions given by The Clearing Corporation as contemplated in Section 3(a)(iv).

(iii) Any failure of a Clearing Member of the Partner Clearing House to make delivery to a Clearing Member of the Home Country Clearing House in accordance with the delivery procedure required by the Rules of and facilitated by the Home Country Clearing House shall constitute a delivery failure of the Partner Clearing House as set forth in Section 8(a)(ii).

(d) *Termination of Authority of Home Country Clearing House.* Any power of attorney or other right or authority to collect Variation Margin, debit Settlement Accounts, or instruct deliveries that is held by the Home Country Clearing House with respect to the Partner Clearing House or Members of the Partner Clearing House, as contemplated in Sections 3(a) and 3(b) and paragraphs (b) and (c), shall be subject to termination by the Partner Clearing House as necessary to exercise the remedy in Section 8(d)(iv) when a Default Event with respect to the Home Country Clearing House has occurred and is continuing.

(e) *Reconciliation.* It is the intention and expectation of the Parties that data and other information relating to trades and positions that have been transferred through the Link will match and be in balance at the Clearing Houses. In furtherance thereof, Eurex Clearing and The Clearing Corporation will exchange position data at such times and in such manner as may be agreed by the Clearing Houses from time to time. In the event of any discrepancies, the Clearing Houses will take steps to reconcile their books and records based on the trade and position data of the Exchange where the trade was executed to eliminate such discrepancies as soon as possible. The Home Country Clearing House shall be deemed to be holding the correct positions until the Parties have resolved any discrepancies.

(f) *Notification and Allocation; Exercise and Assignment.* The Home Country Clearing House shall be responsible for the acceptance of all delivery and exercise notices and the allocation and assignment thereof, regardless of whether the Clearing Member issuing such notice is a Member of the Home Country Clearing House. If a Member of the Partner Clearing House issues a notice of intent to deliver or exercise instructions, such Member shall promptly deliver such notice of intent to deliver or exercise instructions to the Home Country Clearing House, which shall receive the same solely in its capacity as an agent for the Partner Clearing House, in such form and by such times as the Clearing Houses may agree from time to time. The Home Country Clearing House shall in all cases allocate delivery notices and assign exercise instructions to Members of either Clearing House in accordance with its Rules; provided, that in the event that a delivery notice is allocated or an exercise notice is assigned to a Clearing Member of the Partner Clearing House, the Home Country Clearing House, solely in its capacity as an agent for the Partner Clearing House, shall promptly deliver the same to the Clearing Member of the Partner Clearing House in such form and by such times as the Clearing Houses may agree from time to time. The Clearing Houses shall in all cases process these instructions for the account of their respective Members, including supplying their Members with all information necessary to effect or accept delivery of the instrument underlying a futures contract (where applicable). Consistent with the foregoing, each of the Clearing Houses shall amend its Rules, as appropriate, to conform its Rules in all material respects to the Rules of the Home Country Clearing House relating to notification, allocation, deliveries, and the exercise and assignment of options.

(g) *Information.* Each of the Clearing Houses shall provide any such information to the Partner Clearing House that the Partner Clearing House reasonably requires in connection with the fulfillment of its responsibilities as set forth in this Agreement.

## 7. Required Credit Support Amount

(a) *Calculation of the Required Credit Support Amount.* Each Clearing House shall provide to the other Clearing House Credit Support in the form set forth in Section 3(b)(iii). The required amount of such Credit Support (the “**Required Credit Support Amount**”) shall be determined by the Clearing House providing such Credit Support utilizing four hypothetical scenarios (each, a “**Stress Test Scenario**”) where •:

(b) *Initial Required Credit Support Amount.* The Required Credit Support Amount shall initially (as of the first Link Effective Date) be US \$• with respect to Credit Support to be provided by Eurex Clearing and EUR • with respect to Credit Support to be provided by The Clearing Corporation, and shall not be decreased within the first six (6) months from the first Link Effective Date.

(c) *Monitoring and Adjusting the Amount of Credit Support.*

(i) The Required Credit Support Amount will be determined daily by the Clearing House providing the related Credit Support, which shall promptly notify the other Clearing House of the amount so determined.

(ii) Subject to clause (iii) below, the amount of Credit Support provided by a Clearing House pursuant to Section 3(b)(iii) shall be adjusted as follows:

(A) every three months starting from the first Link Effective Date, to equal the greater of (x) the average Required Credit Support Amount for such Clearing House calculated during the prior three months’ period (the “**Calculation Period**”) plus •, and (y) the highest Required Credit Support Amount for such Clearing House calculated during such prior Calculation Period (the “**Periodic Adjustment**”); and

(B) at any time, if the Required Credit Support Amount for such Clearing House •.

(iii) The amount of the Credit Support shall not be adjusted pursuant to clause (ii) above unless such adjustment amount exceeds the lesser of (x) US\$ • (or the equivalent in EUR), or (y) •.

(iv) Where the amount of the Credit Support must be adjusted in accordance with clause (ii) or (iii) above, the adjusted Credit Support must be in place on or prior to the tenth Partner Clearing House Business Day, from the delivery of a notice (requesting such adjustment and specifying the size of such adjustment) to the Clearing House obligated to provide such Credit Support.

(v) Where the Credit Support is cancelled, expires or is drawn (in full or in part) by the Creditor Clearing House in accordance with Sections 8(c)(i) or 8(d)(i), the Credit Support must be replaced in the Required Credit Support Amount within (i) one Partner Clearing House Business Day of the occurrence of such event or (ii) ten Partner Clearing House Business Days of the occurrence of such event, if the Debtor Clearing House within one Partner Clearing House Business Day of the occurrence of such event deposits cash or financial instruments that the Partner Clearing House accepts as Original Margin into an account designated by the Partner Clearing House as collateral and the value of such collateral equals the amount in which the Credit Support needs to be replaced, such collateral to be returned to the Debtor Clearing House promptly upon its restoration of the Credit Support to the Required Credit Support Amount.

*(d) Reporting, Audits and Dispute Resolution.*

(i) For the purpose of continuously calculating the Required Credit Support Amount, each Clearing House shall report to the Partner Clearing House on a daily basis total collateral held by it, the total margin requirements, and its Margin Parameters.

(ii) Each Clearing House shall further monitor its Margin Parameters, admission and default procedures and lines of defense including capital and guarantees on a regular basis and consult with the Partner Clearing House with respect to any changes to any of the foregoing. Each Clearing House shall have the right to audit the Partner Clearing House (by itself or with the assistance of its professional advisers, on reasonable prior notice, during normal business hours and at its own expense) with respect to the risk management and admission procedures of the Partner Clearing House and the data required for the calculation of the Required Credit Support Amount.

(iii) The Clearing Houses will cooperate to ensure that the calculation of the Required Credit Support Amount pursuant to Section 7(a) reasonably reflects the material credit risks borne by each of the Clearing Houses in connection with the Link.

(iv) Any dispute between the Parties with respect to the calculation of the Required Credit Support Amount (a “**Dispute**”) will be dealt with as set forth in this clause (iv):

(A) In the event that the Clearing House receiving the Credit Support disagrees with the calculation of the Required Credit Support Amount by the Clearing House providing the Credit Support (a “**Calculation Dispute**”), such Clearing House shall notify the other Clearing House thereof without undue delay. Such notice (a “**Dispute Notice**”) shall in each case contain sufficient information to enable the other Clearing House to reasonably evaluate the Dispute.

(B) If at any time that is at least one year after the Execution Date, a Clearing House reasonably believes that the calculation of the Required Credit Support Amount pursuant to Section 7(a) does not reasonably reflect the material credit risks borne by such Clearing House in connection with the Link (a “**Methodology Dispute**”), such Clearing House shall notify the other Clearing House (such notice, also a “**Dispute Notice**”).

(C) The Parties shall exercise reasonable, good faith efforts to resolve each Dispute. If the Parties cannot resolve a Calculation Dispute within one week of the receipt of the Dispute Notice, or a Methodology Dispute within 60 days of the receipt of the Dispute Notice, the Dispute shall be referred to the CEOs of the Parties for further discussion and resolution.

(D) This Agreement may be terminated in accordance with Section 18(h) if (x) a Calculation Dispute involves an amount that is at least USD one million (or the EUR equivalent thereof) or ten percent of the last undisputed Required Credit Support Amount received by the disputing Party and the CEOs, acting in good faith and using all reasonable efforts are unable to, or fail to, resolve the Calculation Dispute within one week of the reference to them, or (y) a Methodology Dispute involves an amount that is at least ten percent of the last undisputed Required Credit Support Amount received by the disputing Party and the CEOs, acting in good faith and using all reasonable efforts are unable to, or fail to, resolve the Methodology Dispute within 60 days of the reference to them (or, in either case, such greater time as the Clearing Houses may, in their sole discretion, agree in writing).

