

# Second Amended Limited Liability Company Agreement of Nasdaq PHLX LLC

This Second Amended Limited Liability Company Agreement (together with the exhibits and schedules attached hereto, this "Agreement") of Nasdaq PHLX LLC (the "Exchange"), is entered into by Nasdaq, Inc. as the sole member of the Exchange (as "Stockholder").

WHEREAS, on September 1, 2010, NASDAQ OMX PHLX, Inc., a Delaware corporation (the "Corporation"), was converted to a limited liability company pursuant to Section 18-214 of the Delaware Limited Liability Company Act (6 Del. C. § 18-101, et seq.), as amended from time to time (the "LLC Act" and Section 266 of the General Corporation Law of the State of Delaware (8 Del. C. § 101, et seq.) by causing the filing with the Secretary of State of the State of Delaware of a Certificate of Conversion to Limited Liability Company and a Certificate of Formation (the "Conversion"); and

WHEREAS, pursuant to the Limited Liability Agreement dated September 1, 2010 (the "Original LLC Agreement") and the Conversion, (i) all the capital stock of the Corporation was converted into all the limited liability company interests in the Exchange, (ii) The NASDAQ OMX Group, Inc. ("NASDAQ OMX Inc."), as the sole common shareholder of the Corporation, became a member of the Exchange and the owner of all of the Common Stock (as defined below) in the Exchange, and (iii) PHLX Member Voting Trust (the "Trust"), as the sole preferred shareholder of the Corporation, became a member of the Exchange and the owner of all of the Series A Preferred Stock (as defined below) in the Exchange.

WHEREAS, the First Amended Limited Liability Company Agreement amended the Original LLC Agreement to make certain administrative changes and to eliminate the Series A Preferred Stock;

WHEREAS, the Stockholder and the Board of Directors desire to amend this Agreement to reflect the name changes of The NASDAQ OMX Group, Inc. to Nasdaq, Inc. and of NASDAQ OMX PHLX LLC to Nasdaq PHLX LLC;

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby amend and restate this Agreement in its entirety as follows:

## **Section 1.** Name; Conversion.

(a) The name of the limited liability company is Nasdaq PHLX LLC.

## **Section 2.** Principal Business Office.

The principal business office of the Exchange shall be located at FMC Tower, 2929 Walnut Street, Philadelphia, Pennsylvania or such other location as may hereafter be determined by the Board of Directors.

**Section 3. Registered Office; Registered Agent.**

The address of the registered office of the Exchange in the State of Delaware is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, County of New Castle, Delaware 19801. The name of the registered agent of the Exchange at such address is The Corporation Trust Company.

**Section 4. Members.**

The mailing address of the Stockholder is set forth on Schedule B attached hereto. The Stockholder hereby continues as a member of the Exchange upon its execution of a counterpart signature page to this Agreement.

**Section 5. Certificates.**

Joan C. Conley, as an "authorized person" within the meaning of the Act, has executed, delivered and filed the Certificate of Formation of the Exchange and the Certificate of Conversion to Limited Liability Company with the Secretary of State of the State of Delaware. Upon the filing of the Certificate of Formation and the Certificate of Conversion to Limited Liability Company with the Secretary of State of the State of Delaware, her powers as an "authorized person" ceased, and the Stockholder, each Director and each Officer thereupon became a designated "authorized person" and hereby continues as an designated "authorized person" within the meaning of the Act. A Stockholder, Director or an Officer, as an authorized person, within the meaning of the Act, shall execute, deliver and file, or cause the execution, delivery and filing of, all certificates (and any amendments and/or restatements thereof) required or permitted by the Act to be filed in with the Secretary of State of the State of Delaware. A Stockholder, Director or any Officer shall execute, deliver and file, or cause the execution, delivery and filing of any certificates (and any amendments and/or restatements thereof) necessary for the Exchange to qualify to do business in any jurisdiction in which the Exchange may wish to conduct business. The existence of the Exchange as a separate legal entity shall continue until the cancellation of the Certificate of Formation as provided in the LLC Act.

