

Compass Diversified Holdings
Form PRE 14A
October 07, 2016
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE
SECURITIES EXCHANGE ACT OF 1934

Filed by the registrant

Filed by a party other than the registrant

Check the appropriate box:

Preliminary Proxy Statement

Confidential, for use of the Commission only (as permitted by Rule 14a-6(e)(2))

Definitive proxy statement

Definitive additional materials

Soliciting material pursuant to § 240.14a-11(c) of § 240.14a-12

COMPASS DIVERSIFIED HOLDINGS

(Exact name of registrant as specified in its charter)

COMPASS GROUP DIVERSIFIED HOLDINGS LLC

(Exact name of registrant as specified in its charter)

N/A

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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**NOTICE OF 2016 SPECIAL MEETING AND
PROXY STATEMENT**

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Compass Diversified Holdings
Compass Group Diversified Holdings LLC
Notice of Special Meeting of Shareholders

, 2016

Dear Shareholder:

You are cordially invited to attend our Special Meeting of Shareholders, which will be held on Wednesday, November 30, 2016 at 9:00 a.m., Eastern Time. For your convenience, the Special Meeting will be a completely virtual meeting, which will be conducted via live audio webcast. You will be able to attend the Special Meeting online, vote your shares electronically and submit your questions during the Special Meeting via a live audio webcast by visiting www.virtualshareholdermeeting.com/CODI. Be sure to have the control number that appears on the proxy card or voting instructions that you have been provided in order to join the meeting.

The proxy statement contains important information about the Special Meeting, the proposals we will consider and how you can vote your shares. The Securities and Exchange Commission has adopted a Notice and Access rule that allows companies to deliver a Notice of Internet Availability of Proxy Materials, which we refer to as the Notice of Internet Availability, to shareholders in lieu of a paper copy of the proxy statement and related materials to shareholders, which we refer to as the Proxy Materials. The Notice of Internet Availability provides instructions as to how shareholders can access the Proxy Materials online, contains a listing of matters to be considered at the meeting and sets forth instructions as to how shares can be voted. Shares must be voted either by telephone, online or by completing and returning a proxy card, or electronically during the Special Meeting by visiting www.virtualshareholdermeeting.com/CODI. **Shares cannot be voted by marking, writing on and/or returning the Notice of Internet Availability. Any Notices of Internet Availability that are returned will not be counted as votes.** Instructions for requesting a paper copy of the Proxy Materials, including a paper proxy card, are set forth on the Notice of Internet Availability.

Your vote is very important to us. We encourage you to promptly vote your shares either by telephone, online or, if you received paper copies of your Proxy Materials in the mail, by completing, signing, dating and returning the enclosed proxy card, which contains instructions on how you would like your shares to be voted. **Please submit your proxy regardless of whether you will attend the Special Meeting.** This will help us ensure that your shares are represented at the Special Meeting. Signing this proxy will not prevent you from voting electronically should you be able to attend the meeting, but will assure that your vote is counted, if for any reason, you are unable to attend.

On behalf of the board of directors and the management of Compass Group Diversified Holdings LLC, I extend our appreciation for your investment in Compass Diversified Holdings.

Sincerely,

C. Sean Day

Chairman of the Board of Directors

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Compass Diversified Holdings

Compass Group Diversified Holdings LLC

, 2016

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

To Be Held On Wednesday, November 30, 2016

Compass Diversified Holdings 2016 Special Meeting of Shareholders (the Special Meeting) will be held on Wednesday, November 30, 2016 at 9:00 a.m., Eastern Time. The Special Meeting will be a completely virtual meeting, which will be conducted via live audio webcast. You will be able to attend the Special Meeting online, vote your shares electronically and submit your questions during the Special Meeting via a live audio webcast by visiting www.virtualshareholdermeeting.com/CODI. The Special Meeting is being held for the following purposes:

to approve amendments to the Amended and Restated Trust Agreement, as amended to date (the Trust Agreement), of Compass Diversified Holdings to authorize the board of directors of Compass Group Diversified Holdings LLC (the Company) to create classes or series of, and to issue up to 50,000,000, preferred shares of Compass Diversified Holdings with such terms as may be designated and approved by the board of directors of the Company, without further approval of the shareholders, including amendments to Sections 2.4, 3.1, 5.6, and 10.2 and the new definitions added in Section 1.1(b) of the Trust Agreement (Proposal 1);

to approve amendments to the Fourth Amended and Restated Operating Agreement (the LLC Agreement) of the Company to authorize the board of directors of the Company to create classes or series of, and to issue up to 50,000,000, trust preferred interests in the Company with such terms as may be designated and approved by the Company s board of directors, without further approval of the members of the Company (other than in certain circumstances, the allocation member of the Company), including amendments to Sections 1.3, 2.5, 3.1(a), 5.1, 14.1(i) and (ii), and Articles 10 and 12 of the LLC Agreement (Proposal 2);

to adjourn the Special Meeting, if necessary or appropriate, to establish a quorum or to permit further solicitation of proxies if there are not sufficient votes at the time of the Special Meeting cast in favor of Proposal 1 or Proposal 2 (Proposal 3); and

to transact such other business as may properly come before the meeting.

These matters are more fully described in the enclosed proxy statement. The board of directors recommends that you vote FOR the amendments to the Trust Agreement described in Proposal 1, FOR the amendments to the LLC Agreement described in Proposal 2 and FOR the adjournment of the Special Meeting, if necessary or appropriate, to establish a quorum or to permit further solicitation of proxies.

Shareholders of record at the close of business on October 13, 2016 will be entitled to notice of, and to vote at, the Special Meeting and at any subsequent adjournments or postponements. The share register will not be closed between the record date and the date of the Special Meeting. A list of shareholders entitled to vote at the Special Meeting is

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available for inspection at our principal executive offices at Sixty One Wilton Road, Second Floor, Westport, Connecticut 06880. The notice of Special Meeting, proxy statement and proxy are first being mailed or provided to shareholders on or about _____, 2016.

There will not be a traditional in-person meeting. To be sure that your shares are properly represented at the meeting, whether or not you electronically attend, **please promptly complete, sign, date and return the enclosed proxy card in the accompanying pre-addressed envelope or submit your vote by telephone or online.** We must receive your proxy no later than 11:59 p.m., Eastern Time, on November 29, 2016.

Please read carefully the sections in the proxy statement on attending and voting at the Special Meeting to ensure that you comply with these requirements.

Important Notice Regarding Availability of Proxy Material for the Special Meeting. Our proxy statement for the Special Meeting is available free of charge at www.proxyvote.com.

By order of the board of directors of the Company.

Sincerely,

Carrie W. Ryan

Secretary

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Compass Diversified Holdings, a Delaware statutory trust, which we refer to as the Trust, owns its businesses and investments through Compass Group Diversified Holdings LLC, a Delaware limited liability company, which we refer to as the Company. Except where the context indicates otherwise, we, us, and our refer to the Company and the Trust. References to shareholders refer to beneficial owners of the Trust. References to shares refer to the shares of the Trust, each representing an undivided beneficial interest in the Trust.

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COMPASS DIVERSIFIED HOLDINGS
COMPASS GROUP DIVERSIFIED HOLDINGS LLC

Sixty One Wilton Road, Second Floor

Westport, Connecticut 06880

PROXY STATEMENT FOR
SPECIAL MEETING OF SHAREHOLDERS

This proxy statement is being furnished in connection with the solicitation of proxies by the board of directors of Compass Group Diversified Holdings LLC, which we refer to as the Company, a Delaware limited liability company, for the 2016 Special Meeting of Shareholders of Compass Diversified Holdings, which we refer to as the Trust, to be held on Wednesday, November 30, 2016 at 9:00 a.m., Eastern Time, and for any adjournments or postponements of the 2016 Special Meeting of Shareholders. We refer to the 2016 Special Meeting of Shareholders as the Special Meeting. The notice of Special Meeting, proxy statement and proxy are first being mailed or provided to shareholders on or about _____, 2016. For your convenience, the Special Meeting will be a completely virtual meeting.

PURPOSE OF MEETING

As described in more detail in this proxy statement, the Special Meeting is being held for the following purposes:

to approve amendments to the Amended and Restated Trust Agreement, as amended to date (the Trust Agreement), of the Trust to authorize the board of directors of the Company to create classes or series of, and to issue up to 50,000,000, preferred shares of the Trust with such terms as may be designated and approved by the board of directors of the Company, without further approval of the shareholders, including amendments to Sections 2.4, 3.1, 5.6, and 10.2 and the new definitions added in Section 1.1(b) of the Trust Agreement (Proposal 1);

to approve amendments to the Fourth Amended and Restated Operating Agreement (the LLC Agreement) of the Company to authorize the board of directors of the Company to create classes or series of, and to issue up to 50,000,000, trust preferred interests in the Company with such terms as may be designated and approved by the Company's board of directors, without further approval of the members of the Company (other than in certain circumstances, the allocation member of the Company), including amendments to Sections 1.3, 2.5, 3.1(a), 5.1, 14.1(i) and (ii), and Articles 10 and 12 of the LLC Agreement (Proposal 2);

to adjourn the Special Meeting, if necessary or appropriate, to establish a quorum or to permit further solicitation of proxies if there are not sufficient votes at the time of the Special Meeting cast in favor of Proposal 1 or Proposal 2 (Proposal 3); and

to transact such other business as may properly come before the meeting.

VOTING INFORMATION

Broadridge Corporate Issuer Solutions, which we refer to as Broadridge, has been appointed by the board of directors of the Company as our inspector of election. As part of its responsibilities, Broadridge is required to independently verify that you are a shareholder of the Trust eligible to attend the Special Meeting, and to determine whether you may vote electronically at the Special Meeting.

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Notice and Access

The Securities and Exchange Commission, which we refer to as the SEC, has adopted a Notice and Access rule that allows companies to deliver a Notice of Internet Availability of Proxy Materials, which we refer to as the Notice of Internet Availability, to shareholders in lieu of a paper copy of the proxy statement and related materials to shareholders, which we refer to as the Proxy Materials. The Notice of Internet Availability provides instructions as to how shareholders can access the Proxy Materials online, contains a listing of matters to be considered at the meeting and sets forth instructions as to how shares can be voted. Shares must be voted either by telephone, online or by completing and returning a proxy card. **Shares cannot be voted by marking, writing on and/or returning the Notice of Internet Availability. Any Notices of Internet Availability that are returned will not be counted as votes.** Instructions for requesting a paper copy of the Proxy Materials, including a paper proxy card, are set forth on the Notice of Internet Availability.

Important Notice Regarding Availability of Proxy Materials for the Special Meeting to be Held on Wednesday, November 30, 2016: The Proxy Materials are available at www.proxyvote.com. Enter the 16-digit control number located on the Notice of Internet Availability or proxy card.

Voting by Proxy

If at the close of business on October 13, 2016, you were a shareholder of record or held shares through a broker, bank or other nominee, you may vote your shares by proxy through the Internet, by telephone or by mail, or you may vote electronically during the Special Meeting at www.virtualshareholdermeeting.com/CODI when you enter the control number that appears on the proxy card or the voting instructions that have been provided to you. For shares held through a broker, bank or other nominee, you may vote by submitting voting instructions to your broker, bank or other nominee. Please refer to information from your broker, bank or other nominee on how to submit voting instructions. To reduce our administrative costs and help the environment by conserving natural resources, we ask that you vote through the Internet or by telephone, both of which are available 24 hours a day. You may revoke your proxies at the times and in the manners described in this proxy statement.

If you are a shareholder of record or hold shares through a broker, bank or other nominee and are voting by proxy, your vote must be received by 11:59 p.m., Eastern Time, on November 29, 2016 to be counted.

To vote by proxy:

BY INTERNET

Go to the website www.proxyvote.com and follow the instructions, 24 hours a day, seven days a week.

You will need the 16-digit control number included on your proxy card to vote online.

BY TELEPHONE

From a touch-tone telephone, dial 1-800-690-6903 and follow the recorded instructions, 24 hours a day, seven days a week.

You will need the 16-digit control number included on your proxy card in order to vote by telephone.

BY MAIL

Mark your selections on the proxy card that accompanies this proxy statement.

Date and sign your name exactly as it appears on your proxy card.

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Mail the proxy card in the enclosed postage-paid envelope provided to you.

Electronically Attending the Special Meeting

The Special Meeting is being hosted via the Internet. There will not be a traditional in-person meeting. A summary of the information you need to attend the Special Meeting online is provided below:

Any shareholder can attend the Special Meeting via the Internet at www.virtualshareholdermeeting.com/CODI

We encourage you to access the Special Meeting online prior to its start time.

The Special Meeting starts at 9:00 a.m., Eastern Time.

Shareholders may vote while attending the Special Meeting on the Internet.

Please have the control number that appears on the proxy card or voting instructions that you have been provided in order to join the Special Meeting.

Instructions on how to attend and participate via the Internet are posted at www.virtualshareholdermeeting.com/CODI

Questions regarding how to attend and participate via the Internet will be answered by calling 800-321-8022 on the day of the Special Meeting.

A replay of the Special Meeting will be available on our website for a period of ten (10) days following the Special Meeting.

APPOINTMENT OF PROXY

Shareholders of Record. We encourage you to appoint a proxy to vote your shares on your behalf at the Special Meeting by promptly submitting the enclosed proxy card, which is solicited by the Company's board of directors, which we refer to as our Board or the Board, and which, when properly completed, signed, dated and returned to us, will ensure that your shares are voted as you direct. We strongly encourage you to return your completed proxy to us regardless of whether you will electronically attend the Special Meeting to ensure that your shares are represented and voted at the Special Meeting.

PLEASE RETURN YOUR PROXY CARD TO US IN THE ACCOMPANYING ENVELOPE, OR SUBMIT YOUR VOTE BY TELEPHONE OR ONLINE, NO LATER THAN 11:59 P.M., EASTERN TIME, ON NOVEMBER 29, 2016. IF WE DO NOT RECEIVE YOUR PROXY CARD BY THAT TIME, YOUR PROXY WILL NOT BE VALID. IN THIS CASE, UNLESS YOU ELECTRONICALLY ATTEND THE SPECIAL MEETING, YOUR VOTE WILL NOT BE REPRESENTED.

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The persons named in the proxy card have been designated as proxies by our Board. The designated proxies are officers of the Company. They will vote as directed by the completed proxy card.

If you wish to change your vote, you may do so by revoking your proxy before the Special Meeting. Please see **APPOINTMENT OF PROXY** **Revocation of Proxy** below for more information.

Beneficial Owners. If you hold your shares in street name, these Proxy Materials are being forwarded to you by your bank, broker or their appointed agent. You should also have received a voter instruction card instead of a proxy card. Your bank or broker will vote your shares as you instruct on the voter instruction card. We strongly encourage you to promptly complete and return your voter instruction card to your bank or broker in accordance with their instructions so that your shares are voted. You may also request a legal proxy from your bank or broker to vote electronically at the Special Meeting.