#### 8. Draw Event; Default Event; Remedies

(a) *Draw Event.* A Draw Event (as defined herein) shall occur where a Clearing House (the “**Debtor Clearing House**”) is unable to fulfill its obligations to the Partner Clearing House (the “**Creditor Clearing House**”) as follows:

(i) where the Debtor Clearing House (x) fails to satisfy a Variation Margin default by one or more of its Clearing Members, or (y) does not pay fees or fines arising out of such Variation Margin default that are chargeable to the Debtor Clearing House pursuant to the Rules of the Home Country Clearing House;

(ii) where the Debtor Clearing House (x) fails to satisfy a loss resulting from a failure by one or more of its Clearing Members to deliver or accept securities in accordance with the Rules of the Home Country Clearing House, or (y) does not pay fees or fines arising out of such failure that are chargeable to the Debtor Clearing House pursuant to the Rules of the Home Country Clearing House; or

(iii) where the Debtor Clearing House is the Home Country Clearing House and fails for any reason to (x) release Variation Margin credits or (y) make or accept deliveries that are due to the Creditor Clearing House or to the Clearing Members of the Creditor Clearing House or (z) does not pay or release applicable fees or fines to the Creditor Country Clearing House;

(each, a “**Draw Event**”); provided, however, that a Draw Event shall not occur in cases of amounts owing by the Debtor Clearing House pursuant to clauses (i) and (ii) above if: (A) the aggregate net amount owing by the Debtor Clearing House to the Creditor Clearing House pursuant to clauses (i)-(iii) above does not exceed the lesser of (x) US \$ • (or the EUR equivalent thereof) and (y) •% of the Credit Support provided by the Debtor Clearing House; and (B) such amount has been owing for less than one Partner Clearing House Business Day; and provided

further that the Creditor Clearing House may in such circumstances charge the Debtor Clearing House default interest on such amount at a rate equal to the higher of (x) the Market Interest Rate plus 1 percent, or (y) the interest rate that the Creditor Clearing House incurs when it borrows as needed to satisfy the related payments or deliveries that the Creditor Clearing House owes to its Clearing Members.

(b) *Default Event.* A Clearing House (the “**Defaulting Clearing House**”) shall be deemed to be in default in the event that it is unable to fulfill its obligations to the Partner Clearing House (the “**Non-defaulting Clearing House**”) as follows:

(i) where a Clearing House fails to deliver the Credit Support in the Required Credit Support Amount or the Credit Support is cancelled, expires or is drawn (in full or in part) and is not replaced by the Partner Clearing House in accordance with Section 7(c)(v);

(ii) where the net obligations of the Debtor Clearing House set forth in paragraphs (a)(i)-(iii) exceed the amount of the Credit Support;

(iii) where the Non-defaulting Clearing House reasonably considers it necessary for its protection and notifies the Defaulting Clearing House that a Draw Event shall constitute a Default Event; or

(iv) where a Clearing House becomes Bankrupt

(each, a “**Default Event**”).

(c) *Draw Event Remedies.* Upon the occurrence of a Draw Event, the Creditor Clearing House may take the following measures using its reasonable best efforts to coordinate such measures with the Debtor Clearing House, it being understood that, where such coordination is not practicable or appropriate with regard to the specific circumstances of the Draw Event, the Creditor Clearing House may decide on the necessary measures at its reasonable discretion:

(i) Drawing on the Credit Support provided by the Debtor Clearing House in the net amount of the defaulted payments, including any Delivery Failure Losses, after deduction of any amounts payable to the Debtor Clearing House in respect of Variation Margin or deliveries including applicable fees or fines; and

(ii) Charging the Debtor Clearing House default interest on the defaulted net amount including any Delivery Failure Losses at a rate equal to the higher of (x) the Market Interest Rate plus 1 percent, or (y) the interest rate that the Creditor Clearing House incurs when it borrows as needed to satisfy the related payments or deliveries that the Creditor Clearing House owes to its Clearing Members.

(d) *Default Event Remedies.* Upon the occurrence of a Default Event, the Non-defaulting Clearing House may take the following measures using its reasonable best efforts to coordinate such measures with the Defaulting Clearing House, it being understood that, where such coordination is not practicable or appropriate with regard to the specific circumstances of

the Default Event, the Non-defaulting Clearing House may decide on the necessary measures at its reasonable discretion:

(i) Drawing on the Credit Support provided by the Defaulting Clearing House in the net amount of the defaulted payments, including any Delivery Failure Losses, after deduction of any amounts payable to the Defaulting Clearing House in respect of Variation Margin or deliveries including applicable fees or fines; and

(ii) Charging the Defaulting Clearing House default interest on the defaulted net amount including any Delivery Failure Losses at a rate equal to the higher of (x) the Market Interest Rate plus 1 percent, or (y) the interest rate that the Non-defaulting Clearing House incurs when it borrows as needed to satisfy the related payments or deliveries that the Non-defaulting Clearing House owes to its Clearing Members;

(iii) At the option of the Non-defaulting Clearing House (and without prior notice to the Defaulting Clearing House) reducing and setting off the aggregate of amounts (the “**Payer Amount**”) payable to one Party (the “**Payee**”) by the other Party (the “**Payer**”) against the aggregate of any amounts payable by the Payee to the Payer (“**Payee Amount**”) (whether or not arising under this Agreement, matured or contingent and irrespective of the currency, place of payment or place of booking of the obligation). For the avoidance of doubt, the Payer Amount and Payee Amount shall include Trust Amounts. The Payee Amount will be discharged promptly and in all respects to the extent it is so set-off. The Non-defaulting Clearing House will give prompt notice to the Defaulting Clearing House of any set-off effected pursuant to this paragraph. For this purpose, either the Payer Amount or the Payee Amount (or the relevant portion of such amounts) may be converted by the Non-defaulting Clearing House into the currency in which the other obligation is denominated at the rate of exchange at which such party would be able, acting in a commercially reasonable manner and in good faith, to purchase the relevant amount of such currency. If the amount of an obligation is unascertained, the Non-defaulting Clearing House may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained. Nothing in this provision will be effective to create a charge or other security interest. This provision will be without prejudice and is in addition to any right of set-off, combination of accounts, lien, netting, offset, recoupment, or other rights to which any Party is at any time otherwise entitled (whether by operation of law, contract, or otherwise);

(iv) Terminating, immediately upon written notice from the Non-defaulting Clearing House to the Defaulting Clearing House, the agency authority (and any related power of attorney or other right or authority) of the Defaulting Clearing House under Sections 3(a), 3(b), 6(b) and 6(c) to collect and distribute Variation Margin, debit and credit Settlement Accounts, or instruct deliveries with respect to the Variation Margin Settlement Accounts and Settlement Accounts of the Non-defaulting Clearing House and its Clearing Members. Following any such termination (i) the Defaulting Clearing House shall, to the extent permitted by applicable law, promptly transfer to the Non-defaulting Clearing House any amounts or deliverable items then held in trust by the Defaulting Clearing House for the Non-defaulting Clearing House, (ii) any amounts or deliveries that thereafter become due from the Defaulting Clearing House to the Non-defaulting Clearing House on the Home Country

Contracts of the Defaulting Clearing House shall be paid or delivered directly from the Defaulting Clearing House to the Non-defaulting Clearing House, and (iii) the Non-defaulting Clearing House shall commence collecting the relevant amounts and deliverable items from (or giving the relevant delivery instructions to) its own Clearing Members, and distributing them to its Clearing Members and/or the Defaulting Clearing House as appropriate to cover the Non-defaulting Clearing House's obligations to pay or deliver to such persons; and

(v) Liquidating all or a portion of the open Contracts in the Omnibus Accounts as follows:

(A) The Non-defaulting Clearing House may cause such Contracts to be offset against each other;

(B) The Non-defaulting Clearing House may cause such Contracts to be (x) closed in the open market (on either FEX or Eurex) or (y) settled at the settlement price for such Contracts or, if no settlement price is available, or the Non-defaulting Clearing House reasonably believes that such settlement price is not fairly reflective of market conditions, at such other price or prices as the Non-defaulting Clearing House may deem fair and reasonable in the circumstances. The Non-defaulting Clearing House may defer closing or otherwise settling such Contracts if, in its discretion, it determines that the closing out of some or all of such Contracts would not be in the best interests of the Non-defaulting Clearing House or its Members, taking into account the size and nature of the Contracts in question, market conditions prevailing at the time, the potential market effects of such liquidating transactions as might be directed by the Non-defaulting Clearing House, and such other circumstances as it deems relevant; and

(C) The final amount owing between the Parties in respect of each such terminated Contract shall be determined by reference to such closing transactions or prices, and subject to the offset and set-off provisions herein, the debit balance owing by either Party to the other in respect of each such early terminated Contract shall be immediately due and payable.