**Section 6. Purpose.**

The Exchange is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Exchange is, engaging in any lawful act or activity for which limited liability companies may be formed under the LLC Act and engaging in any and all activities necessary or incidental to the foregoing. Without limiting the generality of the foregoing, the nature of the business or purposes to be conducted and promoted shall include (i) supporting the operation, regulation, and surveillance of the national securities exchange operated by the Exchange, (ii) preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, fostering cooperation and coordination with

persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, removing impediments to and perfecting the mechanisms of a free and open market and a national market system, and, in general, protecting investors and the public interest, (iii) supporting the various elements of the national market system pursuant to Section 11A of the Exchange Act and the Rules thereunder, (iv) fulfilling the Exchange's self-regulatory responsibilities as set forth in the Exchange Act, and (v) supporting such other initiatives as the Board may deem appropriate.

#### **Section 7. Powers.**

The Exchange, and the Board of Directors and the Officers of the Exchange on behalf of the Exchange, (i) shall have and exercise all powers necessary, convenient or incidental to accomplish its purposes as set forth in Section 6, including without limitation, those powers set forth in the By-Laws, and (ii) shall have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the LLC Act.

#### **Section 8. Management.**

(a) Board of Directors. The business and affairs of the Exchange shall be managed by or under the direction of a Board of Directors. Each Director is hereby designated as a "manager" within the meaning of the LLC Act. The Stockholder may determine at any time in its sole and absolute discretion the number of Directors to constitute the Board. The authorized number of Directors may be increased or decreased by the Stockholder at any time in its sole and absolute discretion, upon notice to all Directors, but no decrease in the number of Directors shall shorten the term of any incumbent Member Representative Director. At least twenty percent (20%) of the Directors shall be Member Representative Directors. All Directors other than the Member Representative Directors shall be elected by the Stockholder in the manner described in the By-Laws. Each Director elected, designated or appointed by the Stockholder shall hold office until a successor is elected and qualified or until such Director's earlier death, resignation, expulsion or removal. Member Representative Directors shall be elected in accordance with the By-Laws. Each Director shall execute and deliver an instrument accepting such appointment and agreeing to be bound by all the terms and conditions of this Agreement and the By-Laws. A Director need not be a member of the Exchange.

(b) Powers. The Board of Directors shall have the power to do any and all acts necessary, convenient or incidental to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise. The Board of Directors has the authority to bind the Exchange. To the fullest extent permitted by applicable law, the By-Laws, and this Agreement, the Board may delegate any of its powers to a committee appointed pursuant to Section 8(g) or to any officer, employee or agent of the Exchange.

(c) By-Laws. The Exchange, the Stockholder and the Board of Directors hereby adopt the By-Laws of the Exchange in the form attached hereto as Exhibit A, as the same may be amended from time to time in accordance with the terms therein and in this Agreement (the "By-Laws"). The Board, each Officer and the Stockholder shall be subject to the express provisions of this Agreement and of the By-Laws, including, but not limited, to Section 2-2 of the Bylaws. In case

of any conflict between the provisions of this Agreement and any provisions of the By-Laws, the provisions of this Agreement shall control.

(d) Meeting of the Board of Directors. The Board of Directors of the Exchange may hold meetings, both regular and special, within or outside the State of Delaware. Regular meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board. Special meetings of the Board may be called by the Chair of the Board, the Chief Executive Officer, or the President on not less than one day's notice to each Director by telephone, facsimile, mail, telegram or any other means of communication, and special meetings shall be called by the Chair of the Board, the Chief Executive Officer, the President or Secretary in like manner and with like notice upon the written request of at least one-third of the Directors.

(e) Quorum; Acts of the Board. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and, except as otherwise provided in any other provision of this Agreement, the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board. If a quorum shall not be present at any meeting of the Board, the Directors present at such meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. Any action required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without a meeting and without prior notice if written consents (including consents transmitted by electronic transmission), setting forth the action so taken, are executed by all members of the Board or committee, as the case may be.