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Voting by the Designated Proxies

The persons who are the designated proxies will vote as you direct in your proxy card or voter instruction card. Please note that proxy cards returned without voting directions, and without specifying a proxy to attend the Special Meeting and vote on your behalf, will be voted in accordance with the recommendations of our Board. Our Board recommends:

a vote **FOR** the approval of the amendments to the Trust Agreement to authorize the board of directors of the Company to create classes or series of, and to issue up to 50,000,000, preferred shares of the Trust with such terms as may be designated and approved by the board of directors of the Company, without further approval of the shareholders, including amendments to Sections 2.4, 3.1, 5.6, and 10.2 and the new definitions added in Section 1.1(b) of the Trust Agreement (Proposal 1);

a vote **FOR** the approval of the amendments to the LLC Agreement to authorize the board of directors of the Company to create classes or series of, and to issue up to 50,000,000, trust preferred interests in the Company with such terms as may be designated and approved by the Company's board of directors, without further approval of the members of the Company (other than in certain circumstances, the allocation member of the Company), including amendments to Sections 1.3, 2.5, 3.1(a), 5.1, 14.1(i) and (ii), and Articles 10 and 12 of the LLC Agreement] (Proposal 2); and

a vote **FOR** the proposal to adjourn the Special Meeting, if necessary or appropriate, to establish a quorum or to permit further solicitation of proxies if there are not sufficient votes at the time of the Special Meeting cast in favor of Proposal 1 or Proposal 2 (Proposal 3).

If any other matter properly comes before the Special Meeting, your proxies will vote on that matter in their discretion.

Revocation of Proxy

You may revoke or change your proxy before the Special Meeting by:

sending us a duly executed written notice of revocation prior to the Special Meeting;

electronically attending and voting at the Special Meeting; OR

ensuring that we receive from you, **prior to 11:59 p.m., Eastern Time, on November 29, 2016**, a new proxy card with a later date, including receipt of a new proxy card submitted online.

Any written notice of revocation must be sent to the attention of Carrie W. Ryan, Secretary, Compass Group Diversified Holdings LLC, Sixty One Wilton Road, Second Floor, Westport, Connecticut 06880 or by facsimile to (203) 221-8253.

APPROVAL OF PROPOSALS AND SOLICITATION

Each shareholder who owned shares of the Trust on October 13, 2016, the record date for the determination of shareholders entitled to vote at the Special Meeting, is entitled to one vote for each share of the Trust. On September 26, 2016, we had 54,300,000 shares of the Trust issued and outstanding that were held by approximately 28,774 shareholders.

Quorum

Under the Amended and Restated Trust Agreement of the Trust, dated as of November 1, 2010, as amended, which we refer to as the Trust Agreement, the shareholders present in person electronically or by proxy holding a majority of the outstanding shares of the Trust entitled to vote shall constitute a quorum at a meeting of shareholders of the Trust. The Chairman of the Board or the holders of a majority of the outstanding shares of the Trust entitled to vote so represented may adjourn the meeting from time to time, whether or not there is such a quorum. Holders of shares of the Trust are the only shareholders entitled to vote at the Special Meeting. Shares of the Trust that are represented by broker non-votes will not be counted as shares present for purposes of determining the presence of a quorum at the Special Meeting. A broker non-vote occurs when the broker holding shares for a beneficial owner does not vote on a particular proposal because the broker does not have discretionary voting power to vote on that proposal without specific voting instructions from the beneficial owner. Proposal 1, Proposal 2 and Proposal 3 described in this proxy are all non-discretionary items.

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Approval of Proposals

For each of the amendments to the Trust Agreement (Proposal 1), the amendments to the LLC Agreement (Proposal 2) and the adjournment of the Special Meeting, if necessary or appropriate, to establish a quorum or to permit further solicitation of proxies (Proposal 3), the affirmative vote of a majority of the outstanding shares present in person electronically or represented by proxy at the Special Meeting is required. With the exception of director elections and certain business combinations, as such term is defined in the Trust Agreement, any other proposal that properly comes before the Special Meeting must be approved by the affirmative vote of a majority of the outstanding shares present in person electronically or represented by proxy at the Special Meeting.

Each of Proposal 1, Proposal 2 and Proposal 3 requires the affirmative vote of a majority of the outstanding shares present in person electronically or by proxy, and therefore, an abstention is the same as a vote Against a proposal.

Under the terms of the Fourth Amended and Restated Operating Agreement of the Company, dated as of January 1, 2012, which we refer to as the LLC Agreement, and the Trust Agreement, with respect to those matters subject to vote by the members of the Company, the Company will act at the direction of the Trust. The Trust Agreement requires the Trust to vote 100% of the limited liability interests of the Company, or the LLC interests, of which it is the sole holder, in the same proportion as the vote of holders of the shares of the Trust. In this way the voting rights of members of the Company will effectively be exercised by the shareholders of the Trust by proxy. For the amendments to the LLC Agreement (Proposal 2), the LLC Agreement requires the affirmative vote of members of the Company holding a majority of the then outstanding LLC interests present in person electronically or represented by proxy at a meeting of the members. The Trust will vote its LLC interests as directed at the Company's members' meeting promptly following the tabulation of votes cast at this Special Meeting.

All votes will be tabulated by Broadridge, the proxy tabulator and inspector of election appointed for the Special Meeting. Broadridge will separately tabulate affirmative and negative votes, abstentions and broker non-votes.

Solicitation of Proxies

We will bear the cost of the solicitation of proxies, including the preparation, printing and mailing of this proxy statement and the proxy card. We have also retained Broadridge to distribute copies of these proxy materials to banks, brokers, fiduciaries and custodians, or their agents holding shares in their names on behalf of beneficial owners of shares so that they may forward these Proxy Materials to the beneficial owners of shares.

We may supplement the original solicitation of proxies by mail with solicitation by telephone, telegram and other means by directors, officers and/or employees of our manager, Compass Group Management LLC. We will not pay any additional compensation to these individuals for any such services.

We also engaged _____ to assist in proxy solicitation and collection at a cost of \$ _____, plus out-of-pocket expenses.

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PROPOSAL 1: AMENDMENTS TO THE TRUST AGREEMENT

General

On October 6, 2016, the Board approved, subject to shareholder approval of both Proposal 1 and Proposal 2, amendments to the Trust Agreement to authorize the Board to create classes or series of, and to issue up to 50,000,000, preferred shares of the Trust with such terms as may be designated and approved by the Board, without further approval of the shareholders, including amendments to Sections 2.4, 3.1, 5.6, and 10.2 and the new definitions added in Section 1.1(b) of the Trust Agreement. The Board also approved other amendments to the Trust Agreement to incorporate certain updates of tax-related provisions and other technical or clean-up changes, which amendments do not require shareholder approval and are not part of Proposal 1. All of the above amendments are reflected substantially in the form attached hereto as Exhibit A.

Authorization of Issuance of Preferred Shares to Be Approved by Shareholders

The Trust Agreement currently authorizes the issuance of only one class of shares, which we refer to as common shares. The Trust Agreement, if amended pursuant to Proposal 1, will authorize the Board, without further action by shareholders (unless required by applicable law or the rules of any applicable stock exchange), to create and cause the Trust to issue from time to time one or more classes or series of up to 50,000,000 preferred shares. The existing shares will be redefined as common shares and the definitions of preferred shares and other related terms will be added into the Trust Agreement. The Board would be able to determine, without further action by shareholders, the terms, designations, preferences, rights, powers and duties of any such future preferred shares, as reflected in a share designation, including:

the ranking of such shares relative to the Trust's other shares;

the right, if any, of such shares to share in the Trust's profits and losses or items thereof;

the right, if any, of such shares to share in the Trust's distributions, the dates distributions on such shares will be payable and whether distributions with respect to such shares will be cumulative or non-cumulative;

the rights of such shares upon dissolution and liquidation of the Trust;

whether, and the terms and conditions upon which, the Trust may redeem such shares;

whether such shares are issued with the privilege of conversion or exchange and, if so, the terms and conditions upon which the conversion or exchange may be made;

the terms and conditions upon which such shares will be issued, evidenced by certificates and assigned or transferred;

the method for determining the percentage interest as to such shares;

the terms and amounts of any sinking fund provided for the purchase or redemption of such shares;

whether there will be restrictions on the issuance of preferred shares of the same class or series or any other class or series; and

the right, if any, of the holder of each such share to vote.

At all times, the Trust will have outstanding the identical number of preferred shares as the number of outstanding trust preferred interests of the Company that are of the corresponding class and series as the preferred shares. Any share designation adopted by the Board would amend the provisions of the Trust Agreement and any other share designation. In addition, the Board would be able to, without further action by shareholders, amend the Trust Agreement to the extent the Board determines that it is necessary or desirable in order to effectuate any issuance of preferred shares. The above amendment as proposed by Proposal 1, including certain technical and cleanup changes, are reflected in Sections 2.4, 3.1, 5.6, and 10.2 and the new definitions added in Section 1.1(b) of the Trust Agreement in Exhibit A attached hereto.

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The approval of Proposal 1 is conditioned upon the approval of Proposal 2 by shareholders.

Further Amendment to Trust Agreement to Be Effected without Shareholder Approval

The Board has approved that, regardless of whether Proposal 1 or Proposal 2 is approved by the shareholders, the Trust Agreement will be further amended to incorporate certain updates of tax-related provisions and other technical or clean-up changes in sections of the Trust Agreement not referred to in Proposal 1, including the following:

Revising Exhibit B (Allocations of Profits and Losses) to the Trust Agreement to permit the maintenance of separate capital accounts for the preferred shares and common shares if necessary for appropriate tax reporting and address new partnership audit provisions in the Bipartisan Budget Act of 2015;

Updating the information of regular trustees, the Delaware trustee, the transfer agents, tax matter partner, partner representative and contact of the Trust; and

Making conforming changes with respect to cross-references and other technical or clean-up changes. Under the terms of the Trust Agreement, these updates of tax-related provisions and other technical or clean-up changes do not require shareholder approval and are not part of Proposal 1. If both Proposal 1 and Proposal 2 are approved by shareholders, the Trust Agreement will be amended and restated to reflect both Proposal 1 and these updates and changes, as set forth in Exhibit A hereto, where proposed additions are indicated by underlining and proposed deletions are indicated by overstriking; if either Proposal 1 or Proposal 2 is not approved by shareholders, only these updates and changes will be made to the Trust Agreement and only to the extent they are unrelated to preferred shares.

Purpose of the Proposal

The Board believes that it is in the best interests of the Trust and its shareholders to adopt the amendments to the Trust Agreement described in Proposal 1 because they will provide the Trust with increased flexibility in meeting future capital requirements through equity financings without the delay and expense ordinarily associated with obtaining further shareholder approvals, and (ii) they will improve the Trust's ability to attract investment capital, as various classes or series of the preferred shares may be customized to meet the needs of any particular transaction or market conditions.

We have no current plans, arrangements, or agreements to issue any preferred shares. However, in light of our recent add-on and platform acquisitions, our Board may in the near future determine that it is appropriate or necessary to raise additional capital to pay down our debt through the sale of preferred shares.

Effects of the Proposal

The preferred shares to be authorized pursuant to Proposal 1 could be issued at the discretion of the Board, for any proper business purpose, without further action by the shareholders except as may be required by applicable law, the rules of any applicable stock exchange or our declawing representation described below in this section. We do not currently have any plan or proposal to issue any preferred shares. Existing shareholders would not have preemptive rights with respect to any future issuance of preferred shares by the Trust, and their interest in the Trust could be

diluted by such issuance with respect to earnings per share, voting, liquidation rights and book and market value.

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The Board would have the power to issue the preferred shares in one or more classes or series with such preferences and voting rights as the Board may fix in the resolution providing for the issuance of such shares. The issuance of preferred shares could affect the relative rights of the holders of the Trust's common shares. Depending upon the exact terms, limitations and relative rights and preferences, if any, of the preferred shares as determined by the Board at the time of issuance, the holders of preferred shares may be entitled to a higher distribution rate than that paid on the common shares, a prior claim on funds available for the payment of distributions, a fixed preferential payment in the event of liquidation or dissolution of the Trust, redemption rights, rights to convert their preferred shares into common shares, and voting rights which would dilute the voting control of the Trust by the holders of common shares. Depending on the particular terms of any series of the preferred shares, holders thereof may have significant voting rights and the right to representation on the Board. In addition, the approval of the holders of preferred shares, voting as a class or as a series, may be required for the taking of certain corporate actions, such as mergers.

Proposal 1 is not proposed in response to, or for the purpose of deterring, any effort to obtain control of the Trust or the Company or as an anti-takeover measure. **If the proposed amendments to the Trust Agreement described in Proposal 1 are approved by the shareholders at the Special Meeting, the Board represents that it will not, without prior shareholder approval, issue or use any preferred shares for any defensive or anti-takeover purpose or for the purpose of implementing any shareholder rights plan.**

Required Vote for Shareholder Approval

The affirmative vote of a majority of the outstanding shares present in person electronically or by proxy at the Special Meeting is required to approve the amendments to the Trust Agreement described in Proposal 1.

Recommendation of the Board

Our Board recommends that you vote **FOR** the amendments to the Trust Agreement described in Proposal 1.

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PROPOSAL 2: AMENDMENTS TO THE LLC AGREEMENT

General

On October 6, 2016, the Board approved, subject to shareholder approval of both Proposal 1 and Proposal 2, amendments to the LLC Agreement to authorize the Board to create classes or series of, and to issue up to 50,000,000, trust preferred interests in the Company with such terms as may be designated and approved by the Board, without further approval of the members of the Company (other than in certain circumstances, the allocation member of the Company), including amendments to Sections 1.3, 2.5, 3.1(a), 5.1, 14.1(i) and (ii), and Articles 10 and 12 of the LLC Agreement. The Board also approved other amendments to the LLC Agreement to incorporate certain updates of tax-related provisions and other technical or clean-up changes, which amendments do not require shareholder approval and are not part of Proposal 2. All of the above amendments are reflected substantially in the form attached hereto as Exhibit B.

Authorization of Issuance of Preferred Shares to Be Approved by Shareholders

The LLC Agreement currently authorizes the issuance of only one class of trust interests, which we refer to as trust common interests. The LLC Agreement, if amended pursuant to Proposal 2, would authorize the Board, without further action by the Company's members (other than in certain circumstances, the allocation member of the Company) or the shareholders (unless required by applicable law or the rules of any applicable stock exchange), to create and cause the Company to issue from time to time one or more classes or series of up to 50,000,000 trust preferred interests. The existing trust interests will be redefined as trust common interests and the definitions of trust preferred interests and other related terms will be added into the LLC Agreement. The Board may determine, without further action by the Company's members or the shareholders, the terms, designations, preferences, rights, powers and duties of any such future trust preferred interests, as reflected in a trust interest designation, including:

the ranking of such trust interests relative to the Company's other trust interests;

the right, if any, of such trust interests to share in the Company's profits and losses or items thereof;

the right, if any, of such trust interests to share in the Company's distributions, the dates distributions on such trust interests will be payable and whether distributions with respect to such trust interests will be cumulative or non-cumulative;

the rights of such trust interests upon dissolution and liquidation of the Company;

whether, and the terms and conditions upon which, the Company may redeem such trust interests;

whether such trust interests are issued with the privilege of conversion or exchange and, if so, the terms and conditions upon which the conversion or exchange may be made;

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the terms and conditions upon which such trust interests will be issued, evidenced by certificates and assigned or transferred;

the method for determining the percentage interest as to such trust interests;

the terms and amounts of any sinking fund provided for the purchase or redemption of such trust interests;

whether there will be restrictions on the issuance of preferred trust interests of the same class or series or any other class or series; and

the right, if any, of the holder of each such trust interest to vote.