(vi) Terminating this Agreement in accordance with Section 18(g).

#### 9. Compliance with Requirements of Regulatory Authorities

(a) *Notice.* Each of the Clearing Houses shall promptly notify the other of any action taken by a Governmental Authority that, in the reasonable judgment of such notifying Party, has or is reasonably expected to have a material adverse effect on the performance of such Party's obligations under this Agreement or will necessitate changes to the systems, programs or related documentation, utilized by it to perform its obligations under this Agreement.

(b) *Assistance with Regulatory Matters.* Each of the Clearing Houses agrees to actively participate in, and make available sufficient human and technical resources for, any submissions or presentations to, or meetings or discussions with a Governmental Authority having jurisdiction over Eurex Clearing regarding the Link. If a Party reasonably determines that its active participation in such submissions, presentations, meetings or discussions may result in the disclosure of its confidential or proprietary information, the other Parties will

cooperate with such Party to secure appropriate nondisclosure and confidentiality commitments from such Governmental Authorities prior to requiring such Party's active participation in any such submissions, presentations, meetings or discussions.

(c) *Regulatory Requirements.* Each of the Clearing Houses shall be individually responsible for making changes, at its own expense, to its systems, software, equipment, procedures and Rules as may be necessary from time to time to comply with applicable law and regulatory requirements imposed upon it.

#### 10. Fees; Cost Reimbursement

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#### 11. Liability

(a) *Clearing Corporation Obligations.* The performance of The Clearing Corporation under this Agreement is contingent upon Eurex Clearing performing its responsibilities hereunder. To the extent that The Clearing Corporation is unable to perform any obligation (or to the extent its ability to perform such obligation is impaired) as a result of the failure of Eurex Clearing or its vendors, a settlement bank or custodian of Eurex Clearing, or other Person (other than any Person employed by, providing services to or otherwise acting for or on behalf of The Clearing Corporation) to perform its responsibilities on a timely basis, the time for The Clearing Corporation's performance shall be extended to the extent of any such delay or, as applicable, the scope of The Clearing Corporation's performance shall be reduced to the extent of any such impairment and The Clearing Corporation shall not incur any liability to Eurex Clearing or any Clearing Member of Eurex Clearing as a result of such delay or reduction.

(b) *Eurex Clearing Obligations.* The performance of Eurex Clearing under this Agreement is contingent upon The Clearing Corporation performing its responsibilities hereunder. To the extent that Eurex Clearing is unable to perform any obligation (or to the extent its ability to perform such obligation is impaired) as a result of the failure of The Clearing Corporation and/or its vendors, a settlement bank or custodian of The Clearing Corporation, or other Person (other than any Person employed by, providing services to or otherwise acting for or on behalf of the Eurex Clearing) to perform its responsibilities on a timely basis, the time for Eurex Clearing's performance shall be extended to the extent of any such delay or, as applicable, the scope of Eurex Clearing's performance shall be reduced to the extent of any such impairment and Eurex Clearing shall not incur any liability to The Clearing Corporation or any Clearing Member of The Clearing Corporation as a result of such delay or reduction.

(c) *Limitation of Liability.* EXCEPT AS SET FORTH IN SECTION 12 AND EXCEPT WITH RESPECT TO ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, A PARTY SHALL NOT BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF ITS OBLIGATIONS PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE; PROVIDED, HOWEVER, THAT THIS LIMITATION OF LIABILITY SHALL NOT APPLY WITH RESPECT TO THE OBLIGATIONS OF THE PARTIES TO TRANSFER

MARGIN OR TO MAKE PHYSICAL DELIVERY IN CONNECTION WITH ANY CONTRACTS CLEARED THROUGH THE LINK AND/OR TO PAY ANY BALANCE DUE UNDER SECTION 8(d)(v) IN CONNECTION WITH EARLY TERMINATED CONTRACTS. IN NO EVENT, INCLUDING GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, SHALL ANY PARTY BE LIABLE FOR PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, SAVINGS, COMPETITIVE ADVANTAGE, GOODWILL, OR BUSINESS INTERRUPTION), REGARDLESS OF WHETHER THE PARTY ALLEGEDLY CAUSING THE DAMAGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(d) *Bargained for Understanding.* The allocations of liability in this Section 11 represent the agreed and bargained for understanding of the Parties, and each Party acknowledges that the other Party's rights and obligations hereunder reflect such allocations. The Parties agree that they will not allege that this remedy fails its essential purpose.

## 12. Indemnification

(a) *By The Clearing Corporation.* The Clearing Corporation shall, at its sole expense, defend, indemnify and hold harmless Eurex Clearing and its Representatives, on an after-tax basis, from and against all losses, liabilities, claims, damages, settlements, judgments, awards, actions, suits and costs whatsoever, including reasonable attorneys' fees and disbursements and the reasonable costs of enforcing this indemnity (collectively, "**Losses**"), based upon, arising out of, or relating to:

(i) Any third-party claim, demand, action, suit or proceeding of any nature ("**Proceeding**"), or any threatened Proceeding, that arises out of, or relates to, an allegation that any portion of the data, data files and other information created by The Clearing Corporation and provided to Eurex Clearing (and excluding any data, data files or other information provided by Eurex Clearing or Clearing Members for whom Eurex Clearing is the Destination Clearing House), or any use thereof by or for the benefit of Eurex Clearing as contemplated hereunder (excluding, for the avoidance of doubt, uses by or for the benefit of Eurex Clearing not authorized hereunder), infringes upon, violates or misappropriates any patent, trademark, service mark, copyright or other intellectual property or other rights of any Person;

(ii) Any Proceeding, or threatened Proceeding, that arises out of, or relates to, an allegation that The Clearing Corporation has violated applicable law, including in connection with the enforcement (or failure to enforce) its Rules; and

(iii) Any Proceeding, or any threatened Proceeding, that arises out of or relates to, the gross negligence, bad faith or willful misconduct of The Clearing Corporation in connection with the performance of its obligations under this Agreement.

(b) *By Eurex Clearing.* Eurex Clearing shall, at its sole expense, defend, indemnify and hold harmless The Clearing Corporation and its Representatives, on an after-tax basis, from and against all Losses based upon, arising out of, or relating to:

(i) Any Proceeding, or any threatened Proceeding, that arises out of, or relates to, an allegation that any portion of the data, data files and other information created by Eurex Clearing and provided to The Clearing Corporation (and excluding any data, data files or other information provided by The Clearing Corporation or Clearing Members for whom The Clearing Corporation is the Destination Clearing House), or any use thereof by or for the benefit of The Clearing Corporation as contemplated hereunder (excluding, for the avoidance of doubt, uses by or for the benefit of The Clearing Corporation not authorized hereunder), infringes upon, violates or misappropriates any patent, trademark, service mark, copyright or other intellectual property or other rights of any Person, but excluding for this purpose United States Patent No. 4,903,201, commonly known as the “Wagner Patent”;

(ii) Any Proceeding, or threatened Proceeding, that arises out of, or relates to, an allegation that Eurex Clearing has violated applicable law, including in connection with the enforcement of (or failure to enforce) its Rules; and

(iii) Any Proceeding, or any threatened Proceeding, that arises out of or relates to, the gross negligence, bad faith or willful misconduct of Eurex Clearing in connection with the performance of its obligations under this Agreement.

