

conducted in person or by telephone or in any other manner agreed to by the Board. Any of the Members may call a meeting of the Board upon reasonable prior written notice. No notice of a meeting shall be necessary when all members of the Board are present. In the event that the Board consists of less than eight (8) Directors, the attendance of at least four (4) Directors shall constitute a quorum for purposes of any meeting of the Board. In the event that the Board consists of eight (8) or more Directors, the attendance of at least a majority of all the Directors shall constitute a quorum for purposes of any meeting of the Board. Except as may otherwise be provided by this Agreement, each of the Directors will be entitled to vote on any action to be taken by the Board, except that the Senior Executive (if a Director) shall not be entitled to vote on matters relating to his or her powers, compensation or performance. There shall be a total of 100 votes (the "Total Votes") available to be voted on any action to be taken by the Board. Each Director, except as limited by the provisions of Section 8.4(h), below, shall be entitled to vote that percentage of the Total Votes equal to the quotient obtained by dividing (i) the quotient of (A) the number of Units held by the Member that designated such Director (if applicable, rounded down to the nearest whole Unit) divided by (B) the aggregate number of Units held by all Members that designated Directors by (ii) the number of Directors designated by such Member. All quorum and voting requirements shall be adjusted accordingly for the suspension of any Member made pursuant to Section 5.9, 8.4(g) or 8.4(h). Any Director shall be entitled to vote the votes allocated to another Director after having received such Director's proxy in writing. Any action to be taken by the Board shall be considered effective only if approved by at least a majority of the votes entitled to be voted on such action. Meetings of the Board may be attended by other representatives of the Members and other persons related to BOX as agreed to from time to time by the Board. The Board will set up procedures relating to the recording of minutes of its meetings. Actions of the Board may also be taken without a meeting by written consent of the Board.

(b) *Voting Trusts.* Members are prohibited from entering into voting trust agreements with respect to their Units.

4.4. *Special Voting Requirements.* (a) Notwithstanding the provisions of Section 4.3 regarding voting requirements, no action with respect to

any Major Action (as defined in paragraph (b) below), shall be effective unless (i) at all times when IB, BSE and the Bourse are the only Members of BOX, approved by unanimous consent of the Board, or (ii) at all times when IB, BSE and the Bourse are *not* the only Members of BOX, approved by a majority of the Board including the affirmative vote of all of the votes of Directors designated by each of IB, BSE and the Bourse, in each case acting at a meeting or by unanimous written consent as provided in Section 4.3. In addition, unless unanimously approved by the Board as provided above, none of the Members on behalf of BOX shall enter into or permit BOX to enter into any Major Action.

(b) For purposes of this Agreement, "Major Action" means any of the following:

(i) Merger or consolidation of BOX with any other entity or the sale by BOX of any material portion of its assets;

(ii) Entry by BOX into any line of business other than the business described in Article 3;

(iii) Conversion of BOX from a Delaware limited liability company into any other type of entity;

(iv) Except as expressly contemplated by this Agreement and the Related Agreement, entering into any agreement, commitment, or transaction with the Bourse or any of its Affiliates, BSE or any of its Affiliates, or IB or any of its Affiliates or any other Member or any of its Affiliates other than transactions or agreements upon commercially reasonable terms that are no less favorable to BOX than BOX would obtain in a comparable transaction or agreement with a third party;

(v) Taking any action to effect the voluntary, or which would precipitate an involuntary, dissolution or winding-up of BOX;

(vi) Except as otherwise provided in the Technical and Operational Services Agreement, operating the BOX Market utilizing any other software system other than the System;

(vii) Except as otherwise provided in the Regulatory Services Agreement, operating the BOX Market utilizing any other Regulatory Services Provider other than BSE or an Affiliate of BSE;

(viii) Entering into any partnership, joint venture or other similar joint business undertaking;

(ix) Making any fundamental change in the market structure of BOX from that contemplated by the Members as of the date hereof;

(x) Subject to Article 8, the acquisition of any Percentage Interest by any Member that results in such Member, alone or together with any

Affiliate of such Member, newly holding an aggregate Percentage Interest equal to or greater than twenty percent (20%);

(xi) [Business confidential]

(xii) Altering the provisions for Board membership for IB, BSE or Bourse, specified in Section 4.1(b); or

(xiii) Purchasing Units pursuant to Section 8.2.

(c) [Business confidential]

(d) [Business confidential]

4.5. *Officers.* One of the Bourse designees to the Board of Directors shall initially be the Chairman of the Board of BOX (the "Initial Chairman"), subject to the approval of BSE and IB, which approval shall not be unreasonably withheld. The Board will appoint such other officers and agents of BOX, including a Senior Executive, as it shall from time to time deem necessary. Such officers and agents shall have such terms of employment, shall receive such compensation and shall exercise such powers and perform such duties as the Board shall from time to time determine.

4.6. *Duties of the Chairman of the Board.* The Chairman of the Board shall preside at all meetings of the Members and at all meetings of the Board. The Chairman of the Board shall have the general powers and duties of management usually vested in the office of Chairman of the Board, and shall have such other duties and responsibilities related to the development of BOX as the Board shall from time to time direct. The Initial Chairman of the Board shall be designated by the Bourse and will serve until the commencement of Trading on the BOX Market and thereafter until his or her successor is duly elected by the Board.

4.7. *Duties of the Senior Executive.* Subject to the supervision and direction of the Board, a senior executive (referred to herein as the "Senior Executive") shall have general supervision, direction and control of the business and the officers of BOX. The Senior Executive shall have the general powers and duties of management usually vested in the office of Chief Executive Officer, and shall have such other duties and responsibilities related to BOX as the Board shall from time to time direct. The Senior Executive shall be responsible for advising the Board on the status of BOX on a regular basis or more frequently as requested by the Board.

4.8. *No Management by Members.* Except as otherwise expressly provided herein or as requested by the Board, no Member shall take part in the day-to-day management or operation of the business and affairs of BOX. Except and