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As long as the Trust remains the sole holder of the trust interests of the Company, the Company will cause to be issued to the Trust, as of any time, the identical number of each class or series of trust preferred interests as the number of each class or series of outstanding preferred shares of the Trust. Any trust interest designation adopted by the Board would amend the provisions of the LLC Agreement and any other trust interest designation. In addition, the Board would be able to, without further action by the Company's members (other than the Company's allocation member in certain circumstances) or the shareholders, amend the LLC Agreement to the extent the Board determines that it is necessary or desirable in order to effectuate any issuance of trust preferred interests. The above amendments as proposed by Proposal 2 and certain technical and cleanup changes, are reflected in Sections 1.3, 2.5, 3.1(a), 5.1, 14.1(i) and (ii), and Articles 10 and 12 of the LLC Agreement in Exhibit B attached hereto.

The approval of Proposal 2 is conditioned upon the approval of Proposal 1 by shareholders.

Further Amendment to LLC Agreement to Be Effected without Shareholder Approval

The Board has approved that, regardless of whether Proposal 1 or Proposal 2 is approved by the shareholders, the LLC Agreement will be further amended to incorporate certain updates of tax-related provisions and other technical or clean-up changes in sections of the LLC Agreement not referred to in Proposal 2, including the following:

Revising the LLC Agreement to permit the maintenance of separate capital accounts for the trust preferred interests and trust common interests if necessary for appropriate tax reporting and address new partnership audit provisions in the Bipartisan Budget Act of 2015;

Updating the information of the Company's directors and contact information of the parties to the LLC Agreement;

Deleting unnecessary and obsolete references in the LLC Agreement; and

Making conforming changes with respect to cross-references and other technical or clean-up changes.

Under the terms of the LLC Agreement and the Trust Agreement, these updates of tax-related provisions and other technical or clean-up changes do not require shareholder approval and are not part of Proposal 2. If both Proposal 1 and Proposal 2 are approved by shareholders, the LLC Agreement will be amended and restated to reflect both Proposal 2 and these updates and changes, as set forth in Exhibit B hereto, where proposed additions are indicated by underlining and proposed deletions are indicated by overstriking; if either Proposal 1 or Proposal 2 is not approved by shareholders, only these updates and changes will be made to the LLC Agreement and only to the extent they are unrelated to trust preferred interests.

Purpose of the Proposal

Under Proposal 1 and Proposal 2, the shareholder approvals of which are conditioned upon one another, each preferred share of the Trust corresponds to one underlying trust preferred interest of the Company held by the Trust. Unless the Trust is dissolved, it must remain the holder of 100% of the trust preferred interests of the Company and at all times the Company will have outstanding the identical number of trust preferred interests as the number of outstanding preferred shares of the Trust that are of the corresponding class and series as the trust preferred interests.

Therefore, the Board believes that, for the same reasons the Board is recommending that the shareholders of the Trust adopt the amendments to the Trust Agreement described in Proposal 1, it is in the best interests of the Company, the members of the Company, the Trust and the shareholders of the Trust to adopt the amendments to the LLC Agreement described in Proposal 2. See Proposal 1: Amendments to the Trust Agreement Purpose of the Proposal.

Effects of the Proposal

As the approvals of Proposal 1 and Proposal 2 are conditioned upon the approval of one another and, under Proposal 1, the Trust will have outstanding the identical number of preferred shares as the number of outstanding trust preferred interests that are of the corresponding class and series as the preferred shares, the effects of Proposal 2 are same as those of Proposal 1. See Proposal 1: Amendment to the Trust Agreement Effects of the Proposal.

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Required Vote for Shareholder Approval

The affirmative vote of a majority of the outstanding shares present in person electronically or by proxy at the Special Meeting is required to approve the amendments to the LLC Agreement described in Proposal 2.

Recommendation of the Board

Our Board recommends that you vote **FOR** the amendments to the LLC Agreement described in Proposal 2.

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PROPOSAL 3: ADJOURNMENT OF THE SPECIAL MEETING

A proposal will be submitted to the shareholders at the Special Meeting to approve the adjournment of the Special Meeting, if necessary or appropriate, to establish a quorum or to solicit additional proxies in the event that there are not sufficient votes at the time of the Special Meeting to approve Proposal 1 or Proposal 2. Any adjournment of the Special Meeting may be made without notice, other than by an announcement made at the Special Meeting. Any adjournment of the Special Meeting for the purpose of soliciting additional proxies will allow shareholders who have already sent in their proxies to revoke them at any time prior to the time that the proxies are used at the Special Meeting.

Required Vote for Shareholder Approval

The affirmative vote of a majority of the outstanding shares present in person electronically or by proxy at the Special Meeting is required to approve the adjournment of the Special Meeting, if necessary or appropriate, to establish a quorum or to solicit additional proxies.

Recommendation of the Board

Our Board recommends that you vote **FOR** the approval of the adjournment of the Special Meeting, if necessary or appropriate, to establish a quorum or to solicit additional proxies in the event that there are not sufficient votes at the time of the Special Meeting to approve Proposal 1 or Proposal 2.

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**SHARE OWNERSHIP OF DIRECTORS, EXECUTIVE OFFICERS
AND PRINCIPAL SHAREHOLDERS**

The following table sets forth information regarding the beneficial ownership of shares of the Trust by each person who is known to us to be the beneficial owner of more than five percent of the outstanding shares of the Trust, each of our directors and executive officers, and our directors and executive officers as a group as of September 30, 2016, based on 54,300,000 shares issued and outstanding. All holders of shares of the Trust are entitled to one vote per share on all matters submitted to a vote of holders of shares of the Trust. The voting rights attached to shares of the Trust held by our directors, executive officers or major shareholders do not differ from those that attach to shares of the Trust held by any other holder. Under Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the Exchange Act), beneficial ownership includes shares for which the individual, directly or indirectly, has voting power, meaning the power to control voting decisions, or investment power, meaning the power to cause the sale of the shares, whether or not the shares are held for the individual's benefit. The address for each director and executive officer is Sixty One Wilton Road, Second Floor, Westport, Connecticut, 06880.

Name and Address of Beneficial Owner	Shares of Trust Stock Representing Sole Voting and/ or Investment Power	Percent of Shares Outstanding
<i>5% Beneficial Owner</i>		
CGI Magyar Holdings LLC (1)	7,931,000	14.6%
RBC Global Asset Management (U.S.) (2)	4,068,794	7.5%
City National Rochdale LLC (3)	3,681,651	6.8%
<i>Directors, Nominees and Executive Officers:</i>		
C. Sean Day (4)	590,549	1.1%
Alan B. Offenberg	324,942	*
James J. Bottiglieri	37,962	*
Harold S. Edwards	58,394	*
D. Eugene Ewing (5)	48,396	*
Mark H. Lazarus	42,571	*
Gordon M. Burns (6)	200,670	*
Ryan J. Faulkingham (7)	3,341	*
All Directors, Nominees and Executive Officers as a Group	1,306,825	2.4%

* Less than 1%.

- (1) The mailing address for CGI Magyar Holdings LLC is Belvedere Building, 4th Floor, 69 Pitts Bay Road, Hamilton HM 08, Bermuda. Path Spirit Limited is the ultimate controlling person of CGI Magyar Holdings LLC. The mailing address for Path Spirit Limited is 10 Norwich Street, London, EC4A 1BD, United Kingdom. CGI Magyar Holdings LLC has shared voting power with respect to all 7,931,000 shares.
- (2) The address for RBC Global Asset Management (U.S.) is 50 South Sixth Street, Suite 2350, Minneapolis, Minnesota 55402. This information is based on a Schedule 13F filed by RBC Global Asset Management (U.S.) on July 28, 2016. RBC Global Asset Management (U.S.) has shared investment power for all 4,068,794 shares, of which it has sole voting power over 0 shares and shared voting power over 3,754,476 shares.

- (3) The address for City National Rochdale, LLC is 400 Park Avenue, New York, NY 10022. This information is based on a Schedule 13F filed by City National Rochdale, LLC on August 8, 2016. City National Rochdale, LLC has shared investment power for all 3,681,651 shares, of which it has sole voting power over 3,562,269 shares and shared voting power over 0 shares.
- (4) 433,986 of these shares are beneficially owned directly by Mr. Day and 156,563 additional shares are beneficially owned by Mr. Day through the Day Family 2007 Irrevocable Trust.
- (5) 4,000 of these shares are beneficially owned by Mr. Ewing and directly owned by Mr. Ewing's spouse.
- (6) 88,664 of these shares are beneficially owned directly and indirectly by Mr. Burns, 12,987 of these shares are beneficially owned by Mr. Burns through the Talley Burns Executor Trust, 12,824 of these shares are beneficially owned by Mr. Burns through the Peter Burns Executor Trust, 80,000 of these shares are beneficially owned by Mr. Burns through the Gordon M. Burns 2009 Revocable Trust and 6,195 of these shares are beneficially owned by Mr. Burns through the Burns Family Trust.

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(7) 787 of these shares are beneficially owned by Mr. Faulkingham and directly by Mr. Faulkingham's spouse. The following table sets forth certain information regarding the beneficial ownership of the Company's two classes of equity interests.

	Number of Interests (1)	Percent of Class
Sostratus LLC		
Allocation interests (2)	1,000	100%
Trust interests		
Compass Diversified Holdings (3)		
Allocation interests (2)		
Trust interests	54,300,000	100%

- (1) Compass Group Diversified Holdings LLC currently has two classes of equity interests: allocation interests and trust interests.
- (2) Mr. Offenberg may be deemed to be the beneficial owner of 16% of the allocation interests. Mr. Bottiglieri was deemed to be the beneficial owner of approximately 5% of the allocation interests in that he indirectly shared in approximately 5% of the proceeds of the allocation interests prior to his resignation on November 30, 2013. Mr. Bottiglieri is entitled to continue to receive distributions on his allocation interests earned prior to his retirement. Mr. Day may be deemed to be the beneficial owner of 5% of the allocation interests in that he indirectly shares in 5% of the proceeds of the allocation interests. Mr. Faulkingham may be deemed to be the beneficial owner of approximately 2% of the allocation interests in that he indirectly shares in approximately 2% of the proceeds of the allocation interests.
- (3) Each beneficial interest in the Trust corresponds to one underlying trust interest of the Company. Unless the Trust is dissolved, it must remain the sole holder of 100% of the trust interests and at all times the Company will have outstanding the identical number of trust interests as the number of outstanding shares of the Trust. As a result of the corresponding interests between shares and trust interests, each holder of shares identified in the table above relating to the Trust is deemed to beneficially own a correspondingly proportionate interest in the Company.

The following table sets forth certain information as of September 30, 2016, regarding the beneficial ownership by Mr. Day of equity interests in Advanced Circuits, Inc., one of our businesses.

Owner	Entity	Number of Shares (1)	Percent of Class
C. Sean Day	Compass AC Holdings, Inc. (sole shareholder of Advanced Circuits, Inc.), Series B Common Stock.	10,000	0.7%

- (1) Mr. Day is the direct owner of 6,480 shares of Series B Common Stock and Mr. Day's children are the owners in the aggregate of 3,520 shares of Series B Common Stock.

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SHAREHOLDER PROPOSALS FOR THE 2017 ANNUAL MEETING OF SHAREHOLDERS

To be considered for inclusion in our proxy statement for the 2017 Annual Meeting of Shareholders, shareholder proposals must be received by the Company no later than December 16, 2016. In order to be included in Company-sponsored proxy materials, shareholder proposals will need to comply with Rule 14a-8 promulgated under the Exchange Act. If you do not comply with Rule 14a-8, we will not be required to include the proposal in the proxy statement and the proxy card we will mail to shareholders. No other business (other than matters included in our proxy statement in accordance with Rule 14a-8) may be presented for action at the annual meeting unless a shareholder gives timely notice of the proposal in writing to the Secretary. To be timely, a shareholder's notice is required to be delivered to the Secretary not less than 120 days and no more than 150 days prior to the first anniversary of the preceding year's annual meeting. Shareholder proposals should be sent to the Secretary at Compass Group Diversified Holdings LLC, Sixty One Wilton Road, Second Floor, Westport, Connecticut 06880, Attention: Investor Relations.

OTHER MATTERS

We know of no other business that will be brought before the Special Meeting. If any other matter or any proposal should be properly presented and should properly come before the meeting for action, the persons named in the accompanying proxy will, at their discretion and in accordance with their best judgment, vote upon such proposal.

DELIVERY OF DOCUMENTS TO SHAREHOLDERS SHARING AN ADDRESS

We and some brokers have adopted householding, a procedure under which shareholders who have the same address will receive a single set of proxy materials, unless one or more of these shareholders provides notice that they wish to continue receiving individual copies. Shareholders who participate in householding will continue to receive separate proxy cards.

If you participate in householding and wish to receive a separate set of these proxy materials, or if you wish to receive separate copies of future notices, annual reports and proxy statements, please call 1-800-542-1061 or write to: Broadridge Financial Solutions, Inc., Householding Department, 51 Mercedes Way, Edgewood, New York 11717. We will deliver the requested documents to you promptly upon your request.

Any shareholders of record who share the same address and currently receive multiple copies of proxy materials who wish to receive only one copy of these materials per household in the future may contact Broadridge Financial Solutions, Inc. at the address or telephone number listed above. If you hold your shares through a broker, bank or other nominee, please contact your broker, bank, or other nominee to request information about householding.

SECOND AMENDED AND RESTATED TRUST AGREEMENT

OF

COMPASS DIVERSIFIED HOLDINGS

AMONG

COMPASS GROUP DIVERSIFIED HOLDINGS LLC

as Sponsor,

~~**THE BANK**~~ **BNY MELLON TRUST** ~~**OF NEW YORK (DELAWARE)**~~

as Delaware Trustee,

AND

THE REGULAR TRUSTEES NAMED HEREIN,

Dated as of ~~November 1, 2010~~ , 2016

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SECOND AMENDED AND RESTATED TRUST AGREEMENT, dated as of [_____], 2016 (as amended, revised, supplemented or otherwise modified from time to time, this *Agreement*), ~~dated as of November 1, 2010~~; is entered into by and among COMPASS GROUP DIVERSIFIED HOLDINGS LLC, a Delaware limited liability company (the *Sponsor*), ~~THE BANK OF AMERICA MELLON TRUST OF NEW YORK (DELAWARE)~~, a Delaware banking corporation, as Delaware trustee (in such capacity, the *Delaware Trustee*), and MR. ALAN B. OFFENBERG and MR. ~~JAMES RYAN J. BOTTIGLIERI~~ FAULKINGHAM, as the regular trustees (each a *Regular Trustee*, together *Regular Trustees* and, collectively with the Delaware Trustee, the *Trustees*).