(c) *Procedure.* If any Proceeding is commenced against a Person entitled to indemnification under paragraph (a) or (b) hereof (the “**Indemnified Party**”), notice thereof shall be given to the Party that is obliged to give the indemnification (the “**Indemnifying Party**”) as soon as reasonably possible. If, after such notice, the Indemnifying Party acknowledges that this Agreement applies with respect to such claim, the Indemnifying Party shall be entitled, if it so elects, in a notice promptly delivered to the Indemnified Party, but in no event less than ten days prior to the date on which a response to such claim is due, to immediately take control of the defense and investigation of such claim. The Indemnified Party shall cooperate, at the Indemnifying Party’s cost, in all reasonable respects with the Indemnifying Party and its attorneys in the investigation, trial and defense of such claim and any appeal arising therefrom; provided, however, that the Indemnified Party may, at its own cost and expense, participate, through its attorneys or otherwise, in such investigation, trial and defense of such claim and any appeal arising therefrom. The Indemnifying Party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there shall be a final judgment for the plaintiff, the Indemnifying Party agrees to indemnify the Indemnified Party from and against any loss or liability by reason of such settlement or judgment. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional release of such Indemnified Party from all liability arising from such proceeding. If, after investigation of the facts known at the time, the Indemnifying Party disputes its obligation to indemnify the Indemnified Party: (i) the Indemnifying Party and the Indemnified Party shall cooperate to ensure that timely and adequate defense of the claim is provided; (ii) all defense costs shall initially be shared equally; and (iii) the dispute regarding the Indemnifying Party’s obligation to indemnify shall be resolved in accordance with the provisions of Section 33; provided that, if such dispute between the Indemnifying Party and the Indemnified Party is finally resolved in

favor of the Indemnifying Party, all such defense costs shall be borne by the Indemnified Party, and if the matter is finally resolved in favor of the Indemnified Party, all such defense costs shall be borne by the Indemnifying Party.

(d) *Not Exclusive Remedy.* The indemnification provided by this Section 12 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any constituent document, agreement, or otherwise, and shall inure to the benefit of the successors, assigns, heirs, executors and administrators of such a Person.

### 13. Proprietary Rights

(a) *Ownership.* Except as expressly provided below, or as otherwise agreed by the Parties, all systems, software, equipment and other intellectual property developed, purchased or licensed by or for a Party, including any modifications or improvements made thereto, shall remain the sole property of such Party.

#### (b) *Clearing Data and Data Files.*

(i) Subject to clause (ii), all data and data files created by Eurex Clearing relating to transactions in Contracts shall remain the sole property of Eurex Clearing, and all data and data files created by The Clearing Corporation relating to transactions in Contracts shall remain the sole property of The Clearing Corporation; provided that in each case the Partner Clearing House shall have a perpetual, worldwide, paid-up, royalty-free license to use and modify such data and data files (A) to satisfy its regulatory and self-regulatory obligations, (B) as otherwise required by applicable law (including legal process or order of a court of competent jurisdiction), (C) to provide such data and data files to persons designated by the Clearing House creating the data, and (D) in connection with the creation of its own data and data files.

(ii) All data and data files created by the Home Country Clearing House relating to Clearing Members of the Partner Clearing House shall belong to Eurex Clearing and The Clearing Corporation jointly. In respect of such data, each Clearing House shall be free to use the data and data files as if it had sole ownership, including the right to grant licenses to third parties without the other Clearing House's consent.

(c) *Remedy.* Each of the Parties acknowledges and agrees that any material breach by it of this Section 13 would cause immediate and irreparable harm to the other Party not capable of being fully compensated by monetary damages and for which such other Party would have no adequate remedy at law. Each of the Parties further agrees that, in the event of a breach by it of this Section 13, the other Party, in addition to all other rights and remedies it may have under this Agreement and at law or in equity, shall be entitled to immediate injunctive relief without proof of actual damages or the posting of bond or other security and such other Party may immediately request any judicial action it deems necessary, including, without limitation, a demand for a temporary, preliminary or permanent mandatory injunction.

#### 14. Confidentiality

(a) During the term of this Agreement and for a period of five years thereafter, the Receiving Party shall maintain Confidential Information in confidence, and shall not disclose, divulge or otherwise communicate such Confidential Information to others, or use it for any purpose, except pursuant to, and in order to carry out, the terms and objectives of this Agreement. The Receiving Party hereby agrees to exercise every reasonable precaution to prevent and restrain the unauthorized disclosure of such Confidential Information by any of its Representatives or subcontractors. The Parties shall be deemed to have fulfilled their confidentiality obligations hereunder by protecting Confidential Information in the same manner that they protect the confidentiality of their own proprietary and confidential information of like kind, but in any event with not less than reasonable care. Upon the termination or expiration of this Agreement, each of the Parties hereby agrees to return to the other, upon demand, all Confidential Information in its possession or, upon demand, to destroy such Confidential Information and provide a certificate to the other of such destruction; provided, however, that The Clearing Corporation shall be permitted to retain an archival copy of the Confidential Information to the extent such retention is required by applicable law, including regulations of the CFTC.

(b) The provisions of paragraph (a) shall not apply to any Confidential Information disclosed hereunder that:

(i) Is lawfully disclosed to the Receiving Party by an independent, unaffiliated Person rightfully in possession of the Confidential Information and under no confidentiality or fiduciary obligation not to make disclosure;

(ii) Becomes published or generally known to the public through no fault or omission on the part of the Receiving Party, its Representatives or subcontractors;

(iii) Is developed independently by the Receiving Party without access to the Confidential Information of the Disclosing Party;

(iv) Is legally required to be disclosed to any Governmental Authority;

or

(v) A Receiving Party is legally compelled to disclose; provided, however, that the Receiving Party shall, to the extent practicable, provide prompt written notice of such requirement to the Disclosing Party so that the Disclosing Party may seek a protective order or other remedy or waive compliance with the provisions hereof; and provided further that in the event that such protective order or other remedy is not obtained or the Disclosing Party does not waive compliance with the provisions hereof, the Receiving Party shall be permitted to furnish only that portion of such Confidential Information that is legally required to be provided and the Receiving Party shall exercise its reasonable best efforts to obtain assurances that confidential treatment shall be accorded such information.

(c) No press release related to this Agreement or the transactions contemplated herein, or any other announcement or communication relating to the subject matter of this

Agreement shall be issued or made without the consent of the other Party, except any public disclosure which a Party in its good faith judgment believes is required by applicable law (in which case the Party making the disclosure will use its commercially reasonable efforts to consult with the other Party prior to making any such disclosure).

(d) Notwithstanding anything herein to the contrary, each Party and its Representatives may consult with its professional advisors regarding the tax treatment of and tax structure contemplated hereby and, from and after the date hereof, may disclose to any Person, without limitation of any kind, the tax treatment and tax structure of such transactions and all materials (including opinions or other tax analyses) that are provided relating to such treatment.

(e) Each of the Parties further agrees that, in the event of a breach by it of this Section 14, the other Party, in addition to all other rights and remedies it may have under this Agreement and at law or in equity, shall be entitled to immediate injunctive relief without proof of actual damages or the posting of bond or other security and that such other Party may immediately request any judicial action it deems necessary, including, without limitation, a demand for a temporary, preliminary or permanent mandatory injunction.

#### 15. Link Effective Date

(a) The Link Effective Date shall be jointly determined by the Parties for each Contract and shall not occur as to any Contract until with respect to such Contract,

(i) Each Party has adopted and put into effect all Rules necessary for the implementation of the Link and the fulfillment of its obligations under this Agreement;

(ii) Each Party has received all necessary approvals and consents from applicable Governmental Authorities;

(iii) Each Party has provided Credit Support in the amount agreed to the Partner Clearing House; and

(iv) The Parties have jointly determined in good faith that all technical arrangements required for the implementation of the Link have been made and the Link is capable of being made fully operational.

(b) A Contract shall not be cleared through the Link prior to the Link Effective Date for such Contract.

#### 16. Notices; Member Default

(a) *Notices.* Each Clearing House shall, except to the extent prohibited by law, immediately notify the Partner Clearing House, and shall cause any person performing self-regulatory services on its behalf to notify the Partner Clearing House, in the event (i) the Clearing House has knowledge that one of its Clearing Members has become Bankrupt, (ii) whether or not Bankrupt, the Clearing House has declared any of its Clearing Members to be in default under its Rules or has suspended or otherwise limited such Clearing Member's

clearing privileges; (iii) the Clearing House has knowledge of events or circumstances that materially and adversely affect the financial integrity of any of its Clearing Members (clauses (i) through (iii) each, a “**Member Default**”); (iv) a Clearing Member of the Partner Clearing House fails to make required Variation Margin Payments to the Home Country Clearing House in accordance with Section 6(b)(i); (v) a Clearing Member of the Partner Clearing House fails to deliver securities to, or accept delivery of securities from, a Clearing Member of the Home Country Clearing House in accordance with the Rules of the Home Country Clearing House; (vi) the occurrence of a Draw Event or a Default Event; (vii) the Clearing House is aware of any material malfunction or failure of its systems; (viii) the settlement price applied by the Clearing House differs from the settlement price set by the Home Country Clearing House pursuant to Section 6(b)(iii); or (ix) the Clearing House becomes Bankrupt. All such notices shall be given by telephone, with confirmation in writing in accordance with Section 16(b); provided, that the failure by a Clearing House to give any such notice shall not affect the rights and obligations of the Clearing Houses under this Agreement.