(f) Electronic Communications. Members of the Board, or any committee designated by the Board, may participate in meetings of the Board, or any committee, by means of telephone conference or other communications equipment that allows all Persons participating in the meeting to hear each other, and such participation in a meeting shall constitute presence in person at the meeting. If all the participants are participating by telephone conference or other communications equipment, the meeting shall be deemed to be held at the principal place of business of the Exchange.

(g) Committees.

i. The Board may designate one or more committees, each committee to consist of one or more of the Directors or other Persons. The By-Laws may establish the initial committees, which may be altered, eliminated or restructured by an amendment to the By-Laws. The Board may designate one or more Directors or other Persons as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee.

ii. Except as otherwise provided by the By-Laws, members of a committee shall hold office for such period as may be fixed by a resolution adopted by the Board. Any member of a committee may be removed from such committee only by the Board. Vacancies in the membership of any committee shall be filled by the Board.

iii. Each committee may adopt its own Rules of procedure and may meet at stated times or on such notice as such committee may determine. Each committee shall keep regular minutes of its meetings and report the same to the Board when required.

iv. Unless otherwise required by the By-Laws, a majority of a committee shall constitute a quorum for the transaction of business, and the vote of a majority of the members of such committee present at a meeting at which a quorum is present shall be an act of such committee.

v. To the extent provided in the resolution of the Board, any committee that consists solely of one or more Directors shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. In the absence or disqualification of a member of a committee composed solely of Directors, the member or members thereof present at any meeting and not disqualified from voting, whether or not such members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member.

(h) Compensation of Directors; Expenses. The Board shall have the authority to fix the compensation of Directors. The Directors may be paid their expenses, if any, of attendance at meetings of the Board and may be paid a fixed sum for attendance at each meeting of the Board, a stated salary as Director or other remuneration. No such payment shall preclude any Director from serving the Exchange in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

(i) Removal and Resignation of Directors. Unless otherwise restricted by law, any Director may be removed or expelled for cause by the Stockholder, and may be removed by the Board of Directors in the manner provided by the By-Laws. Any vacancy caused by any such removal or expulsion may be filled in the manner provided in the By-Laws. Any Director may resign at any time either upon notice of resignation to the Chair of the Board, the Chief Executive Officer, the President or the Secretary. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

(j) Directors as Agents. To the extent of their powers set forth in this Agreement, the Directors are agents of the Exchange for the purpose of the Exchange's business, and the actions of the Directors taken in accordance with such powers set forth in this Agreement shall bind the Exchange. Notwithstanding the last sentence of Section 18-402 of the LLC Act, except as provided in this Agreement or in a resolution of the Directors, a Director may not bind the Exchange.

## **Section 9. Officers.**

(a) Appointment. Except as provided herein, the Board may, from time to time as it deems advisable, select natural persons who are employees or agents of the Exchange and designate

them as officers of the Exchange (the "Officers") and assign titles (including, without limitation, President, Vice President, Secretary and Treasurer) to any such person. Any number of offices may be held by the same person. The Board may appoint such other Officers and agents as it shall deem necessary or advisable who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board. The salaries of all Officers and agents of the Exchange shall be fixed by or in the manner prescribed by the Board. The Officers shall hold office until their successors are chosen and qualified. Any Officer may be removed at any time, with or without cause, by the Board. Any vacancy occurring in any office of the Exchange shall be filled by the Board.

(b) Officers as Agents. The Officers, to the extent of their powers set forth in this Agreement and the By-Laws or otherwise vested in them by action of the Board not inconsistent with this Agreement or the By-Laws, are agents of the Exchange for the purpose of the Exchange's business, and the actions of the Officers taken in accordance with such powers shall bind the Exchange.

(c) Duties of Board and Officers. Except to the extent otherwise modified herein or in the By-Laws, each Director and Officer shall have a fiduciary duty of loyalty and care similar to that of directors and officers of business corporations organized under the General Corporation Law of the State of Delaware.