The Sponsor and the Trustees hereby agree as follows:

WHEREAS, the Sponsor and the Trustees heretofore duly declared and established Compass Diversified Holdings (the *Trust*), a statutory trust under the Delaware Statutory Trust Act, by entering into a trust agreement, dated as of November 18, 2005 (the *Original Agreement*), and by executing and filing of a Certificate of Trust with the Secretary of State of the State of Delaware on November 18, 2005, for the purpose of owning the Sponsor Interests (as defined herein) and issuing Shares (as defined herein) of the Trust, in one or more series, each Share representing an undivided beneficial interest in the Trust Property;

WHEREAS, the Original Agreement was amended and restated by that certain Amended and Restated Trust Agreement dated April 25, 2006, which Amended and Restated Trust Agreement was amended by ~~that~~the First Amendment ~~dated May 25, 2007, which amendment that~~ was effective as of April 25, 2006, ~~that~~the Second Amendment ~~which that~~ was effective as of September 14, 2007 ~~and that, the~~ Third Amendment ~~which that~~ was effective as of January 1, 2007 (together and the Fourth Amendment that was effective as of November 1, 2010 (as amended, the *Current Agreement*));

WHEREAS, the Sponsor and the Regular Trustees desire to amend and restate the Current Agreement in its entirety as set forth herein to provide for, among other things, the operation authorization and issuance of the Trust, the tax treatment one or more classes or series of the Trust Preferred Shares (as defined herein) and other matters;

WHEREAS, the Sponsor and the Trustees intend that the Trust function as a pass-through entity structured to give the Shareholders (as defined herein) similar rights and obligations, to the extent provided herein, as if they held Sponsor Interests ~~(as defined herein)~~ directly and the Sponsor and the Trustees further intend that this Agreement, including the grant of rights to the Sponsor, the Board of Directors (as defined herein) and certain other Persons, be interpreted consistent with such intention;

WHEREAS, the Board of Directors of the Sponsor have determined that ~~this~~the Current Agreement should be amended and restated as ~~provide~~provided herein pursuant to Section ~~9.6 of the Current Agreement;~~ 10.2 hereof and declared such amendments to be advisable;

WHEREAS, the holders of a majority of the Outstanding Shares (as defined in the Current Agreement) present in person or represented by proxy at a meeting of the Shareholders (as defined in the Current Agreement) have affirmatively voted for the amendments to the Current Agreement contained herein; and

WHEREAS, none of the amendments to the Current Agreement contained herein alter the rights, powers or immunities of the Delaware Trustee.

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NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, ~~each party, for the benefit of the other party, hereby amends and restates~~ the Current Agreement is hereby amended and restated so as to read in its entirety ~~and agrees~~ as follows:

ARTICLE I

DEFINED TERMS

Section 1.1 Interpretations; Definitions

(a) Interpretations. For all purposes of this Agreement (as defined herein), except as otherwise expressly provided or unless the context otherwise requires:

(i) the terms defined in this ~~Article~~Section 1.1 and in Exhibit B have the meanings assigned to them in this ~~Article~~Section and Exhibit B, respectively, and include the plural as well as the singular;

(ii) unless the context otherwise requires, any reference to an Article, Section or an Exhibit refers to an Article, Section or an Exhibit, as the case may be, of this Agreement;

(iii) the words herein, ~~hereof~~ hereof and hereunder and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; and

~~(iv) additional definitions are on Exhibit B.~~

(iv) the term including is not limiting and means including but not limited to .

(b) Definitions.

1933 Act Registration Statement has the meaning set forth in Section 2.9 hereof.

1934 Act Registration Statement has the meaning set forth in Section 2.9 hereof.

1940 Act means the Investment Company Act of 1940, as amended.

462(b) Registration Statement has the meaning set forth in Section 2.9 hereof.

Acquirer has the meaning set forth in Section 9.3 hereof.

Acquisition Exchange has the meaning set forth in Section 9.3 hereof.

Affiliate means, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any officer, director, general member, member or trustee of such Person. For purposes of this definition, the terms *controlling*, *controlled by* or *under common control with* shall mean, with respect to any Persons, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, or

the power to elect at least fifty percent (50%) of the directors, managers, general members or Persons exercising similar authority with respect to such Person.

Agreement has the meaning set forth in the preamble of this Agreement.

Allocation Interests has the meaning set forth in the Sponsor Agreement.

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Associate has the meaning ascribed to such term in Rule 12b-2 of the Rules and Regulations promulgated under the Exchange Act.

Beneficial Owner has the meaning ascribed to such term in Rule 13d-3 of the Rules and Regulations promulgated under the Exchange Act.

Board of Directors means the Board of Directors of the Sponsor or any committee thereof that has been duly authorized by the Board of Directors to make a decision on the matter in question or bind the Sponsor as to the matter in question.

Business Combination means:

(i) any merger or consolidation of the Trust with (A) an Interested Shareholder, or (B) any other Person (whether or not itself an Interested Shareholder) that is, or after such merger or consolidation would be, an Affiliate or Associate of an Interested Shareholder; or

(ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with, or proposed by or on behalf of, an Interested Shareholder or an Affiliate or Associate of an Interested Shareholder of any property or assets of the Trust having an aggregate Fair Market Value as of the date of consummation of the transaction giving rise to the Business Combination of not less than ten percent (10%) of the Net Investment Value as of such date;

(iii) the issuance or transfer by the Trust, the Sponsor or any Subsidiary thereof (in one transaction or a series of transactions) of any securities of the Trust to, or proposed by or on behalf of, an Interested Shareholder or an Affiliate or Associate of an Interested Shareholder in exchange for cash, securities or other property (or a combination thereof) having an aggregate Fair Market Value as of the date of consummation of the transaction giving rise to the Business Combination of not less than ten percent (10%) of the Net Investment Value as of such date; or

(iv) any spin-off or split-up of any kind of the Trust thereof proposed by or on behalf of an Interested Shareholder or an Affiliate or Associate of an Interested Shareholder; or

(v) any reclassification of the Shares (including any reverse split of Shares) or recapitalization of the Trust or any merger or consolidation of the Trust with the Sponsor or any Subsidiary thereof, or any other transaction (whether or not with or into or otherwise involving an Interested Shareholder), that has the effect, directly or indirectly, of increasing the proportionate share of Outstanding Shares which is beneficially owned by an Interested Shareholder or an Affiliate or Associate of an Interested Shareholder; or

(vi) any agreement, contract or other arrangement providing for any one or more of the actions specified in clauses (i) through (iv) above.

Business Day means any day other than a Saturday, a Sunday or a day on which banks in The City of New York are required, permitted or authorized, by applicable law or executive order, to be closed for regular banking business.

Chairman has the meaning set forth in the Sponsor Agreement.

Common Shares means any Shares that are not Preferred Shares.

Commission means the U.S. Securities and Exchange Commission.

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Continuing Director means (i) any director of the Sponsor who (A) is neither the Interested Shareholder involved in the Business Combination as to which a determination of Continuing Directors is provided hereunder, nor an Affiliate, Associate, employee, agent or nominee of such Interested Shareholder, or a relative of any of the foregoing, and (B) was a director of the Board of Directors prior to the time that such Interested Shareholder became an Interested Shareholder, or (ii) any successor of a Continuing Director described in clause (i) above who is recommended or elected to succeed a Continuing Director by the affirmative vote of a majority of Continuing Directors then on the Board of Directors.

[Corresponding Shares](#) has the meaning set forth in Section 2.3(b) hereof.

Delaware Statutory Trust Act means chapter 38 of title 12 of the Delaware Code, 12 Del. C. Section 3801 et seq., as it may be amended from time to time.

Delaware Trustee means the Person identified as the Delaware Trustee in the preamble to this Agreement solely in its capacity as Delaware Trustee of the Trust and not in its individual capacity, or its successor in interest in such capacity, or any successor Delaware Trustee appointed as herein provided.

~~***Depository Agreement*** has the meaning set forth in Section 2.9 hereof.~~

Distributions means amounts payable in respect of the Shares as provided in Section 3.1 hereof.

Early Termination Event has the meaning set forth in Section 9.4 hereof.

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

Fair Market Value means, as of any date:

(i) in the case of Shares, the average of the closing sale prices for such Shares during the ten (10) Business Days immediately preceding such date:

(A) as reported for composite transactions by the New York Stock Exchange;

(B) if such Shares are not so reported by the New York Stock Exchange, the price of Shares as reported, quoted or listed on any other principal U.S. national or regional securities exchange;

(C) if such equity securities are not so reported, quoted or listed, the last quoted bid price for Shares in the over-the-counter market as reported by the National Quotation Bureau or a similar organization; or

(ii) if Shares are not so reported, quoted or listed, or in the case of any other Property, the fair market value of such Shares or such Property on the date in question as determined by a majority of the Board of Directors in good faith; *provided*, that if the Manager shall dispute any such determination of fair market value by the Board of Directors, fair market value shall be determined by the investment banking or professional valuation firm selected by the Board of Directors from among no fewer than three qualified candidates provided by the Manager.

Fiscal Quarter means the Sponsor's fiscal quarter for purposes of its reporting obligations under the Exchange Act.

Future Investments means contractual commitments to invest represented by definitive agreements.

Indemnified Persons has the meaning set forth in Section 8.4 hereof.

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Interested Shareholder means, as of any date, any Person (other than the Manager and its Affiliates, the Trust, the Sponsor or any Subsidiary of the Sponsor, any employee benefit plan maintained by the Sponsor or any Subsidiary thereof or any trustee or fiduciary with respect to any such plan when acting in such capacity) that:

(i) is, or was at any time within the three-year period immediately prior to such date, the Beneficial Owner of fifteen percent (15%) or more of the then Outstanding [Voting](#) Shares and who did not become the Beneficial Owner of such amount of Shares pursuant to a transaction that was approved by the affirmative vote of a majority of the Board of Directors; or

(ii) is an assignee of, or has otherwise succeeded to, any Outstanding [Voting](#) Shares of which an Interested Shareholder was the Beneficial Owner at any time within the three-year period immediately prior to such date, if such assignment or succession occurred in the course of a transaction, or series of transactions, not involving a public offering within the meaning of the Securities Act.

For the purpose of determining whether a Person is an Interested Shareholder, the Shares that may be issuable or exchangeable by the Trust to the Interested Shareholder pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, warrants or options, or otherwise, shall be included, but not any other Shares that may be issuable or exchangeable by the Trust pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, warrants or options, or otherwise, to any Person who is not the Interested Shareholder.

Managed Subsidiary has the meaning set forth in the Management Services Agreement.

Management Services Agreement means the Management Services Agreement, entered into by and among the Manager, the Sponsor and other parties thereto, dated as of [April 25, 2006, as amended prior to](#) the date hereof; [and](#) as [may be further](#) amended, [revised, supplemented](#) or otherwise modified from time to time.

Manager means Compass Diversified Management LLC, and any successor thereto, in its capacity as manager under the Management Services Agreement or in its capacity as holder of the Allocation Interests in the Sponsor, as the case may be.

Market Value means, as of any date, the *product* of (i) the average number of Outstanding Shares, other than treasury Shares, during the last fifteen (15) Business Days of the most recently completed Fiscal Quarter as of such date, *multiplied by* (ii) the volume weighted average trading price per Share, as determined by reference to the relevant securities exchange identified in clause (i) of the definition of Fair Market Value, over such fifteen (15) Business Days.

Net Investment Value means, as of any date, the *sum of*:

(i) the Market Value as of such date; *plus*

(ii) the amount of any borrowings (other than intercompany borrowings) of the Sponsor and its Managed Subsidiaries (but not including borrowings on behalf of any Subsidiary of the Managed Subsidiaries) as of such date; *plus*

(iii) the value of Future Investments of the Sponsor and/or any of its Subsidiaries other than cash or cash equivalents, as calculated by the Manager and approved by a majority of the Continuing Directors, as of such date; *provided*, that such Future Investments have not been outstanding for more than two consecutive full Fiscal Quarters as of such date; *less*

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(iv) the aggregate amount held by the Sponsor and its Managed Subsidiaries in cash or cash equivalents (but not including cash or cash equivalents held specifically for the benefit of any Subsidiary of a Managed Subsidiary) as of such date.

New York Stock Exchange means the New York Stock Exchange or any successor thereto.

Original Agreement has the meaning set forth in the recitals to this Agreement.

Outstanding Shares means, as of any date, all Shares theretofore executed and delivered, including in electronic form, under this Agreement, except:

(i) Shares theretofore canceled or delivered for cancellation; and

(ii) Shares delivered in exchange for or in lieu of which other Shares have been executed and delivered pursuant to Section 4.5.

Outstanding Voting Shares means all Outstanding Shares with respect to which the holder thereof is, pursuant to this Agreement or the applicable Share Designation, entitled to vote on matters submitted for consent or approval of Shareholders under this Agreement.

Person means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity as well as any syndicate or group deemed to be a person under Section 14(d)(2) of the Exchange Act.

Preferred Shares means a class or series of beneficial interests in the Trust that entitles the Person in whose name such beneficial interests are registered on the books that the Sponsor has caused to be kept as of the opening of business on a particular Business Day to a preference or priority over the holders of any other class or series of beneficial interests in the Trust in (i) the right to share in Profits or Losses or items thereof, (ii) the right to share in Trust distributions, and/or (iii) rights upon dissolution or liquidation of the Trust.

Property means all real and personal property acquired by the Trust, including cash, and any improvements thereto, and shall include both tangible and intangible property.

Registration Statements has the meaning set forth in Section 2.9 hereof.

Regular Trustee means the Persons identified as the Regular Trustee in the preamble to this Agreement, each solely in his own capacity as Regular Trustee of the Trust and not in his own individual capacity, or such Regular Trustee's successor in interest in such capacity, or any successor in interest in such capacity, or any successor Regular Trustee appointed as herein provided.

Relevant Trustee has the meaning set forth in Section 8.6(a) hereof.

Rules and Regulations means the rules and regulations promulgated under the Exchange Act or the Securities Act.

Secretary has the meaning set forth in the Sponsor Agreement.

Securities Act means the Securities Act of 1933, as amended.

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~~—Share— means the shares of the Trust, each representing one undivided beneficial interest issued by the Trust corresponding to one underlying Sponsor Interest held by the Trust.~~

Share Certificate means . with respect to Common Shares, a certificate evidencing ownership of Shares thereof substantially in the form attached as Exhibit A to the Current Agreement or substantially in the form attached hereto as Exhibit A and, with respect to Preferred Shares, such certificates, if any, as specified in the applicable Share Designation.

Share Designation has the meaning assigned to such term in Section 2.4(b). Any Share Designation shall constitute part of this Agreement.

Share Register has the meaning set forth in Section 4.2.

Shareholder means a Person in whose name a Share Certificate representing a Share is registered or a Person in whose name a book-entry position is maintained, such Person being a beneficial owner of ~~such Share~~the Trust within the meaning of the Delaware Statutory Trust Act.

Shares means the shares of the Trust, each representing one undivided beneficial interest issued by the Trust corresponding to one underlying Sponsor Interest held by the Trust. Shares may be Common Shares or Preferred Shares, and may be issued in one or more series or, in the case of Preferred Shares, classes.

Sponsor has the meaning set forth in the preamble to this Agreement.

Sponsor Agreement means ~~the Second~~Fifth Amended and Restated Operating Agreement of the Sponsor, ~~as amended, revised, supplemented or otherwise modified from time to time,~~ dated as of the date hereof; and entered into by and between the Trust and the Manager, as may be amended, revised, supplemented or otherwise modified from time to time.

Sponsor Interest means the Trust Interests.

Subsidiary means, with respect to any Person, any corporation, company, joint venture, limited liability company, association or other Person in which such Person owns, directly or indirectly, more than fifty percent (50%) of the outstanding equity securities or interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such Person.

Transfer Agent means, with respect to the Shares and the Sponsor Interests, Broadridge Corporate Issues Solutions, Inc. ~~The Bank of New York, Inc.~~ or any successor(s) thereto.

Trust has the meaning set forth in the recitals hereof and which is continued hereby and identified on the cover page of this Agreement.

~~Trust Interest~~Interests has the meaning set forth in the Sponsor Agreement.

Trust Property means the Sponsor Interests owned by the Trust including any distribution thereon, or any other property or assets relating thereto.

Trust s Notice has the meaning set forth in Section 5.4 hereof.

Trustees has the meaning set forth in the preamble to this Agreement.