(b) *Notice Procedures.* Except as otherwise expressly provided in this Agreement, all notices and other communications pertaining to this Agreement shall be in writing and may be given in any manner set forth below (except that a written notice or other communication under paragraph (a) or Section 3(a)(v) may not be given solely by airmail or the equivalent) to the address or number or in accordance with the electronic messaging system details provided below and will be deemed effective as indicated:

(i) if in writing and delivered in person or by courier, on the date it is delivered;

(ii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender’s facsimile machine);

(iii) if sent by certified or registered airmail or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or

(iv) if sent by electronic messaging system, on the date the electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Business Day for the recipient or intended recipient of such notice or communication or that notice or communication is delivered (or attempted to be delivered) or received, as applicable, after the close of business on such a Business Day, in which case the notice or communication shall be deemed given and effective on the first following day that is such a Business Day.

All notices or communications between the Parties pertaining to this Agreement shall be directed as follows:

if to The Clearing Corporation:

The Clearing Corporation  
141 West Jackson Boulevard  
Suite 1460  
Chicago, Illinois 60604  
Attention: •  
E-Mail: •  
Telecopy: •

with a copy to:

The Clearing Corporation  
141 West Jackson Boulevard  
Suite 1460  
Chicago, Illinois 60604  
Attention: •  
E-Mail: •  
Telecopy: •

if to Eurex Clearing:

Eurex Clearing AG  
Neue Börsenstr. 1  
60487 Frankfurt, Germany  
Attention: •  
E-Mail: •  
Telecopy: •

with a copy to:

Eurex Clearing AG  
Neue Börsenstr. 1  
60487 Frankfurt, Germany  
Attention: •  
E-Mail: •  
Telecopy: •

and to:

Eurex Clearing AG  
Market Supervision  
Neue Börsenstr. 1  
60487 Frankfurt, Germany  
Attention: •  
E-Mail: •  
Telecopy: •

and to:

Shearman & Sterling LLP  
599 Lexington Avenue  
New York, New York 10022  
Attention: •  
Telecopy: •  
E-Mail: •

With respect to notices given pursuant to paragraph (a) or Section 3(a)(v):

If to The Clearing Corporation:

Telephone: •  
- and -  
The Clearing Corporation  
141 West Jackson Boulevard  
Suite 1460  
Chicago, Illinois 60604  
Attention: •  
Telecopy: •  
- and -  
The Clearing Corporation  
141 West Jackson Boulevard  
Suite 1460  
Chicago, Illinois 60604  
Attention: •  
Telecopy: •

If to Eurex or to Eurex Clearing:

Telephone: •  
- and -  
Eurex Clearing AG  
Market Supervision  
Neue Börsenstr. 1  
60487 Frankfurt, Germany  
Attention: •  
E-Mail: •  
Telecopy: •  
- and -  
Eurex Clearing AG

Market Supervision  
Neue Börsenstr. 1  
60487 Frankfurt, Germany

Attention: •

Telecopy: •

- and -

Deutsche Börse AG  
Trading/Clearing/Info Operations  
Neue Börsenstr. 1  
60487 Frankfurt, Germany

Attention: •

E-Mail: •

Telecopy: •

If to FEX:

Telephone: •

- and -

U.S. Futures Exchange, L.L.C.  
Sears Tower  
233 S.Wacker Drive, Suite 2450  
Chicago, IL 60606

Attention: •

E-Mail: •

Telecopy: •

- and -

U.S. Futures Exchange, L.L.C.  
Sears Tower  
233 S.Wacker Drive, Suite 2450  
Chicago, IL 60606

Attention: •

E-Mail: •

Telecopy: •

- and -

U.S. Futures Exchange, L.L.C.  
Sears Tower  
233 S.Wacker Drive, Suite 2450  
Chicago, IL 60606

Attention: •

E-Mail: •

Telecopy: •

A Party may change its addresses, telecopier and telephone numbers from time to time by giving notice to that effect as provided herein.

## 17. Term

The term of this Agreement shall commence on the Execution Date, and shall continue for an initial period of seven years unless earlier terminated in accordance with Section 18. Following the initial seven-year term of this Agreement, this Agreement shall automatically renew for successive three-year periods; provided that the Agreement has not been terminated as provided in Section 18.

## 18. Termination

(a) *Non-Renewal*. This Agreement may be terminated by either Clearing House upon written notice of its intention not to renew the Agreement given at least one year prior to the end of the initial seven-year term or any successor three-year term hereof.

(b) *Termination of Clearing Services Agreement*. This Agreement may be terminated by either Clearing House upon the termination of the Clearing Services Agreement.

(c) *Material Breach*. In addition to and without limitation of the other provisions in this Section 18, either Party may terminate this Agreement, at any time, upon notice, in the event that the other Party materially defaults in the performance of any of its obligations and does not cure such default: (i) if such default is a failure to pay any amount due to the other party, within thirty days after receipt of written notice of such default; provided, however, that a failure to pay an amount that is subject to a bona fide dispute shall not constitute a default hereunder; or (ii) if such default is not a failure to pay an amount, promptly and in any event within thirty days after receipt of written notice of such default.

(d) *Loss of Registration*. Either Party may terminate this Agreement, at any time, upon notice, in the event that the other Party fails to obtain or maintain in effect any license, designation or registration required to be held by such Party in order for it to perform its obligations under this Agreement.

(e) *Capitalization*. Eurex Clearing may terminate this Agreement, upon notice to The Clearing Corporation, if the Book Value of The Clearing Corporation is (i) at any time less than US\$25 million, or (ii) is less than US\$50 million for thirty consecutive days.

(f) *Failure to Provide Credit Support*. Either Party may terminate this Agreement upon notice to the other Party in the event that the other Party fails to provide Credit Support as required under this Agreement within one year after receipt of all necessary approvals as set forth in Section 15(a)(ii).

(g) *Default Event*. A Non-defaulting Clearing House may terminate this Agreement immediately upon notice to the Defaulting Clearing House if a Default Event as set forth in Section 8(b) has occurred and the failure causing the Default Event has not been remedied at the time such notice is given.

(h) *Failure to Agree on Required Credit Support Amount*. Either Party may terminate this Agreement upon notice to the other Party in the event that the Parties fail to reach

an agreement on the Required Credit Support Amount in accordance with the dispute resolution procedure set forth in Section 7(d)(iv).

(i) *Change of Control*. The Clearing Corporation shall promptly notify Eurex Clearing in the event of a Change of Control of The Clearing Corporation. Such notice shall set forth the date and circumstances of the Change of Control and the identity of the third party that has acquired control of The Clearing Corporation. Eurex Clearing may terminate this Agreement by notice to The Clearing Corporation within 30 days after the receipt of such notice by Eurex Clearing.

(j) *Transition Assistance*. Upon the expiration or termination of this Agreement, the Parties undertake to jointly manage the process of unwinding the Link. In the event that either Eurex Clearing or The Clearing Corporation has chosen a third party with whom to continue the Link, the other Clearing House shall provide reasonable assistance to facilitate the transfer of the Link to such third party on the terms agreed by the Parties. In the event that Eurex Clearing has chosen a third party clearing house with whom to continue the Link, Eurex Clearing may request that The Clearing Corporation provide assistance to facilitate the transfer of open positions with respect to Contracts as to which The Clearing Corporation has open positions. The Clearing Corporation shall in such circumstances irrevocably assign to Eurex Clearing such rights to the Open Interest in Contracts, if any, as are necessary to permit the transfer thereof to the third party, subject to The Clearing Corporation's right to retain Margin or other collateral as reasonably necessary to secure its obligations pending the completion of such transfer. If the Clearing Houses do not continue the Link with one or more third parties, they shall use reasonable best efforts to transfer all open positions to the Home Country Clearing House.

## 19. Severability

If any portion of this Agreement is held invalid, illegal or unenforceable, the Parties agree that such invalidity, illegality or unenforceability shall not affect the remaining portions of this Agreement, and the Parties further agree to substitute for the invalid, illegal or unenforceable provision, a valid, legal or enforceable provision that most closely approximates the economic effect and intent of the invalid, illegal or unenforceable provision.

## 20. Modifications

No revision or modification of this Agreement shall be effective unless it refers to this Agreement and is in writing, signed by authorized representatives of the Parties hereto.