#### **Section 10. Limited Liability.**

Except as otherwise expressly provided by the LLC Act, the debts, obligations and liabilities of the Exchange, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Exchange, and neither the Stockholder nor any Director shall be obligated personally for any such debt, obligation or liability of the Exchange solely by reason of being a Stockholder or Director of the Exchange.

#### **Section 11. Capital Contributions.**

The Stockholder has contributed to the Exchange the amounts set forth in the books and records of the Exchange.

#### **Section 12. Additional Contributions.**

The Stockholder is not required to make any additional capital contribution to the Exchange. However, the Stockholder may make additional capital contributions to the Exchange at any time upon the consent of such Stockholder and the Board of Directors. To the extent that the Stockholder makes an additional capital contribution to the Exchange, the books and records of the Exchange shall be revised to reflect such additional contribution. The provisions of this Agreement, including this Section 13, are intended to benefit the Stockholder and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Exchange (and no such creditor of the Exchange shall be a third-party beneficiary of this Agreement), and the Stockholder shall not have any duty or obligation to any creditor of the

Exchange to make any contribution to the Exchange or to issue any call for capital pursuant to this Agreement.

**Section 13. Allocation of Profits and Losses.**

The Exchange's profits and losses shall be allocated solely to the Stockholder.

**Section 14. Distributions.**

Distributions shall be made to the Stockholder at the times and in the aggregate amounts determined by the Board. Notwithstanding any provision to the contrary contained in this Agreement, (i) the Exchange shall not be required to make a distribution to the Stockholder on account of its interest in the Exchange if such distribution would violate the LLC Act or any other applicable law or is otherwise required to fulfill the regulatory functions or responsibilities of the Exchange, and (ii) Regulatory Funds shall not be used for non-regulatory purposes, but rather shall be used to fund the legal, regulatory and surveillance operations of the Exchange and the Exchange shall not make a distribution to the Stockholder using Regulatory Funds (as defined in the By-Laws).

**Section 15. Books and Records.**

The Board shall keep or cause to be kept complete and accurate books of account and records with respect to the Exchange's business within the United States. The books of the Exchange shall at all times be maintained by the Board. The Stockholder and its duly authorized representatives shall have the right to examine the Exchange books, records and documents during normal business hours. The Exchange, and the Board on behalf of the Exchange, shall not have the right to keep confidential from the Stockholder any information that the Board would otherwise be permitted to keep confidential from the Stockholder pursuant to Section 18-305(c) of the LLC Act. The Exchange's books of account shall be kept using the method of accounting determined by the Stockholder. The Exchange's independent auditor shall be an independent public accounting firm selected by the Board.

Other than as provided in this Section 15 with respect to the Securities and Exchange Commission, all confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (i) not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (iii) not be used for any non-regulatory purposes. Nothing in this LLC Agreement shall be interpreted as to limit or impede the rights of the Securities and Exchange Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit and impede the ability of any officers, directors, employees or agents of the Exchange to disclose such confidential information to the Securities and Exchange Commission.

## **Section 16.**Reports.

The Board shall, after the end of each fiscal year, use reasonable efforts to cause the Exchange's independent accountants, if any, to prepare and transmit to the Stockholder as promptly as possible any such tax information as may be reasonably necessary to enable the Stockholder to prepare its federal, state and local income tax returns relating to such fiscal year.

## **Section 17.** Limited Liability Company Interests.

(a) The limited liability company interests in the Exchange were formerly represented by shares of the Exchange. Initially, there were two classes of shares, designated as "Common Stock" and "Preferred Stock." All outstanding Preferred Stock are hereby redeemed at their liquidation value and any certificates representing such interests are hereby cancelled. The Stockholder is the sole member of the Exchange and continues to hold its limited liability company interests in the Exchange, the Common Stock. The Common Stock shall hereinafter be referred to as limited liability company interests in the Exchange and shall no longer be evidenced by certificates. All certificates representing such interests shall be returned to the Exchange for cancellation.