Voluntary Exchange has the meaning set forth ~~in section~~ [Section](#) 9.2 hereof.

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ARTICLE II

ESTABLISHMENT OF THE TRUST

Section 2.1 Name

(a) The name of the Trust shall continue to be Compass Diversified Holdings and all business of the Trust shall be conducted in such name. ~~The~~ provided, however, that the Sponsor, acting through the Board of Directors, may change the name of the Trust upon ten (10) Business Days written notice to the Shareholders and the Trustees, which name change shall be effective upon the filing by the Regular Trustees of a certificate of amendment or a restated certificate pursuant to Section 3810 of the Delaware Statutory Trust Act.

(b) The Regular Trustees shall take all action and do all things necessary to give effect to the requirements of Section 9.5 of the Management Services Agreement.

Section 2.2 Office of the Delaware Trustee; Principal Place of Business

The address of the Delaware Trustee in the State of Delaware is ~~502 White Clay Center, Route 273 P.O. Box 6973, Newark~~ 301 Bellevue Parkway, 3rd Floor, Wilmington, Delaware ~~19711~~ 19809 or such other address in the State of Delaware as the Delaware Trustee may designate by written notice to the Shareholders and the Sponsor. The principal executive offices of the Trust are Sixty One Wilton Road, Second Floor, Westport, Connecticut 06880. The Sponsor, acting through the Board of Directors, may change the principal executive offices of the Trust to any other place within or without the State of Delaware upon written notice to the Trustees.

Section 2.3 Trust to Be Sole Owner of Sponsor Interests

(a) The Sponsor shall issue Sponsor Interests to the Trust and simultaneously therewith the Trust shall issue Corresponding Shares in accordance with the requirements of Section 2.3(b). Subject to Sections 9.2 and 9.3, it is intended that the Trust shall be the sole holder and owner of one hundred percent (100%) of the Sponsor Interests, and the Sponsor shall not issue, sell, or otherwise transfer any of its Sponsor Interests to any Person other than the Trust. Subject to Sections 9.2 and 9.3, the Trust shall not sell, lease, exchange, mortgage, pledge or otherwise transfer any of its Sponsor Interests to any other Person.

(b) At all times, the Trust shall have outstanding the identical number of Shares as the number of Sponsor Interests that have been issued and are outstanding. which Shares shall be of the same class and series (Corresponding Shares) as the corresponding Sponsor Interests. At all times, the Trust shall be the sole owner of the Trust Property and shall only own the Trust Property.

Section 2.4 Authorized Shares

(a) The Trust shall be authorized to issue (i) one class of Common Shares (in one or more series) in an aggregate amount of up to five hundred million (500,000,000) of such Shares; ~~any~~ and (ii) [_____ (_____)] million Preferred Shares ~~of (in one or more than one such classes or series shall constitute one and the same class of security).~~. The Trust is prohibited from issuing any other class of equity securities, any debt securities or any derivative securities. ~~The~~ Subject to any applicable Share Designation, the aggregate number of Shares that are authorized may be increased from time to time by an amendment of this Agreement upon the adoption of a resolution by the affirmative vote of at least a majority of the Board of Directors declaring such amendment to be advisable and the approval of such amendment by the affirmative vote of the holders of a majority of the then Outstanding Voting Shares present in

person or represented by proxy at a meeting of the Shareholders.

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(b) Preferred Shares

(i) Without the consent or approval of any Shareholders, Preferred Shares may be issued by the Trust in one or more classes or series, with such designations, preferences, rights, powers and duties (which may be junior to, equivalent to, or senior or superior to, any existing class or series of Shares) as shall be fixed by the Board of Directors and reflected in a written action or actions approved by the Board of Directors (each, a *Share Designation*), including (i) the right to share in Profits and Losses or items thereof; (ii) the right to share in distributions, the dates distributions will be payable and whether distributions with respect to such series or class will be cumulative or non-cumulative; (iii) rights upon dissolution and liquidation of the Trust; (iv) whether, and the terms and conditions upon which, the Trust may redeem such Preferred Shares; (v) whether such Preferred Shares are issued with the privilege of conversion or exchange and, if so, the conversion or exchange price or prices or rate or rates, any rate adjustments, the date or dates on which, or the period or period during which, such Preferred Shares will be convertible or exchangeable and all other terms and conditions upon which the conversion or exchange may be made; (vi) the terms and conditions upon which such Preferred Shares will be issued, evidenced by certificates and assigned or transferred; (vii) the method for determining the Percentage Interest as to such Preferred Shares; (viii) the terms and amounts of any sinking fund provided for the purchase or redemption of such Preferred Shares of the class or series; (ix) whether there will be restrictions on the issuance of Preferred Shares of the same class or series or any other class or series; and (x) the right, if any, of the holder of each such Preferred Share to vote on Trust matters, including matters relating to the relative rights, preferences and privileges of such Preferred Shares. A Share Designation (or any resolution of the Board of Directors amending any Share Designation) shall be effective when a duly executed original of the same is delivered to the Secretary of the Sponsor for inclusion among the books and records of the Sponsor, and shall be annexed to, and constitute part of, this Agreement. Unless otherwise provided in the applicable Share Designation, the Board of Directors may at any time increase or decrease the amount of Preferred Shares of any class or series, but not below the number of Preferred Shares of such class or series that are then Outstanding Shares.

(ii) Notwithstanding anything to the contrary in this Agreement, including in Section 10.2 hereof, the Board of Directors may, without the consent or approval of any Shareholders, amend this Agreement (including any Share Designation) and make any filings under the Delaware Statutory Trust Act or otherwise to the extent the Board of Directors determines that it is necessary or desirable in order to effectuate any issuance of Preferred Shares pursuant to this Article 2. The terms of any Share Designation adopted hereunder may amend the provisions of this Agreement or any other Share Designation.

(iii) The Board of Directors may classify any unissued Preferred Shares and reclassify any previously classified but unissued Preferred Shares of any series from time to time, in one or more classes or series.

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Section 2.5 Shareholders to be Bound

Every Shareholder, by holding and receiving a Share, [or otherwise becoming a beneficial owner of, the Trust](#), agrees with the Trust to be bound by the terms of this Agreement [and any applicable Share Designation](#).

Section 2.6 Issuance of Additional Shares

The Sponsor shall have authority, [without the consent or approval of any Shareholder or any other Person](#), to authorize the issuance, from time to time, of authorized but unissued [Corresponding](#) Shares and cause the Trust to issue such additional [Corresponding](#) Shares in exchange for and upon receipt of an equal number of Sponsor Interests. Upon the issuance of such additional [Corresponding](#) Shares, one of the Regular Trustees shall, [subject to any applicable Share Designation](#), execute in accordance with Section 4.2 one or more Share Certificates in certificated, fully registered form and shall deliver such Share Certificates to the Transfer Agent. The Trust may issue the Shares; ~~in one or more series;~~ in any manner, subject to [this Agreement, any applicable Share Designation and](#) applicable law, that the Sponsor, acting through its Board of Directors, in its sole discretion, deems appropriate and advisable.

Section 2.7 Repurchase of Outstanding Shares at Direction of the Sponsor

(a) From time to time and at the direction of the Sponsor, acting through the Board of Directors, the Trust shall conduct a capital reduction, including the repurchase of any number of ~~Outstanding~~[outstanding Corresponding](#) Shares, on similar terms to the capital reduction simultaneously conducted by the Sponsor with respect to the Sponsor Interests and shall ensure that an identical number of [each class and series of](#) Sponsor Interests and Shares are issued and outstanding at any one time.

(b) Any Shares tendered and repurchased by the Trust in accordance with this Section 2.7 shall not be deemed canceled pursuant to Section 3818 of the Delaware Statutory Trust Act but instead, shall be deemed to be authorized and issued, but not outstanding, and may subsequently be sold or transferred for due consideration.

Section 2.8 Agreement of Trust

The purposes of the Trust are to (i) issue Shares of beneficial interest in Trust Property, each Share corresponding to one Sponsor Interest held by the Trust, (ii) own the Sponsor Interests and (iii) engage in such other activities as are necessary, convenient or incidental hereto. Each Shareholder registered on the books of the Trust shall be a beneficial owner within the meaning of the Delaware Statutory Trust Act. It is intended that the Trust shall qualify as a partnership for U.S. federal income tax purposes. Subject to Article IX, the Trustees are not authorized to sell, exchange, convey, pledge, encumber, or otherwise transfer, assign or dispose of the Sponsor Interests held by the Trust nor invest or reinvest the assets of the Trust. There shall be no implied duties or obligations of the Trustees hereunder. Any action by the Trustees in accordance with their respective powers shall constitute the act of and serve to bind the Trust. The Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities of the Sponsor, Manager, the Board of Directors or the Regular Trustees set forth herein. The Delaware Trustee shall be one of the Trustees of the Trust for the sole and limited purpose of fulfilling the requirements of Section 3807 of the Delaware Statutory Trust Act and for taking such actions as are required to be taken by a Delaware trustee under the Delaware Statutory Trust Act. The duties (including fiduciary duties), liabilities and obligations of the Delaware Trustee shall be limited to (a) accepting legal process served on the Trust in the State of Delaware and (b) the execution of any certificates required to be filed with the Secretary of State of the State of Delaware that the Delaware Trustee is required to execute [hereunder or](#) under Section 3811 of the Delaware Statutory Trust Act and there shall be no other duties (including fiduciary duties) or obligations, express or implied, at law or in equity, of the Delaware Trustee. Notwithstanding anything herein to the contrary, the Delaware

Trustee shall not be liable for the acts or omissions of the Trust, the Sponsor, the Regular Trustees, the Manager or the Board of Directors.

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Section 2.9 Authorization to Enter into Certain Transactions

(a) The Sponsor is hereby authorized and directed, as an agent on behalf of the Trust, to engage in the following activities:

(i) to prepare and file with the Commission and execute, in each case on behalf of the Trust, (a) any registration statement from time to time on Form S-1 or any applicable form at such time, as applicable (a **1933 Act Registration Statement**), including any pre-effective or post-effective amendments thereto, including any preliminary prospectus, prospectus, prospectus supplement, free writing prospectus or pricing supplement relating thereto, relating to the registration of any Shares under the Securities Act, (b) any registration statement filed, from time to time, pursuant to Rule 462(b) under the Securities Act (the **462(b) Registration Statement** and, together with the 1933 Act Registration Statement, the **Registration Statements**), including any amendments thereto, relating to the registration of any Shares under the Securities Act and (c) as applicable, a registration statement on Form 8-A (a **1934 Act Registration Statement**), including any pre-effective or post-effective amendments thereto, relating to the registration of any Shares under Section 12(b) or (g) of the Exchange Act;

(ii) to prepare and file with the New York Stock Exchange and/or any other securities exchange and execute, in each case on behalf of the Trust, a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Shares to be listed or quoted on the New York Stock Exchange and/or any other securities exchange;

(iii) to prepare and file and execute, in each case on behalf of the Trust, such applications, reports, surety bonds, irrevocable consents, appointments of attorney for service of process and other papers, applications, filings and other documents as shall be necessary or desirable to register the Shares under the securities or blue sky laws of such jurisdictions as the Sponsor, on behalf of the Trust, may deem necessary or desirable;

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- (iv) to select underwriters or other purchasing or placement agents relating to the public offering or any issuance of any Shares pursuant to any Registration Statements;
- (v) to negotiate the terms and conditions of, and execute on behalf of the Trust, any underwriting agreements or other purchase or placement agreements or other agreements relating to the public or private offering of any Shares in exchange for Sponsor Interests, including, without limitation, agreements relating to the registration of such Shares;
- (vi) to execute and deliver, in each case on behalf of the Trust, such certifications or reports required by the Sarbanes-Oxley Act of 2002 from time to time as may be necessary or proper to the conduct of the business of the Trust;
- (vii) to pay any filing, application or other fees associated with any of the foregoing actions, including those to the Commission, the National Association of Securities Dealers, any securities exchange, any agents or any other Person;
- (viii) to select a transfer agent, including the Transfer Agent, and negotiate the terms and conditions of, and execute on behalf of the Trust, a transfer agent agreement; and
- (ix) to select a custodian as holder of any Trust Property and negotiate the terms and conditions of, and execute on behalf of the Trust, a custodian agreement;
- (x) to negotiate the terms and conditions of, and execute on behalf of the Trust, from time to time a depositary share agreement, or any replacement thereof, with a nationally recognized bank with combined capital and surplus of \$50 million or more for the purpose of establishing a depositary share program for the Shares of the Trust ~~(the~~ ~~—Depositary Agreement—)~~ and to engage such nationally recognized bank as agent with respect thereto;
- (xi) to negotiate the terms and conditions of, and execute on behalf of the Trust, such agreements, documents and certificates, and to do such other acts and things as the Sponsor may deem to be necessary or advisable in order to (w) give effect to any of the foregoing, (x) in connection with the public offering or any future issuance of the Shares, (y) carry out the purpose and intent of the Trust or (z) to comply or give effect to any terms or provisions of this Agreement.
- (b) It is hereby acknowledged and agreed that in connection with any execution, filing or document referred to in clauses (i) ~~(ixxi)~~ above, (A) any Regular Trustee or the Sponsor singly be, and hereby is, authorized on behalf of the Trust to file and execute such document on behalf of the Trust and (B) the Delaware Trustee shall not be required or be deemed necessary to join in *any* such filing or action or execute on behalf of the Trust any such document or to take any such action.

Section 2.10 Title to Trust Property

Legal title to all Trust Property shall be vested at all times in the Trust and shall be held and administered by the Regular Trustees for the benefit of the Trust and the Shareholders in accordance with this Agreement. No Shareholder shall have legal title to any part of the Trust Property, but shall have an undivided beneficial interest in the Trust Property.

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Section 2.11 Certain Covenants of the Sponsor

The Sponsor shall use its best efforts, consistent with the terms and provisions of this Agreement, to cause the Trust to remain classified as a partnership for U.S. federal income tax purposes.

ARTICLE III

DISTRIBUTIONS

Section 3.1 Distributions

The Regular Trustees shall pay Distributions, or cause the payment of Distributions, to the [applicable](#) Shareholders of all distributions received by the Trust with respect to the Sponsor Interests from the Sponsor within five (5) Business Days of receipt thereof. Such Distributions shall be paid to Shareholders appearing on the Share Register for the Outstanding Shares who are Shareholders as of the record date established by the Sponsor for the payment of distributions on the Sponsor Interests. Any such Distributions shall be allocated to Shareholders [of the Corresponding Shares](#) in the same proportions as any such distributions were made per [the applicable](#) Sponsor Interest by the Sponsor.

Section 3.2 Payment Procedures

Payments of Distributions in respect of the Shares shall be made by (i) check mailed to the address of the Person entitled thereto as such address shall appear on the Share Register, or (ii) wire transfer of immediately available funds to an account maintained by the Person entitled thereto as specified in the Share Register.

Section 3.3 Tax Returns and Reports

The Regular Trustees shall prepare (or cause to be prepared), at the Trust's expense, and file or provide (or cause to be filed or provided) all U.S. federal, state and local tax and information returns and reports required to be filed or provided to Shareholders by or in respect of the Trust. The Regular Trustees shall comply in all material respects with U.S. federal, state and local withholding and backup withholding tax laws and information reporting requirements with respect to any payments to Shareholders upon the Shares. To the extent that the Trust is required to withhold and pay over any amounts to any authority with respect to Distributions or allocations to any Shareholder, the amount withheld shall be deemed to be a distribution in the amount of the withholding to the Shareholder. In the event of any claimed over-withholding, Shareholders shall be limited to an action against the applicable taxing jurisdiction.