## 21. Assignment

This Agreement may not be assigned by any Party without the prior written consent of each other Party (which consent may be granted or withheld in such other Party's sole discretion), and shall be binding upon each Party and its successors and permitted assigns in accordance with its terms; provided, however, that Eurex Clearing may assign this Agreement or any of its rights, but not its obligations, hereunder without the consent of The Clearing Corporation to one or more Affiliates of Eurex Clearing or in connection with the sale of all or substantially all of the business or assets of Eurex Clearing; provided, that (i) the assignee shall

be deemed to have given the representations and warranties set forth in Section 30 as if the date of such assignment were the Execution Date, (ii) The Clearing Corporation shall not receive a payment from which an amount has been withheld or deducted, on account of a tax, in excess of that which Eurex Clearing would have been required to so withhold or deduct in the absence of such assignment, (iii) such assignment does not render or cause the performance of any Party's obligations under this Agreement to be unlawful, (iv) such assignment does not constitute an event of default under this Agreement, and (v) Eurex Clearing has given The Clearing Corporation at least 20 Business Days prior notice and has made reasonable efforts to consult with The Clearing Corporation with respect to the assignment.

## 22. Force Majeure

No Party shall be liable for any failure or delay in performance under this Agreement to the extent that, and for any period during which, it is prevented, hindered or delayed, or its performance rendered impractical, by causes beyond such Party's reasonable control and without its fault or negligence ("**Force Majeure Event**"). As used herein, a Force Majeure Event may include, without limitation, action of the elements, riot, insurrection, fire, flood, explosion, war, terrorism, power, communication or mechanical failure, or any other cause, whether similar or dissimilar to those listed, provided any such cause is beyond such Party's reasonable control and is without such Party's fault or negligence. If the performance of this Agreement by either Party is prevented, hindered, delayed or otherwise made impracticable by reason of any Force Majeure Event, that Party shall be excused from such performance to the extent that it is prevented, hindered or delayed by such cause. In the event a Party becomes aware of a Force Majeure Event that will affect its performance under this Agreement, it shall notify the other Parties as soon as reasonably practicable. The Parties thereafter shall work together to take reasonable steps to mitigate the effects of any inability to perform, if practicable.

## 23. Waiver

Failure or delay on the part of any Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of default shall not operate as a waiver of any other default, a waiver of the provision itself or of the same type of default on a future occasion.

## 24. Entire Agreement

This Agreement, inclusive of the Exhibits hereto as amended or modified from time to time, constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes any and all prior agreements or proposals, oral or written, concerning the subject matter of this Agreement.

## 25. Interpretation

The section headings contained in this Agreement are for the convenience of the Parties only, and are not intended to be a part of or affect the meaning or interpretation of this Agreement. Except as otherwise specifically provided, all references to sections or exhibits in

this Agreement are to sections and exhibits hereof. The plural shall include the singular and vice versa, where appropriate.

#### 26. Counterparts

This Agreement may be executed in any number of counterparts, including by facsimile, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

#### 27. Remedies Cumulative

All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise or beginning of the exercise of any thereof by any Party shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such Party.

#### 28. Relationship of the Parties

The Clearing Houses are independent contractors and this Agreement shall not be deemed to establish a joint venture between The Clearing Corporation and Eurex Clearing or between a Clearing House and a Member of the other Clearing House. Nothing herein contained shall be construed as creating a general partnership or other similar relationship or as authorizing any Party to act as general agent or to enter into any contract or other agreement on behalf of any other Party except as otherwise expressly provided herein.

#### 29. No Third-Party Beneficiaries

Nothing in this Agreement, expressed or implied, is intended to confer any rights, remedies, obligations or liabilities under or by reason of this Agreement upon any person other than the Parties and, as and to the extent provided in Section 12, a person entitled to indemnification thereunder.

#### 30. Representations and Warranties

(a) Each Party represents and warrants to the other Party, as of the Execution Date and as of each Link Effective Date that:

(i) It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, as relevant under such laws, is in good standing in every jurisdiction in which the nature or conduct of its business requires such qualification and failure to so qualify could have a material adverse effect on its ability to comply with, or perform its obligations under, this Agreement;

(ii) After approval by the Eurex Clearing Management Board, the Eurex Clearing Supervisory Board and the Board of Directors of The Clearing Corporation, each Party will have full power and authority (corporate and otherwise) to execute and deliver this

Agreement and to perform its obligations hereunder and has taken all requisite action to authorize such execution, delivery and performance;

(iii) Such execution, delivery and performance of this Agreement do not violate or conflict with any law, regulation, rule of a self-regulatory organization or judicial or governmental order or decree to which it is subject, any provision of its constitutional or governing documents, or any term of any agreement or instrument to which it is a Party, or by which its property or assets is bound or affected; and

(iv) Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) Each Party represents and warrants to the other Party, as of each Link Effective Date that it has obtained all necessary approvals of each Governmental Authority to which it is subject in order to perform its obligations under this Agreement.

(c) Each Clearing House hereby represents and warrants to the other Party that it is permitted under the laws and regulations of its place of incorporation to perform the function of a clearing house and has all requisite power, as at the date hereof, to enter into this Agreement and, as at the Link Effective Date, shall have all requisite power and necessary approvals of each Governmental Authority to which it is subject to perform its obligations hereunder.

(d) ALL WARRANTIES UNDER THIS AGREEMENT ARE EXPRESSLY STATED IN THIS AGREEMENT. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

### 31. Survival

Section 14 (confidentiality provision), Section 33 (dispute resolution and choice-of-law provisions) and Section 11 (liability provisions) of this Agreement shall survive the termination or expiration of this Agreement; Section 12 (indemnification provisions) of this Agreement shall survive the termination or expiration of this Agreement with respect to any matter arising prior to such termination or expiration; and the payment obligations under this Agreement shall continue until satisfied. The Parties shall continue to fulfill their respective obligations relating to any FEX Contracts existing prior to the effective date of expiration or termination of this Agreement.

### 32. Additional Covenants

(a) The rights and obligations of the Parties under this Agreement are subject to the conditions precedent that (i) Eurex Clearing Management Board, (ii) Eurex Clearing Supervisory Board, and (iii) the Board of Directors of The Clearing Corporation have approved this Agreement. Eurex Clearing shall use reasonable efforts to obtain all required approvals from the Eurex Clearing Management Board and Eurex Clearing Supervisory Board and The

Clearing Corporation shall use reasonable efforts to obtain all required approvals from its Board of Directors.

(b) Each Party to this Agreement shall use its reasonable best efforts to adopt and put into effect all Rules necessary for the implementation of the Link and the fulfillment of its obligations under this Agreement. Consistent therewith, each Party shall use its reasonable best efforts promptly to provide all notifications and to obtain all authorizations, consents, orders and approvals of all Governmental Authorities that may be or become necessary for the implementation of the Link and the fulfillment of its obligations under this Agreement. Each Party will, and will cause its Affiliates to, cooperate with the other Clearing House in promptly seeking to obtain all such authorizations, consents, orders and approvals.

(c) Each Party to this Agreement agrees reasonably to cooperate in obtaining any other consents and approvals that may be required in connection with the transactions contemplated by this Agreement.

### 33. Applicable Law; Dispute Resolution

(a) A Party shall not commence litigation against another Party unless it first gives written notice to such other Party setting forth the nature of the dispute. The Parties shall attempt in good faith to resolve the dispute by mediation with a mediator selected by mutual agreement of the Parties. If the Parties cannot agree on the selection of a mediator within twenty days after delivery of such notice, or if the dispute has not been resolved by mediation as provided herein within sixty days after the delivery of such notice, then either Party may commence a Proceeding.

(b) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ANY PRINCIPLE OF CONFLICT OF LAW THAT WOULD LEAD TO THE APPLICATION OF ANY LAW TO THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT OTHER THAN THE LAW OF THE STATE OF NEW YORK. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN THE BOROUGH OF MANHATTAN IN THE CITY AND STATE OF NEW YORK.

(c) Each Party irrevocably waives, to the fullest extent permitted by law, any objection it may now have or hereafter acquire to the laying of venue of any such suit, action or proceeding brought in any such court and any such claim it may now have or hereafter acquire that any such suit, action or proceeding brought in any such court has been brought in any inconvenient forum. Each Party hereby irrevocably accepts and submits itself to the jurisdiction of the aforesaid courts in any such suit, action or proceeding and agrees that final judgment in any such suit, action or proceeding brought in any such court shall be conclusive and binding upon such Party and may be enforced in any competent court by a suit upon judgment. Each Party hereby irrevocably waives for the benefit of the other Party any right of immunity such Party now has or may hereafter acquire from service of process or the jurisdiction of any court

referred to above in connection with any suit, action or proceeding arising out of or relating to such Party's obligations under this Agreement, or from execution of judgment resulting therefrom.