## **Section 18.** Other Business.

Unless otherwise restricted by law, the Stockholder, and any Officer, Director, employee or agent of the Stockholder and any Affiliate of the Exchange may engage in or possess an interest in other business ventures (unconnected with the Exchange) of every kind and description, independently or with others. The Exchange shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.

## **Section 19.** Exculpation and Indemnification.

(a) Neither the Stockholder nor any Officer, Director, employee or agent of the Exchange nor any employee, representative, agent or Affiliate of the Stockholder (collectively, the "Covered Persons") shall be liable to the Exchange or any other Person who is bound by this Agreement for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Exchange and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's willful misconduct.

(b) To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Exchange for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Exchange and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 19 by the Exchange



shall be provided out of and to the extent of Exchange assets only, and the Stockholder shall not have personal liability on account thereof.

(c) To the fullest extent permitted by applicable law, expenses (including reasonable legal fees) incurred by a Covered Person defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Exchange prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Exchange of an undertaking by or on behalf of the Covered Person to repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in this Section 19.

(d) A Covered Person shall be fully protected in relying in good faith upon the records of the Exchange and upon such information, opinions, reports or statements presented to the Exchange by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities or any other facts pertinent to the existence and amount of assets from which distributions to the Stockholder might properly be paid.

(e) To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Exchange or to any other Covered Person, a Covered Person acting under this Agreement shall not be liable to the Exchange or to any other Covered Person who is bound by this Agreement for its good faith reliance on the provisions of this Agreement or any approval or authorization granted by the Exchange or any other Covered Person.

(f) The foregoing provisions of this Section 19 shall survive any termination of this Agreement.

#### **Section 20. Assignments.**

The Stockholder may not transfer or assign in whole or in part its limited liability company interest in the Exchange, unless such transfer or assignment is filed with and approved by the Securities and Exchange Commission pursuant to the rule filing procedure under Section 19 of the Exchange Act.

#### **Section 21. Dissolution.**

(a) The Exchange shall be dissolved and its affairs shall be wound up upon the first to occur of the following: (i) the consent of the Stockholder and a majority of the whole Board, (ii) the termination of the legal existence of the Stockholder or the occurrence of any other event that terminates the continued membership of the Stockholder in the Exchange unless the Exchange is continued without dissolution in a manner permitted by this Agreement or the LLC Act or (iii) the entry of a decree of judicial dissolution under Section 18-802 of the LLC Act.

(b) Notwithstanding any other provision of this Agreement, the Bankruptcy of the Stockholder shall not cause the Stockholder to cease to be a member of the Exchange and upon the occurrence of such an event, the Exchange shall continue without dissolution.

(c) In the event of dissolution, the Exchange shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Exchange in an orderly manner), and the assets of the Exchange shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the LLC Act.

(d) The Exchange shall terminate when (i) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company, shall have been distributed to the Stockholder in the manner provided for in this Agreement and (ii) the Certificate of Formation shall have been canceled in the manner required by the LLC Act.

**Section 22.** Benefits of Agreement; No Third-Party Rights.

None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Exchange or by any creditor of the Stockholder. Nothing in this Agreement shall be deemed to create any right in any person or entity (other than Covered Persons, and to the extent provided in Article IV of the By-Laws, the Members and the Member Organizations, (each as defined in the By-Laws), and to the extent such Persons are represented thereby, the Trustee (each as defined in the By-Laws)) not a party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any third person or entity (other than the Covered Persons, and to the extent provided in Article IV of the By-Laws, the Members and the Member Organizations).

**Section 23.** Severability of Provisions.

Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

**Section 24.** Entire Agreement.

This Agreement, together with the By-Laws, constitutes the entire agreement of the parties with respect to the subject matter hereof, and together these documents shall constitute the limited liability company agreement of the Exchange within the meaning of the LLC Act.

**Section 25.** Binding Agreement.

Notwithstanding any other provision of this Agreement, the Stockholder agrees that this Agreement constitutes a legal, valid and binding agreement of the Stockholder and is enforceable against the Stockholder, in accordance with its terms.