Section 3.4 Allocation of Profits and Losses.

All Profits and Losses of the Trust (and related items of taxable income, loss, deduction and credit) shall be allocated to the Shareholders, [subject to any applicable Share Designations](#), in accordance with their Percentage Interests. The provisions of Exhibit B shall apply with respect to the Trust.

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ARTICLE IV

SHARE CERTIFICATES

Section 4.1 Share Certificates

The Shares shall be issued in electronic book-entry form or shall, subject to any applicable Share Designation, be ~~otherwise~~ evidenced by ~~the~~ Share Certificates ~~that are issued substantially in the form of Exhibit A hereto~~. Each Share Certificate shall bear a serial number, shall exhibit the Shareholder's name and the number of Shares evidenced thereby and shall be executed on behalf of the Trust by manual or facsimile signature of one of the Regular Trustees. Share Certificates bearing the manual or facsimile signatures of individuals who were, at the time when such signatures shall have been affixed, authorized to sign on behalf of the Trust, shall be validly issued and entitled to the benefit of this Agreement, notwithstanding that such individuals or any of them shall have ceased to be so authorized prior to the delivery of such Share Certificates or did not hold such offices at the date of delivery of such Share Certificates. A transferee of a Share Certificate shall become a Shareholder, and shall, subject to any applicable Share Designation, be entitled to the rights and subject to the obligations of a Shareholder hereunder, upon due registration of such Share Certificate in such transferee's name pursuant to Section 4.4.

Section 4.2 Share Register

The Sponsor shall retain the Transfer Agent to keep a register or registers (herein referred to as the *Share Register*) in which shall be recorded the name and address of each Person owning the Outstanding Shares as maintained by the Transfer Agent electronically with respect to any Shares issued in book-entry form or as otherwise evidenced by each Share Certificate evidencing Shares issued by the Trust, the number of Shares evidenced by each such Share Certificate, the date of issuance thereof and, in the case of cancellation, the date of cancellation. Except as otherwise expressly required by law, the Person or entity in whose name Shares stand on the Share Register of the Trust shall be deemed the Beneficial Owner and Shareholder of record thereof for all purposes.

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Section 4.3 Transfer of Shares

Registration of transfers of Shares shall be made only in the Share Register of the Trust upon request of the registered Shareholder of such Shares, or of his attorney thereunto authorized by power of attorney duly executed and filed with the Transfer Agent, and upon the surrender of the Share Certificate or Share Certificates or the corresponding book-entry position evidencing such Shares properly endorsed or accompanied by a stock power duly executed, together with such proof of authenticity of signatures as the Transfer Agent may reasonably require, or as properly presented for transfer by a depository or clearing agent with respect to any book-entry position of Shares. All Share Certificates surrendered for transfer shall be canceled before new Share Certificates for the transferred Shares shall be issued. Upon surrender for registration of transfer, and cancellation, of any Share Certificate, one of the Regular Trustees shall execute in the name of the designated transferee or transferees, one or more new Share Certificates.

Section 4.4 Mutilated, Lost, Destroyed or Stolen Share Certificates

Each Shareholder of record of Shares shall promptly notify the Trust of any mutilation, loss or destruction of any Share Certificate of which such Shareholder is the recordholder. The Sponsor may, in its discretion, cause the Transfer Agent to issue a new Share Certificate in place of any Share Certificate theretofore issued by it and alleged to have been mutilated, lost, stolen or destroyed, upon surrender of the mutilated Share Certificate or, in the case of loss, theft or destruction of the Share Certificate, upon satisfactory proof of such loss, theft or destruction, and the Sponsor may, in its discretion, require the Shareholder of record of the Shares evidenced by the lost, stolen or destroyed Share Certificate, or his legal representative, to give the Transfer Agent a bond sufficient to indemnify the Transfer Agent against any claim made against it on account of the alleged loss, theft or destruction of any such Share Certificate or the issuance of such new Share Certificate.

Section 4.5 Rights of Shareholders

The legal title to the Trust Property is vested exclusively in the Trust in accordance with Section 2.10, and the Shareholders shall not have any right or title therein other than the undivided beneficial interest in the Trust Property conferred by their Shares and they shall have no right to call for any partition or division of Property, profits or rights of the Trust except as described below: or in the applicable Share Designation. The Shares shall be personal property giving only the rights specifically set forth therein and in this Agreement. ~~The~~ Subject to any applicable Share Designation, the Shares shall have no preemptive or similar rights and, when issued and delivered to Shareholders against payment of the purchase price therefor and otherwise in accordance with this Agreement, shall be deemed validly issued, fully paid and nonassessable undivided beneficial interests in Trust Property. Shareholders, in their capacities as such, shall be entitled to the benefits provided in this Agreement and to the same limitation of personal liability extended to shareholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

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ARTICLE V

MEETINGS; VOTING

Section 5.1 Annual Meetings of Shareholders

The annual meeting of Shareholders to direct the voting of the Trust, as a member of the Sponsor, shall be called by the Sponsor, pursuant to the Sponsor Agreement, and held at such date, at such time and at such place (if any) within or without the State of Delaware as may be designated by resolution adopted by a majority of the Board of Directors. Any other business may be transacted at the annual meeting; *provided*, that it is properly brought before the meeting.

Section 5.2 Special Meetings of Shareholders

Special meetings of Shareholders shall be held on such date, at such time and at such place (if any) within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting. Special meetings of Shareholders may be called at any time only by the Chairman of the Board of Directors or by the Board of Directors pursuant to a resolution adopted by a majority of the Board of Directors. Business transacted at any special meeting of Shareholders shall be limited to the purpose stated in the notice relating thereto.

Section 5.3 Place of Meeting

The Board of Directors may designate the place (if any) of meeting for any meeting of Shareholders. If no designation is made by the Board of Directors, the place of meeting shall be the principal executive office of the Sponsor. In lieu of holding any meeting of Shareholders at a designated place, the Board of Directors may, in its sole discretion, determine that any meeting of Shareholders may be held solely by means of remote communication.

Section 5.4 Notice of Meeting

(a) A notice of meeting, stating the place (if any), day and hour of the meeting, and the means of remote communication, if any, by which Shareholders and proxy holders may be deemed to be present in person and vote at such meeting (the *Trust's Notice*), shall be prepared and delivered by the Sponsor not less than twenty (20) days and not more than sixty (60) days before the date of the meeting, either personally, by mail or, to the extent and in the manner permitted by applicable law, electronically, to each Shareholder of record. In the case of special meetings, the notice shall state the purpose or purposes for which such special meeting is called. Such further notice shall be given as may be required by applicable law. Any previously scheduled meeting of the Shareholders may be postponed, and (unless this Agreement otherwise provides) any special meeting of the Shareholders may be canceled, by resolution of the Board of Directors upon public notice given prior to the time previously scheduled for such meeting of Shareholders.

(b) The Trust's Notice to Shareholders shall be given personally, by mail or, to the extent and in the manner permitted by applicable law, electronically to each Shareholder of record. If mailed, such notice shall be delivered by postage prepaid envelope directed to each holder at such Shareholder's address as it appears in the records of the Trust and shall be deemed given when deposited in the United States mail.

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Any Trust's Notice to Shareholders given by the Trust pursuant to this Section 5.4 shall be effective if given by a form of electronic transmission consented to by the Shareholder to whom the notice is given. Any such consent shall be revocable by the Shareholder by written notice to the Trust and shall also be deemed revoked if (1) the Trust is unable to deliver by electronic transmission two consecutive notices given by the Trust in accordance with such consent, and (2) such inability becomes known to the Secretary of the Sponsor, the Transfer Agent or other person responsible for the giving of notice; *provided*, that, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

Notice given by electronic transmission pursuant to this subsection shall be deemed given: (1) if by facsimile telecommunication, when directed to a facsimile telecommunication number at which the Shareholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the Shareholder has consented to receive notice; (3) if by posting on an electronic network together with separate notice to the Shareholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (4) if by any other form of electronic transmission, when directed to the Shareholder. An affidavit of the Secretary or an assistant Secretary or of the Transfer Agent or other agent of the Sponsor that the notice has been given by personal delivery, mail or a form of electronic transmission shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

(c) In order that the Trust may determine the Shareholders entitled to notice of or to vote at any meeting of Shareholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than sixty (60) or fewer than twenty (20) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining Shareholders entitled to notice of or to vote at any meeting of Shareholders or any adjournment thereof shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

Section 5.5 Quorum and Adjournment

Except as otherwise provided by applicable law or by this Agreement, the Shareholders present in person or by proxy holding a majority of the then Outstanding [Voting Shares](#) ~~entitled to vote~~, shall, [subject to any applicable Share Designation](#), constitute a quorum at a meeting of Shareholders. The Chairman or the holders of a majority of the then Outstanding [Voting Shares](#) ~~entitled to vote~~ so represented may adjourn the meeting from time to time, whether or not there is such a quorum. The Shareholders present at a duly organized meeting at which a quorum is present in person or by proxy may continue to transact business until adjournment, notwithstanding the withdrawal of enough Shareholders to leave less than a quorum.

When a meeting is adjourned to another time and place, if any, unless otherwise provided by this Agreement, notice need not be given of the reconvened meeting if the date, time and place, if any, thereof and the means of remote communication, if any, by which Shareholders and proxyholders may be deemed to be present in person and vote at such reconvened meeting are announced at the meeting at which the adjournment is taken. If the time, date and place of the reconvened meeting are not announced at the meeting at which the adjournment is taken, then the Secretary of the Sponsor shall give written notice of the time, date and place of the reconvened meeting not less than twenty (20) days prior to the date of the reconvened meeting.

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At the reconvened meeting, the Shareholders may transact any business that might have been transacted at the original meeting. A determination of Shareholders of record entitled to notice of or to vote at a meeting of Shareholders shall apply to any adjournment of such meeting; *provided, however*, that the Board of Directors may fix a new record date for the reconvened meeting. If an adjournment is for more than thirty (30) days or if, after an adjournment, a new record date is fixed for the reconvened meeting, a notice of the reconvened meeting shall be given to each Shareholder entitled to vote at the meeting.

Section 5.6 Voting

(a) Subject to the provisions of this Section 5.6 and Section 5.7, the Shareholders shall have the exclusive and absolute right to direct the Regular Trustees with respect to the voting of the Trust on all matters that it, as holder of the Sponsor Interests, is entitled to vote upon under the terms of the Sponsor Agreement or applicable law and the Regular Trustees shall cause the Trust to vote its Sponsor Interests as so directed by the Shareholders.

(b) When the Trust is required or permitted to vote with respect to the Sponsor Interests, the Sponsor shall prepare and deliver to the Regular Trustees the form of proxy materials to enable the Regular Trustees to solicit from the Shareholders [entitled to vote](#) the manner in which ~~the~~[such](#) Shareholders desire the Regular Trustees to vote [the Sponsor Interest corresponding to](#) their Shares.

~~Shareholders~~ [A Shareholder](#) shall, [subject to any applicable Share Designation](#), be entitled to one vote for each ~~Share~~[Outstanding Voting Share held by such Shareholder](#) in respect of any matter as to which the Trust as a member of the Sponsor is entitled to vote as provided in the Sponsor Agreement.

(c) All ~~Shares~~[Sponsor Interests owned by the Trust](#) shall, to the extent practicable under the circumstances, be voted in the same proportion as ~~the Shares~~[such Sponsor Interests](#) are directed to be voted by the Shareholders [entitled to vote](#), including for purposes of determining a quorum, in favor of, in opposition to or abstaining from the matter voted upon. If such calculation of votes would require a fractional vote, the Regular Trustees shall vote the next lower number of whole ~~Shares~~[Sponsor Interests](#).

Section 5.7 Proxies

At all meetings of Shareholders, a Shareholder [entitled to vote](#) may vote by proxy as may be permitted by applicable law; *provided*, that, no proxy shall be voted after three (3) years from its date, unless the proxy provides for a longer period in accordance with this Agreement. Any proxy to be used at a meeting of Shareholders must be filed with the Secretary of the Sponsor or his or her representative at or before the time of the meeting. A Shareholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary a revocation of the proxy or a new proxy bearing a later date.

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Section 5.8 Notice of Shareholder Business and Nominations

(a) Annual Meetings of Shareholders

(i) Nominations of individuals for election by the Trust to the Board of Directors, other than the Manager's appointed directors for so long as the Manager is entitled to appoint directors to the Board of Directors pursuant to the terms of the Sponsor Agreement, and the proposal of business to be considered by Shareholders, may be made at an annual meeting of Shareholders (A) pursuant to the Trust's Notice of meeting delivered pursuant to Section 5.4 hereof, (B) by or at the direction of the Board of Directors or (C) by any Shareholder who is entitled to vote at the meeting, who complies with the notice procedures set forth in clauses (ii) and (iii) of this Section 5.8(a).

In addition to any other applicable requirements, for a nomination for election of a director of the Sponsor to be made by a Shareholder (other than the Manager's appointed directors) or for business to be properly brought before an annual meeting by a Shareholder, such Shareholder must (A) be a Shareholder of record on both (1) the date of the delivery of such nomination or the date of the giving of the notice provided for in this Section 5.8(a) and (2) the record date for the determination of Shareholders entitled to vote at such annual meeting, and (B) have given timely notice thereof in proper written form in accordance with the requirements of this Section 5.8 (a) to the Secretary.

(ii) For nominations or other business to be properly brought before an annual meeting by a Shareholder pursuant to this Section 5.8(a)(~~ii~~), a Shareholder must have given timely notice thereof in writing to the Secretary and, in the case of business other than nominations, such other business must otherwise be a proper matter for Shareholder action. Except to the extent otherwise required by applicable law, to be timely, a Shareholder's notice shall be delivered to the Secretary at the principal executive offices of the Sponsor not less than one hundred and twenty (120) days nor more than one hundred and fifty (150) days prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that, in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by a Shareholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Trust. In the case of the first annual meeting of Shareholders, a Shareholder's notice shall be timely if it is delivered to the Secretary at the principal executive offices of the Sponsor not earlier than the one hundred and twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement or an adjournment or postponement of an annual meeting commence a new time period for the giving of a Shareholder's notice as described in this Section 5.8(a).

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Subject to Section 5.8(a)(i), such Shareholder's notice shall set forth: (A) as to each individual whom the Shareholder proposes to nominate for election or reelection as a director of the Sponsor, all information relating to such individual that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, pursuant to Regulation 14A under the Exchange Act, including such individual's written consent to being named in the proxy statement as a nominee and to serving as a director of the Sponsor if elected; (B) as to any other business that the Shareholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration), the reasons for conducting such business at the meeting and any material interest in such business of such Shareholder and the Beneficial Owner *or* holder of Shares, if any, on whose behalf the proposal is made; and (C) as to the Shareholder giving the notice and the Beneficial Owner, if any, on whose behalf the nomination or proposal is made, (1) the name and address of such Shareholder as they appear on the Trust's books and of such Beneficial Owner, (2) the number of, and evidence of such number of, Shares which are owned beneficially and of record by such Shareholder and such Beneficial Owner, (3) a representation that the Shareholder or Beneficial Owner, if any, intends to appear in person or by proxy at the meeting to propose such business or nomination, and (4) a representation whether the Shareholder or the Beneficial Owner, if any, intends or is part of a group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Trust's Outstanding [Voting](#) Shares required to approve or adopt the proposal or elect the nominee and/or (ii) otherwise to solicit proxies from Shareholders in support of such proposal or nomination. The foregoing notice requirements shall be deemed satisfied by a Shareholder if the Shareholder has notified the Trust of his or her intention to present a proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) promulgated under the Exchange Act and such Shareholder's proposal has been included in a proxy statement that has been prepared by the Trust to solicit proxies for such annual meeting. The Trust may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Sponsor or on any committee of the Board of Directors.