(d) Each Party hereby waives any right to a trial by jury in any action or proceeding to enforce or defend any rights under this Agreement and any amendment, instrument, document or agreement delivered or which may in the future be delivered in connection herewith, and agrees that any such action or proceeding shall be tried before a court and not a jury.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first written above.

**EUREX CLEARING AG, FRANKFURT**

**THE CLEARING CORPORATION**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

## **Exhibit A**

### **Initial Eligible Contracts**

Dow Jones Global Titans 50 Future  
Dow Jones STOXX 50 Future  
Dow Jones EURO STOXX 50 Future  
Dow Jones STOXX 600-Banks-Future  
Dow Jones Euro STOXX-Banks-Future  
DAX Future  
One-Month EONIA Future  
Three-Month EURIBOR Future  
Options on Three-Month EURIBOR Future  
Euro SCHATZ Future  
Options on Euro SCHATZ Future  
Euro BOBL Future  
Options on Euro BOBL Future  
Euro Bund Future  
Options on Euro Bund Future  
Euro BUXL Future

## **Exhibit B**

### **Form of Limited Power of Attorney from Clearing Members of Eurex Clearing to The Clearing Corporation**

#### **FORM OF LIMITED POWER OF ATTORNEY**

**KNOW ALL PERSONS BY THESE PRESENTS** that pursuant to the Rules of Eurex Clearing AG, Frankfurt, [Clearing Member] hereby constitutes and appoints The Clearing Corporation as its true and lawful attorney-in-fact, in the name and on behalf of the undersigned, to execute all documents required and to debit and credit the [Clearing Member's] Variation Margin Settlement Account [Name of bank; account number] in the amount of each payment of Variation Margin as and when due and to debit and credit the [Clearing Member's] Settlement Account(s) [Name of bank; account number] as necessary to timely satisfy [Clearing Member's] obligations to make or take delivery on certain Contracts, giving and granting unto such attorney-in-fact full power and authority to act as fully and to all intents and purposes as the undersigned might or could do as if the undersigned were then present and acting, with full power of substitution or revocation; and hereby ratifies, approves and confirms all that such attorney-in-fact shall lawfully do or cause to be done by virtue thereof. Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Rules of The Clearing Corporation.

[Clearing Member] acknowledges and agrees that The Clearing Corporation shall not be liable under any circumstances whatsoever to [Clearing Member] for any damages from any cause whatsoever, regardless of the form(s) of action, whether in contract, tort, including negligence or strict liability, or otherwise as a result of The Clearing Corporation's failure to notify or as a result of providing incorrect or partial notification to the financial institution of any matter relating to obligations and payments in connection with the [Clearing Member's] Settlement Account. Further, in no event and under no circumstances whatsoever shall The Clearing Corporation be liable for any special, punitive, exemplary, incidental or consequential damages or for lost profits or commercial losses, direct or indirect, from any cause, whether or not The Clearing Corporation has received notice of the possibility or certainty of such damages or losses.

[Clearing Member] hereby indemnifies and holds The Clearing Corporation, its directors, officers, employees, agents and contractors harmless from any and all liability, loss, damages, interest claims and expenses, including court costs and attorneys' fees, which The Clearing Corporation sustains or incurs as a consequence of any claim, proceeding, or court action that is made against The Clearing Corporation by anyone which relates directly or indirectly in any manner whatsoever to actions taken or omitted in connection with this Limited Power of Attorney.

This Limited Power of Attorney shall remain in full force and effect until (i) the attorney-in-fact becomes Bankrupt or (ii) revoked by the undersigned in a signed writing delivered to such foregoing attorney-in-fact.

This Limited Power of Attorney shall be governed by, and construed in accordance with, the laws of [\_\_\_\_\_], without regard to the principles of conflicts of law therein.

**Exhibit B**

**Form of Limited Power of Attorney from  
Clearing Members of The Clearing Corporation  
to Eurex Clearing**

**[TO BE PROVIDED]**

**Exhibit C**

**Form of Limited Power of Attorney  
from Eurex Clearing to The Clearing Corporation**

**FORM OF LIMITED POWER OF ATTORNEY**

**KNOW ALL PERSONS BY THESE PRESENTS** that pursuant to Section 3(b)(ii) of that certain Link Clearing Agreement, dated as of \_\_\_\_\_, 2004 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Link Agreement”), by and between Eurex Clearing AG, Frankfurt, a German corporation (“Eurex Clearing”), and The Clearing Corporation, a Delaware corporation, the undersigned, hereby constitutes and appoints The Clearing Corporation as its true and lawful attorney-in-fact and agent, in the name and on behalf of the undersigned, to execute all documents required and to debit and credit the Variation Margin Settlement Account [Name of bank; account number] in an amount equal to any payment of Variation Margin that is not received by [Home Country Clearing House] as and when due from one or more of Eurex Clearing’s Clearing Members with trades or positions in the Omnibus Account, giving and granting unto such attorney-in-fact and agent full power and authority to act as fully and to all intents and purposes as the undersigned might or could do as if the undersigned were then present and acting; and hereby ratifies, approves and confirms all that such attorney-in-fact and agent shall lawfully do or cause to be done by virtue thereof. Capitalized terms not otherwise defined herein have the meanings ascribed to such terms in the Link Agreement.

This Limited Power of Attorney shall remain in full force and effect until (i) the attorney-in-fact and agent becomes Bankrupt or (ii) revoked by the undersigned in a signed writing delivered to such foregoing attorney-in-fact and agent.

This Limited Power of Attorney shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to the principles of conflicts of law therein.

**IN WITNESS WHEREOF**, the undersigned has subscribed these presents this [\_\_\_] day of [\_\_\_\_], 2004.

**EUREX CLEARING AG, FRANKFURT**

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

Name:

Title:

Date:

**[ACKNOWLEDGMENT]**

[State of New York]

County of \_\_\_\_\_

Be it remembered, that on this \_\_\_\_ day of \_\_\_\_\_, 2004, in the County and State aforesaid, before me, the subscriber, a Notary Public authorized to take acknowledgements and proofs in said County and State, personally appeared \_\_\_\_\_, who, I am satisfied, is the grantor named in and who executed the foregoing instrument and he/she did acknowledge that he/she signed the same as his/her act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
NOTARY PUBLIC

## Exhibit D

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## Exhibit E

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**Exhibit F**

**The Clearing Corporation**

**Clearing Corporation Rule 315**

**315. Limitation of Liability.**

The liability of The Clearing Corporation relating to or arising out of Contracts shall be limited to losses resulting from the substitution of The Clearing Corporation upon Contracts in accordance with these Rules, **but in no event shall the amount of such liability exceed the amount on deposit in the General Guaranty Fund.** The Clearing Corporation shall not be liable for obligations of a non-Participant or obligations of a Participant to a non-Participant (other than, in each case, Eurex Clearing), obligations of a Participant to another Participant who is acting for such other Participant as broker, or obligations of a Participant to a customer, nor shall The Clearing Corporation become liable to make deliveries to or accept deliveries from a customer of a Participant.

**. . . Interpretations and Policies:**

- .01** The liability of Eurex Clearing as a Special Clearing Member is governed by the provisions of the Link Agreement (as defined in Chapter 9B).