**Section 26.** Governing Law.

This Agreement shall be governed by and construed under the laws of the State of Delaware (without regard to conflict of laws principles), all rights and remedies being governed by said laws.

**Section 27.** Amendments.

This Agreement may be modified, altered, supplemented or amended by a resolution adopted by the Board and a written agreement executed and delivered by the Stockholder.

**Section 28.** Notices.

Any notices required to be delivered hereunder shall be in writing and personally delivered, mailed or sent by telecopy, electronic mail or other similar form of rapid transmission, and shall be deemed to have been duly given upon receipt (i) in the case of the Exchange, to the Exchange at its address in Section 2, (ii) in the case of the Stockholder, to the Stockholder at its address as listed on Schedule B attached hereto and (iii) in the case of either of the foregoing, at such other address as may be designated by written notice to the other party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Second Amended Limited Liability Company Agreement as of the \_\_\_\_ day of \_\_\_\_\_, 201\_.

STOCKHOLDER:

NASDAQ , INC.

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

Name:

Title:

**SCHEDULE A**

**A. Definitions**

When used in this Agreement, the following terms not otherwise defined herein have the following meanings:

"LLC Act" has the meaning set forth in the preamble to this Agreement.

"Affiliate" has the meaning ascribed to that term in Rule 12b-2 of the General Rules and Regulations under the Exchange Act, as in effect on the date of this Agreement.

"Agreement" means this First Amended Limited Liability Company Agreement of the Exchange, together with the schedules attached hereto, as amended, restated, supplemented or otherwise modified from time to time.

"Bankruptcy" means, with respect to any Person, if (A) such Person (i) makes an assignment for the benefit of creditors, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged as bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial part of its properties; or (B) (i) 120 days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or (ii) within 90 days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede and replace the definition of "Bankruptcy" set forth in Sections 18-101 (1) and 18-304 of the LLC Act.

"Board" or "Board of Directors" means the Board of Directors of the Exchange.

"By-Laws" has the meaning set forth in Section 8.

"Certificate of Formation" means the Certificate of Formation of the Exchange filed with the Secretary of State of the State of Delaware on September 1, 2010, as amended or amended and restated from time to time.

"Covered Persons" has the meaning set forth in Section 19.

"Directors" means the Persons elected/appointed to the Board of Directors from time to time in accordance with this Agreement and the By-Laws, in their capacity as managers of the Exchange.

"Exchange" means Nasdaq PHLX LLC, a Delaware limited liability company.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Member Organization" means any registered broker or dealer that has been admitted to membership in the national securities exchange operated by the Exchange. A Member Organization is not a member of the LLC by reason of being a Member Organization.

"Member Representative Director" means a Director who has been elected or appointed in accordance with the procedures established by Article II of the By-Laws.

"Officer" means an officer of the Exchange described in Section 9.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization or other organization, whether or not a legal entity, and any governmental authority.

Regulatory Funds means fees, fines, or penalties derived from the regulatory operations of the Exchange. "Regulatory Funds" shall not be construed to include revenues derived from listing fees, market data revenues, transaction revenues, or any other aspect of the commercial operations of the Exchange, even if a portion of such revenues are used to pay costs associated with the regulatory operations of the Exchange.

"Stockholder" means Nasdaq, Inc., as the sole member of the Exchange.

#### B. Rules of Construction

Definitions in this Agreement apply equally to both the singular and plural forms of the defined terms. The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section, paragraph or subdivision. The Section titles appear as a matter of convenience only and shall not affect the interpretation of this Agreement. All Section, paragraph, clause, Exhibit or Schedule references not attributed to a particular document shall be references to such parts of this Agreement.

### SCHEDULE B

<b>Stockholder Name</b>	<b>Mailing Address</b>	<b>Limited Liability Company Interest</b>
Nasdaq, Inc.	One Liberty Plaza, New York, NY 10006	100%