(iii) Notwithstanding anything in the second sentence of clause (ii) of this Section 5.8(a) to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Sponsor, on behalf of the Trust at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a Shareholder's notice required by this Section 5.8 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Sponsor not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Sponsor, on behalf of the Trust.

(b) Special Meeting of Shareholders

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Only such business shall be conducted at a special meeting of Shareholders as shall have been brought before the meeting pursuant to the Trust's Notice of meeting pursuant to Section 5.4 of this Agreement. Nominations of individuals for election to the Board of Directors by the Trust, other than the Manager's appointed directors, for so long as the Manager is entitled to appoint directors of the Board of Directors pursuant to the terms of the Sponsor Agreement, may be made at a special meeting of Shareholders at which the Shareholders are to direct the Regular Trustees with respect to the Trust's election of directors pursuant to the Trust's Notice of meeting (i) by or at the direction of the Board of Directors or (ii) by any Shareholder who is entitled to vote at the meeting who complies with the notice procedures set forth in this Section 5.8.

In addition to any other applicable requirements, for a nomination for election by the Trust of a director to be made by a Shareholder, such Shareholder must (A) be a Shareholder of record on both (1) the date of the delivery of such nomination and (2) the record date for the determination of Shareholders entitled to vote at such special meeting, and (B) have given timely notice thereof in proper written form in accordance with the requirements of this Section 5.8(b) to the Secretary.

In the event the Sponsor, on behalf of the Trust calls a special meeting of Shareholders entitled to vote for the purpose of their voting to direct the Trust with respect to its electing one or more directors to the Board of Directors, any such Shareholder may nominate such number of individuals for election by the Trust to such position(s) as are specified in the Trust's Notice of Meeting, if the Shareholder's notice as required by clause (ii) of Section 5.8(a) of this Agreement shall be delivered to the Secretary at the principal executive offices of the Sponsor not earlier than the one hundred and twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period for the giving of a Shareholder's notice as described above.

(c) General

(i) Only individuals who are nominated in accordance with the procedures set forth in this Section 5.8 shall be eligible to be considered for election by the Trust as directors of the Sponsor at a meeting of Shareholders and only such business shall be conducted at a meeting of Shareholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 5.8. Except as otherwise provided by applicable law or this Section 5.8, the Chairman shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 5.8 and, if any proposed nomination or business is not in compliance with this Section 5.8, to declare that such defective proposal or nomination shall be disregarded.

(ii) For purposes of this Section 5.8, ~~Public Announcement~~public announcement shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Trust with the Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

(iii) Notwithstanding the foregoing provisions of this Section 5.8, a Shareholder shall also comply with all applicable requirements of the Exchange Act and the Rules and Regulations thereunder with respect to the matters set forth in this Section 5.8. Nothing in this Section 5.8 shall be deemed to affect any rights of Shareholders to request inclusion of proposals in the Trust's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

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Section 5.9 Procedure for Election of Directors; Voting

The election of directors by the Trust submitted to Shareholders [entitled to vote thereon](#) at any meeting shall, [subject to any applicable Share Designation](#), be decided by a plurality of the votes cast thereon. The Regular Trustees shall cause the Trust to vote the [corresponding](#) Sponsor Interests in accordance with ~~section~~[Section](#) 5.6. Except as otherwise provided by applicable law or this Agreement, all matters other than the election of directors by the Trust submitted to Shareholders [entitled to vote thereon](#) at any meeting shall be decided by the affirmative vote of a majority of the then Outstanding [Voting](#) Shares present in person or represented by proxy at the meeting of Shareholders [and entitled to vote on such matters at such meeting](#).

~~The~~[Subject to any applicable Share Designation, the](#) vote on any matter at a meeting, including the election of directors by the Trust, shall be by written ballot. Each ballot shall be signed by ~~shareholder~~[the Shareholder](#) voting, or by such Shareholder's proxy, and shall state the number of Shares voted.

Section 5.10 Inspectors of Elections; Opening and Closing the Polls

(a) The Board of Directors by resolution shall appoint one or more inspectors, which inspector or inspectors shall not be directors, officers or employees of the Sponsor, to act at the meeting and make a written report thereof. One or more individuals may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been so appointed to act, or if all inspectors or alternates who have been appointed are unable to act, at a meeting of Shareholders, the Chairman shall appoint one or more inspectors to act at the meeting. Each such inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have the duties prescribed by the General Corporation Law of the State of Delaware as if the Trust were a Delaware corporation.

(b) The Chairman shall fix and announce at the meeting the date and time of the opening and the closing of the polls for each matter upon which the Shareholders will vote at the meeting.

Section 5.11 Confidential Shareholder Voting

All proxies, ballots and votes, in each case to the extent they disclose the specific vote of an identified Shareholder, shall be tabulated and certified by an independent tabulator, inspector of elections and/or other independent parties and shall not be disclosed to any director, officer or employee of the Sponsor or Trustee; *provided, however*, that, notwithstanding the foregoing, any and all proxies, ballots and voting tabulations may be disclosed: (a) as necessary to meet legal requirements or to assist in the pursuit or defense of legal action; (b) if the Sponsor concludes in good faith that a bona fide dispute exists as to the authenticity of one or more proxies, ballots or votes, or as to the accuracy of any tabulation of such proxies, ballots or votes; (c) in the event of a proxy, consent or other solicitation in opposition to the voting recommendation of the Board of Directors; and (d) if a Shareholder requests or consents to disclosure of such Shareholder's vote or writes comments on such Shareholder's proxy card or ballot.

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Section 5.12 Waiver of Notice

Whenever any notice is required to be given to any Shareholder by the terms of this Agreement, a waiver thereof in a writing, signed by the Shareholder or Shareholders entitled to notice, whether such waiver is given before or after the time stated therein, shall be deemed equivalent to the giving of such notice. If such a waiver is given by electronic transmission, the electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the Shareholder. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of Shareholders need be specified in any written waiver of notice or any waiver by electronic transmission of such meeting. Notice of any meeting of Shareholders need not be given to any Shareholder if waived by such Shareholder either in a writing signed by such Shareholder or by electronic transmission, whether such waiver is given before or after such meeting is held.

Section 5.13 Remote Communication

For the purposes of this Agreement, if authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, Shareholders and proxyholders may, by means of remote communication:

(a) participate in a meeting of Shareholders; and

(b) to the fullest extent permitted by applicable law, be deemed present in person and vote at a meeting of Shareholders, whether such meeting is to be held at a designated place or solely by means of remote communication;

provided, however, that (i) the Sponsor, on behalf of the Trust, shall implement reasonable measures to verify that each Person deemed present and permitted to vote at the meeting by means of remote communication is a Shareholder or proxyholder, (ii) the Sponsor, on behalf of the Trust, shall implement reasonable measures to provide such Shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to Shareholders, including an opportunity to read or hear the proceedings of the meeting substantially and concurrently with such proceedings, and (iii) if any Shareholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Sponsor, on behalf of the Trust.

Section 5.14 Action by Written Consent

For so long as the Trust remains the sole holder of Sponsor Interests, the Trust shall take any action required or permitted to be taken at any meeting of the members of the Sponsor, by executing a written consent that shall reflect the vote of the Shareholders [entitled to vote thereon](#) as required by the terms of this Agreement, without such meeting, without prior notice, and without a vote. Proxy materials completed by the Shareholders [entitled to vote thereon](#) evidencing the result of a vote taken at a meeting of ~~the~~ [such](#) Shareholders with at least the minimum number of votes required to constitute an affirmative vote of the Shareholders [entitled to vote thereon](#) under this Agreement shall be delivered to the Sponsor indicating the vote or action being approved or disapproved by such Shareholders with respect to those matters reserved to the Shareholders [entitled to vote thereon](#) by this Agreement.

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Section 5.15 Inspection of Records

(a) The Sponsor, on behalf of the Trust, shall keep or cause to be kept at its principal executive office appropriate books and records with respect to the Trust, including, without limitation, all books and records necessary to provide to the Shareholders any information, lists and copies of documents required to be provided pursuant to applicable law. Any books and records maintained by or on behalf of the Trust in the regular course of its business, including, without limitation, the record of the Shareholders, books of account and records of Trust proceedings, may be kept in electronic or any other form; *provided*, that the books and records so maintained are convertible into clearly legible written form within a reasonable period of time.

(b) The Secretary shall make, at least ten (10) days before every meeting of Shareholders, a complete list of the Shareholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each Shareholder and the number of Shares registered in the name of each Shareholder. ~~Such~~ [Subject to Section 3819 of the Delaware Statutory Trust Act, such](#) list shall be open to the examination of any Shareholder, for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network; *provided*, that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Trust. In the event that the Sponsor determines to make the list available on an electronic network, the Sponsor may take reasonable steps to ensure that such information is available only to Shareholders. The list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Shareholder who is present.

~~Any~~ [Subject to Section 3819 of the Delaware Statutory Trust Act, any](#) Shareholder or Beneficial Owner, in person or by attorney or other agent, shall, upon written demand stating the purpose thereof, have the right during the usual business hours to inspect for any proper purpose, and to make copies and extracts from: (1) the Trust's Share Register, a list of the Shareholders, and its other books and records or (2) the Sponsor's books and records; *provided*, that as of the date of the making of the demand, inspection of such books and records would not constitute a breach of any confidentiality agreement. In every instance where a person purports to be a Beneficial Owner of Shares but who is not the holder of record as identified on the Share Register, the demand shall state such Person's status as a Beneficial Owner of Shares, be accompanied by documentary evidence of beneficial ownership of Shares, and state that such documentary evidence is a true and correct copy of what it purports to be. A proper purpose shall mean a purpose reasonably related to such Person's interest as a Shareholder or Beneficial Owner of Shares.

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ARTICLE VI

RIGHT OF SHAREHOLDERS TO ENFORCE PROVISIONS OF SPONSOR

AGREEMENTS AND BRING DERIVATIVE ACTION

Section 6.1 Right to Institute Legal Proceeding

Pursuant to Section 2.5 of the Sponsor Agreement, Shareholders have certain rights to institute legal proceedings against the Sponsor to enforce the provisions of the Sponsor Agreement.

Section 6.2 Ten Percent (10%) or More Shareholder

Subject to the requirements of Section 3816 of the Delaware Statutory Trust Act and other applicable law, for so long as the Trust remains the sole owner of Sponsor Interests, Shareholders holding at least ten percent (10%) or more of the [Common Shares that are](#) Outstanding Shares shall have the right to cause the Trust to institute any legal proceeding for any remedy available to the Trust, as a holder of Sponsor Interests, and, to the extent permitted by applicable law, such Shareholders may direct the time, method and place of conducting any such legal proceeding brought by the Trust.

Except as expressly provided in this Agreement, nothing in this Agreement shall be deemed to give to any Person any benefit or any legal or equitable right, remedy or claim under this Agreement.

ARTICLE VII

SHAREHOLDER VOTE REQUIRED IN CONNECTION WITH CERTAIN

BUSINESS COMBINATIONS OR TRANSACTIONS

Section 7.1 Vote Generally Required

Except as provided in Sections 9.2 and 9.3 and subject to the provisions of Section 7.2 hereof, the Trust shall not (a) merge or consolidate with or into any limited liability company, corporation, statutory trust, business trust or association, real estate investment trust, common-law trust, or any other unincorporated business, including a partnership, or (b) sell, lease or exchange all or substantially all of the Trust Property, unless the Sponsor, acting through the Board of Directors, adopts a resolution, by the affirmative vote of at least a majority of the Sponsor's Board of Directors, approving such action and unless such action shall be approved by the affirmative vote of the holders of a majority of the then Outstanding [Voting](#) Shares ~~outstanding and entitled to vote thereon~~. The notice of the meeting at which such resolution is to be considered shall so state.

Section 7.2 Vote for Business Combinations

The affirmative vote of the holders of record of Outstanding [Voting](#) Shares representing at least sixty-six and two-thirds percent (66 2/3%) of the then Outstanding [Voting](#) Shares (excluding Shares held by an Interested Shareholder or any Affiliate or Associate of an Interested Shareholder) shall be required to approve any Business Combination. Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified, by applicable law or in any agreement with any securities exchange or otherwise.

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Section 7.3 Power of Continuing Directors

The Continuing Directors shall have the power and duty to determine, on the basis of information known to them after reasonable inquiry, all facts necessary to determine compliance with this Article VII, including, without limitation, (a) whether a Person is an Interested Shareholder, (b) the number of Shares beneficially owned by any Person, (c) whether a Person is an Affiliate or Associate of another and (d) the Fair Market Value of the Shares, the Sponsor Interests or any equity securities of any Subsidiary thereof; and the good faith determination of the Continuing Directors on such matters shall be conclusive and binding for all the purposes of this Article VII.

Section 7.4 No Effect on Fiduciary Obligations

Nothing contained in this Article VII shall be construed to relieve the directors of the Board of Directors or an Interested Shareholder from any fiduciary obligation imposed by applicable law.

ARTICLE VIII

THE TRUSTEES

Section 8.1 Certain Duties and Responsibilities

(a) In addition to the duties and responsibilities provided for herein, the Regular Trustees shall have the following exclusive duties:

(i) to negotiate, execute and deliver the Sponsor Agreement or any amendment thereto on behalf of the Trust (which may be executed by any one Regular Trustee);

(ii) to maintain bank accounts, brokerage accounts and other custody accounts that receive Trust income and receipts from which Trust expenditures and distributions are disbursed;

(iii) to maintain the Trust Property;

(iv) to maintain Trust records;

(v) to maintain an office for Trust business;

(vi) to originate, facilitate and review Trust reports and other Trust communications;

(vii) to execute documents and authorize Trust account transactions;

(viii) to retain accountants, attorneys, agents and other advisors in connection with its duties under this Agreement;

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(ix) to file reports and returns on behalf of the Trust with government agencies to the extent required by applicable law and as specifically directed in writing by the Sponsor; and

(x) to perform such other actions as are necessary to effect any of the foregoing duties.

(b) The duties and responsibilities of the Trustees shall be as provided by this Agreement. Except as provided in Section 2.8 or other express provisions hereof, the Sponsor and the Trustees hereby acknowledge and agree that the Trustees are authorized, directed and instructed to act as specifically authorized in writing by the Sponsor.

Any written instructions, notwithstanding any error in the transmission thereof or that such instructions may not be genuine, shall, as against the Sponsor and in favor of the Trustees, be conclusively deemed to be valid instructions from the Sponsor to the Trustees for the purposes of this Agreement, if believed in good faith by the Trustees to be genuine and if not otherwise insufficient on the face of such written instructions; *provided, however*, that a Trustee in its discretion may decline to act upon any instructions where they are not received by such Trustee in sufficient time for such Trustee to act upon or in accordance with such instructions, where such Trustee has reasonable grounds for concluding that the same have not been accurately transmitted or are not genuine or where such Trustee believes in good faith that complying with such instructions is contrary to applicable law or might subject such Trustee to any liability. If a Trustee declines to act upon any instructions for any reason set out in the preceding sentence, it shall notify (and provide reasonable detail to) the Sponsor and the other Trustees in writing forthwith after it so declines. In addition, the Delaware Trustee shall not be required to take or refrain from taking any action if the Trustee shall have determined, or shall have been advised by counsel, that such performance is likely to involve the Delaware Trustee in personal liability or is contrary to the terms of this Agreement, any other document to which the Trust is a party or otherwise contrary to law.