**Eurex Clearing**

**(not applicable)**

## Exhibit G

### The Clearing Corporation

#### Clearing Corporation Rule 801

#### 801. General Guaranty Fund.

- (a) *Collateral Requirements.* Each Participant shall make, and maintain so long as it is a Participant, a deposit or deposits of Collateral to the General Guaranty Fund in the form and in such amounts as may be determined by The Clearing Corporation from time to time in its sole discretion (“Required Contribution”). The Clearing Corporation shall cause appropriate entries to be made in its books and records to reflect the deposit of Collateral into the General Guaranty Fund. The Clearing Corporation shall have the sole right to withdraw cash, securities or other property from, and to authorize the sale or other disposition of any securities or other property held in, the General Guaranty Fund.
- (b) *Participant Default; Application of Proceeds.* If a Participant is in Default and, as a result thereof, The Clearing Corporation or a Special Clearing Member suffers any loss or expense upon any liquidation or other disposition of a Participant’s open Contracts, or a Participant shall fail to make any other payment or render any other performance required under these Rules, then The Clearing Corporation shall (after appropriate application of Margin posted by such Participant and other funds in or payable to the accounts of the Participant) apply the Participant’s contributions to the General Guaranty Fund, in the manner and in the order of priority set forth below:
  - (i) FIRST: To the payment of the costs and expenses of any sale, collection or other realization of such Margin or Collateral, including, without limitation, fees and expenses of counsel, and all reasonable expenses, liabilities and advances made or incurred by The Clearing Corporation in connection therewith;
  - (ii) SECOND: To the satisfaction of any deficiencies in the customer segregated fund account (if any) maintained by such Participant pursuant to rules of the Commission resulting, caused by or arising, directly or indirectly, from such Default;
  - (iii) THIRD: To the payment of any other obligations of The Clearing Corporation arising out of or in any way relating to such Participant’s Default, including obligations to a Special Clearing Member, as provided in Chapter 9 of these Rules (such other obligations, together with the costs, expenses, and deficiencies described in paragraphs (i) and (ii), the “Reimbursement Obligations”);

- (iv) FOURTH: To the payment of any other Obligations; and
  - (v) FIFTH: To or upon the order of the Participant that is in Default, to The Clearing Corporation or to whomsoever may be lawfully entitled to receive the same (including, without limitation, any insurer, surety or guarantor of the obligations of The Clearing Corporation) or as a court of competent jurisdiction may direct, of any surplus then remaining from such Proceeds.
- (c) *Application of General Guaranty Fund; Other Funding.* If the Margin and other funds of a Participant that is in Default and its contributions to the General Guaranty Fund are insufficient to discharge in full the Reimbursement Obligations of such Participant, any remaining deficiency shall be charged against the remaining assets in the General Guaranty Fund, pro rata from each other Participant's contributions.

Any such deficiency shall remain a liability of the Participant to The Clearing Corporation, which it may collect from any other assets of such Participant or by legal process.

- (d) *Reimbursement of Collateral.* The Clearing Corporation shall notify Participants whenever an amount is paid out of the General Guaranty Fund to meet Obligations to The Clearing Corporation as provided in paragraphs (b) or (c) above. If Collateral is withdrawn from the General Guaranty Fund pursuant to paragraph (c) and, as a result, the amount of Collateral credited to a Participant is less than the amount it was required to maintain pursuant to paragraph (a) immediately prior to such withdrawal, the Participant shall deposit additional Collateral into the General Guaranty Fund in an amount at least sufficient to restore that Participant's Required Contribution. All such additional Collateral shall be deposited prior to The Clearing Corporation's opening of business on the third Business Day following such notice or such later time as The Clearing Corporation shall determine in its sole discretion. A Participant that fails to deposit the full amount of such additional Collateral shall be in Default, and The Clearing Corporation may, in addition to any other remedies it may have, debit such Participant's house margin account for any or all or such unpaid amount and assess fines and charges against such Participant as provided in Rule 606.

- (e) *Lien.* As security for any and all Obligations of a Participant to The Clearing Corporation, including, but not limited to, the Reimbursement Obligations, each Participant grants The Clearing Corporation a first priority perfected security interest in the Participant's Collateral. In furtherance and not in limitation of the foregoing, all outstanding shares of Class A common stock of The Clearing Corporation shall be Collateral deposited in the General Guaranty Fund and subject to the foregoing grant of security interest until the same shall have been released in accordance with these Rules and the policies and practices of The Clearing Corporation (including, but not limited to, release of such stock upon substitution of acceptable alternative collateral of equivalent value.)
- (f) *Non-Interference.* A Participant shall take no action, including but not limited to attempting to obtain a court order, that could interfere with the ability of The Clearing Corporation to apply its Margin, Collateral or other assets.

... **Interpretations and Policies:**

- .01** As used in this Rule 801, "Participant" includes a Participant that has been suspended or expelled by The Clearing Corporation or whose privileges in respect of Trades and Contracts have been restricted pursuant to Rule 403.
- .02** The General Guaranty Fund is solely in respect of applicable Contracts traded on EurexUS and Eurex.

**Eurex Clearing**

**Subpart 1.6 of the Rules of Eurex Clearing**

**1.6 Subpart: Clearing Fund**

**1.6.1 Contribution to the Clearing Fund**

(1) Irrespective of the provision of other margin, each Clearing Member shall be obligated to pay a contribution to the Clearing Fund. The amount of the contribution to be provided shall be determined by Eurex Clearing AG for each Clearing Member. Such contribution to the Clearing Fund is not required in the event that the applicant has already paid a respective contribution to the Clearing Fund when applying for a Clearing License for clearing transactions within the meaning of Chapter II (Eurex Bonds GmbH) subsection 1.1.5 and / or Chapter III (Eurex Repo GmbH) subsection 1.1.6.

This contribution shall be provided by bank guarantees and/or cash or securities collateral. Subsections 1.1.2 paragraph 2, sentences 2 to 7 shall apply accordingly.

(2) Eurex Clearing AG may use funds from its annual surplus to set aside reserves for the Clearing Fund pursuant to paragraph 1 in order to contribute to the fulfillment of the obligations of any Clearing Member that may default on its obligations.

(3) Link Clearing Houses as Special Clearing Members are not obliged to contribute to the Clearing Fund except as may otherwise provided in the Clearing Link Agreement which is to be concluded with Eurex Clearing AG.

### **1.6.2 Realisation of the Clearing Fund**

(1) The contribution to the Clearing Fund provided by a General or Direct Clearing Member may be used to cover the financial consequences of a default (subsection 1.7.1) by itself or by any other Clearing Member

(2) In case any compensation must be provided for any damage due to a default (subsection 1.7.1), Eurex Clearing AG shall realise securities in accordance with the following order of priority:

1. Collateral of the General or Direct Clearing Member obliged to perform other than that indicated in subsection 1.6.1,

2. the contribution to the Clearing Fund of the General or Direct Clearing Member obliged to perform pursuant to subsection 1.6.1,

3. the reserves of Eurex Clearing AG pursuant to subsection 1.6.1 paragraph (2)

4. the contributions of all other General or Direct Clearing Members to the Clearing Fund.

The contributions of the other General or Direct Clearing Members to the Clearing Fund shall be realised on a pro rata basis.

(3) If a defaulting General or Direct Clearing Member (subsection 1.7.1) provides the owed payment after Eurex Clearing AG has realised the contributions of other General or Direct Clearing Members to the Clearing Fund (subsection 2, no. 4), Eurex Clearing AG shall replenish the contributions of the other General or Direct Clearing Members with this payment on a pro rata basis, up to the amount of effected realisation at the most.

(4) Furthermore, the contribution to the Clearing Fund provided by a General or Direct Clearing Member may also be used to cover the financial consequences of a default (Chapter II, subsection 2.1.4) by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions concluded at Eurex Bonds GmbH (see Chapter II) or, as well, to cover the financial consequences of a default (Chapter III, subsection 2.1.4) by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions concluded at Eurex Repo GmbH (see Chapter III) or, as well, to

cover the financial consequences of a default (Chapter IV, subsection 2.1.4) by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions concluded at the Frankfurt Stock Exchange (see Chapter IV) or with regard to the financial obligations of this Clearing Member and other Clearing Members arising from the clearing of transactions in cooperation with a Link Clearing House at the Eurex US via the clearing link (see Chapter V). In such cases, subsection 1.6.2 paragraphs (1) to (3) and subsections 1.6.3 and 1.6.4 shall apply *mutatis mutandis*.

### **1.6.3 Replenishment of Contributions to the Clearing Fund**

Any realised contribution to the Clearing Fund shall be raised by the General or Direct Clearing Members to its original amount within ten Exchange days. This requirement shall not apply to any General or Direct Clearing Member that has terminated its Clearing License by means of a written statement to Eurex Clearing AG no later than on the fifth Exchange day following such realisation.

### **1.6.4 Release of the Contributions to the Clearing Fund**

(1) If Eurex Clearing AG or a Clearing Member terminates the Clearing Membership, Eurex Clearing AG shall release the contribution of the respective Clearing Member to the Clearing Fund one month after notice is given of such termination, but in any event not earlier than one month after the day upon which all contracts in the accounts for which the respective Clearing Member handles the Clearing have been cleared. The same shall apply *mutatis mutandis* to collateral pursuant to subsection 1.1.2 paragraph (2).

(2) If another Clearing Member is in default at the time of the termination of such Clearing Membership, or if another Clearing Member falls into default prior to the date on which a contribution to the Clearing Fund is to be released, the release, contrary to paragraph (1), shall only be effected after all obligations of such defaulting Clearing Member to Eurex Clearing AG have been satisfied.