(c) The Trustees shall not be liable for any act or omission in the course of or connected with their performance hereunder, except only that each Trustee shall be subject to liability and assume the entire responsibility for direct damages suffered by the Sponsor or any other Person occasioned by such Trustee's own gross negligence or willful misconduct or the gross negligence or willful misconduct of any of such Trustee's directors, officers or employees in the rendering of its performance hereunder, as determined by a court of competent jurisdiction.

(d) The Trustees shall incur no liability to anyone in acting upon any document, including any certified items referenced herein, reasonably believed by them to be genuine (which is not insufficient on its face) and to have been signed by the proper Person or Persons, including (i) written instructions from the Sponsor, and (ii) a certified copy of a resolution of the Board of Directors or other governing body of any corporate party, which shall be conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically prescribed herein, the Trustees may for all purposes hereof rely on a certificate, signed by the Sponsor, as to such fact or matter, and such certificate, if relied upon by the Trustees in good faith, shall constitute full protection to the Trustees for any action taken or omitted to be taken by them in good faith in reliance thereon.

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In no event shall the Trustees be liable to any Persons for (A) acting in accordance with instructions from the Sponsor, (B) any damages in the nature of special, indirect or consequential damages, however styled, including, without limitation, lost profits, or for any losses due to forces beyond the control of such Trustee, including, without limitation, strikes, work stoppages, acts of war or terrorism, insurrection, revolution, nuclear or natural catastrophes or acts of God and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services provided to the Trustees by third parties or (C) the acts or omissions of their nominees, correspondents, designees, agents or subagents appointed by them in good faith.

(e) In the event that the Trustees are unsure of the course of action to be taken by them hereunder, the Trustees may request instructions from the Sponsor as to such course of action to be taken. In the event that no instructions are provided within the time requested by the Trustees, they shall have no duty or liability for their failure to take any action or for any action they take in good faith and in accordance with the terms hereof.

(f) In the exercise or administration of the trusts hereunder, the Delaware Trustee may, at the expense of the Trust, consult with counsel, accountants and other experts, and it shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other experts. For the avoidance of doubt, the Delaware Trustee shall have no responsibility for any tax matters relating to the Trust.

The parties hereto hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding against the Delaware Trustee arising out of or relating to this Trust Agreement or the transactions contemplated hereby.

Section 8.2 Not Responsible for Recitals or Issuance of Shares

The recitals contained herein and in the Share Certificates shall not be taken as the statements of the Trustees, and the Trustees do not assume any responsibility for their correctness.

Section 8.3 May Hold Shares

Any Trustee or any other agent of any Trustee or the Trust, in its individual or any other capacity, may become the owner or pledgee of Shares and may otherwise deal with the Trust with the same rights it would have if it were not a Trustee or such other agent.

Section 8.4 Compensation; Indemnity; Fees

The Sponsor agrees:

- (i) to pay the Delaware Trustee from time to time such compensation for all services rendered by it hereunder as the parties shall agree from time to time in writing (which compensation shall not be limited by any provision of applicable law in regard to the compensation of a trustee of an express trust);
- (ii) except as otherwise expressly provided herein, to reimburse the Trustees upon request for all reasonable expenses, disbursements and advances incurred or made by the Trustees in accordance with any provision of this Agreement (including the reasonable compensation and the expenses and disbursements of its agents, counsel and experts), except any such expense, disbursement or advance determined by a court of competent jurisdiction to have been caused by its own gross negligence or willful misconduct; and

(iii) to the fullest extent permitted by applicable law, to indemnify and hold harmless (i) the Trustees, (ii) any officer, director, shareholder, employee, representative or agent of the Trustees, (iii) any employee or agent of the Trust, and (iv) the Tax Matters Member (collectively, the ***Indemnified Person***) from and against any loss, damage, liability, tax, penalty, expense or claim of any kind or nature whatsoever incurred by such Indemnified Person by reason of the creation, operation or termination of the Trust or any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Agreement, except that no Indemnified Person shall be entitled to be indemnified in respect of any loss, damage, liability, tax, penalty, expense or claim of any kind or nature incurred by such Indemnified Person by reason of gross negligence or willful misconduct with respect to such acts or omissions.

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Section 8.5 Delaware Trustee Required; Eligibility of Trustees

(a) There shall at all times be a Delaware Trustee hereunder with respect to the Shares. The Delaware Trustee shall be either (i) a natural person who is at least 21 years of age and a resident of the State of Delaware or (ii) a legal entity with its principal place of business in the State of Delaware and that otherwise meets the requirements of applicable Delaware law that shall act through one or more persons authorized to bind such entity. If at any time the Delaware Trustee with respect to the Shares shall cease to be eligible in accordance with the provisions of this Section 8.5, it shall resign immediately in the manner and with the effect hereinafter specified in this Article VIII.

(b) There shall at all times be at least one Regular Trustee hereunder with respect to the Shares. The Regular Trustee shall be either a natural person who is at least 21 years of age or a legal entity that shall act through one or more persons authorized to bind that entity.

Section 8.6 Resignation and Removal; Appointment of Successor

(a) Subject to Sections 8.6(b) and 8.6(c), any Trustee (the *Relevant Trustee*) may be appointed or removed without cause upon thirty (30) days prior notice to such Trustee by the Sponsor.

(b) The Trustee that acts as Delaware Trustee shall not be removed in accordance with Section 8.6(a) until a successor possessing the qualifications to act as Delaware Trustee under Section 8.5 (*a Successor Delaware Trustee*) has been appointed and has accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Trust, the Sponsor and the removed Delaware Trustee.

(c) A Trustee appointed to office shall hold office until his, her or its successor shall have been appointed or until his, her or its death, removal, resignation, dissolution or liquidation. Any Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing with thirty (30) days notice signed by the Trustee and delivered to the Sponsor and the Trust, which resignation shall take effect upon such later date as is specified therein; *provided, however*, that no such resignation of the Trustee that acts as the Delaware Trustee shall be effective until a Successor Delaware Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Trust, the Sponsor and the resigning Delaware Trustee.

(d) If no Successor Delaware Trustee shall have been appointed and accepted appointment as provided in this Section 8.6 within sixty (60) days after delivery pursuant to this Section 8.6 of an instrument of resignation or removal, the Delaware Trustee resigning or being removed, as applicable, may petition, at the expense of the Sponsor, any court of competent jurisdiction for appointment of a Successor Delaware Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Delaware Trustee.

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(e) No Delaware Trustee shall be liable for the acts or omissions to act of any Successor Delaware Trustee, as the case may be.

(f) Notwithstanding the foregoing or any other provision of this Agreement, in the event a Regular Trustee or a Delaware Trustee who is a natural person dies or becomes, solely in the opinion of the Sponsor, incompetent or incapacitated, the vacancy created by such death, incompetence or incapacity may be filled by the Sponsor (with the successor in each case being a Person who satisfies the eligibility requirement for the Regular Trustee or the Delaware Trustee, as the case may be, set forth in Section 8.5).

(g) The indemnity provided to a Trustee under Section 8.4 shall survive any Trustee's resignation or removal and the termination of this Agreement.

Section 8.7 Acceptance of Appointment by Successor

(a) In case of the appointment hereunder of a Successor Trustee, such Successor Trustee so appointed shall execute, acknowledge and deliver to the Trust and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such Successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers and duties of the retiring Trustee; *provided*, that on the request of the Sponsor or the Successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such Successor Trustee all the rights and powers of the retiring Trustee.

(b) No Successor Trustee shall accept its appointment unless at the time of such acceptance such Successor Trustee shall be qualified and eligible under this Article VIII.

Section 8.8 Merger, Conversion, Consolidation or Succession to Business

Any Person into which the Delaware Trustee or the Regular Trustee that is not a natural person may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Relevant Trustee shall be a party, or any Person succeeding to all or substantially all the corporate trust business of such Relevant Trustee, shall be the successor of such Relevant Trustee hereunder; *provided*, such Person shall be otherwise qualified and eligible under this Article VIII, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

Section 8.9 Number of Trustees

(a) The number of Trustees shall be three; *provided*, that the Sponsor may increase or decrease the number of Regular Trustees, subject to Section 8.5.

(b) If a Trustee ceases to hold office for any reason and the number of Regular Trustees is not reduced pursuant to Section 8.9(a), or if the number of Trustees is increased pursuant to Section 8.9(a), a vacancy shall occur. The vacancy shall be filled by a Successor Trustee appointed in accordance with Section 8.6.

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(c) The death, resignation, retirement, removal, bankruptcy, incompetence or incapacity to perform the duties of a Trustee shall not operate to annul the Trust.

Section 8.10 Delegation of Power

(a) Any Regular Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 2.9.

(b) The Regular Trustees shall have power to delegate from time to time to such of their number or to the Sponsor the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Regular Trustees or otherwise as the Regular Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of the Trust, as set forth herein.

Section 8.11 Resignation and Appointment of Regular Trustees

(a) The Regular Trustees shall be Alan B. Offenberg and ~~James Ryan J. Bottighieri~~ [Faulkingham](#), each an individual and his successor shall be appointed by the Sponsor. Upon the resignation or removal of either individual, the Sponsor shall appoint a successor Regular Trustee.

(b) Whenever a vacancy in the number of Regular Trustees shall occur, until such vacancy is filled by the appointment of a Regular Trustee in accordance with this Section 8.11 or Section 8.6, the Regular Trustee(s) in office, if any, regardless of their number (and notwithstanding any other provision of this Agreement), shall have all the powers granted to the Regular Trustee and shall discharge all the duties imposed upon the Regular Trustee by this Agreement.

ARTICLE IX

TERMINATION AND DISSOLUTION

Section 9.1 Termination or Dissolution

Unless terminated as provided herein, the Trust shall continue without limitation of time. If an Early Termination Event specified in Section 9.4 occurs, the Trust shall be dissolved, and, [subject to Section 3808\(e\) of the Delaware Statutory Trust Act](#), one Sponsor Interest [of the corresponding class and series of Shares](#) shall be distributed to each Shareholder in exchange for each ~~Outstanding~~ [Corresponding](#) Share [then outstanding](#).

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Section 9.2 Circumstances Under Which Shares Shall Be Voluntarily Exchanged for Sponsor Interests

In the event that the Sponsor, acting through the Board of Directors determines that the Trust or the Sponsor, or both, is, or is reasonably likely to be, treated as a corporation for U.S. federal income tax purposes, or (B) the existence of the Trust otherwise results, or is reasonably likely to result, in a material tax detriment to the Trust, Shareholders, the Sponsor or any member of the Sponsor, the Sponsor, acting through the Board of Directors (a) shall declare a record date and deliver a mandatory instruction to the Regular Trustees, together with any opinions of counsel or officers certificates of the Sponsor as the Regular Trustees may reasonably request, directing the Regular Trustees to, subject to Section 3808(e) of the Delaware Statutory Trust Act, (i) deliver one Sponsor Interest [of the corresponding class and series of Shares](#) to each Shareholder in exchange for each ~~Outstanding~~[Corresponding](#) Share ~~then outstanding~~ (the *Voluntary Exchange*) and (ii) dissolve the Trust and (b) shall deliver to the Transfer Agent notice of such Voluntary Exchange and shall cause the Transfer Agent to mail a copy of such notice to the Shareholders at least thirty (30) days prior to the Voluntary Exchange. Simultaneously with the completion of such Voluntary Exchange, each Shareholder immediately prior to the completion of the Voluntary Exchange shall be admitted to the Sponsor as a member in respect of a number of Sponsor Interests previously held by the Trust equal in number to the Outstanding Shares previously held by such Shareholder and each such member shall be issued a certificate evidencing the same, in accordance with the provisions of the Sponsor Agreement. Immediately thereafter, the Trust shall be deemed withdrawn from the Sponsor as a member in respect of such Sponsor Interest(s), and the Trust shall tender its certificates evidencing Sponsor Interests to the Transfer Agent or Sponsor for cancellation.

Section 9.3 Circumstances Under Which Shares Shall Be Mandatorily Exchanged for Sponsor Interests

If at any time one Person is the Beneficial Owner of more than ninety percent (90%) of the then Outstanding [Voting](#) Shares (the *Acquirer*), such Acquirer shall then have the right to direct the Sponsor, acting through the Board of Directors, to (i) declare a record date and deliver a mandatory instruction to the Regular Trustees, together with any opinions of counsel or officers certificates of the Sponsor as the Regular Trustees may reasonably request, directing the Regular Trustees to, [subject to Section 3808\(e\) of the Delaware Statutory Trust Act](#), (A) deliver one Sponsor Interest [of the corresponding class and series of Shares](#) to each Shareholder, including the Acquirer, in exchange for each ~~Outstanding~~[Corresponding](#) Share ~~then outstanding~~ (the *Acquisition Exchange*) and (B) dissolve the Trust and (ii) deliver to the Transfer Agent notice of such Acquisition Exchange and cause the Transfer Agent to mail a copy of such notice to Shareholders at least thirty (30) days prior to the Acquisition Exchange. Simultaneously with the completion of such Acquisition Exchange, each Shareholder immediately prior to the completion of the Acquisition Exchange shall, pursuant to the terms of the Sponsor Agreement, be admitted to the Sponsor as a member in respect of a number of Sponsor Interests previously held by the Trust equal in number to the Outstanding Shares previously held by such Shareholder and each such member shall be issued a certificate evidencing the same, in accordance with the provisions of the Sponsor Agreement. Immediately thereafter, the Trust shall be deemed withdrawn from the Sponsor as a member in respect of such Sponsor Interest(s), and the Trust shall tender its certificates evidencing Sponsor Interests to the Transfer Agent or Sponsor for cancellation.

Section 9.4 Early Termination

The Trust shall dissolve upon the first to occur of any of the following events (each an *Early Termination Event*):

(i) the occurrence of a Voluntary Exchange pursuant to Section 9.2 or an Acquisition Exchange pursuant to Section 9.3;

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- (ii) the filing of a Certificate of Cancellation or its equivalent with respect to the Sponsor or the failure of the Sponsor to revive its charter within ten (10) days following the revocation of the Sponsor's charter;
- (iii) the entry of a decree of judicial dissolution by a court of competent jurisdiction of the Sponsor or the Trust; or
- (iv) the written election of the Sponsor.

As soon as is practicable after the occurrence of any event referred to above, the Regular Trustees shall notify the Delaware Trustee and then shall wind-up the Trust pursuant to Section 3808(e) of the Delaware Statutory Trust Act and any one of the Regular Trustee shall execute and file a Certificate of Cancellation with the Secretary of State of the State of Delaware.

Section 9.5 Termination of Obligations

The respective obligations and responsibilities of the Trustees and the Trust continued hereby shall terminate upon the latest to occur of the following:

- (i) the payment of all expenses owed by the Trust pursuant to Section 3808 of the Delaware Statutory Trust Act;
- (ii) the discharge of all administrative duties of the Regular Trustees; and
- (iii) the filing of a Certificate of Cancellation canceling the Trust's Certificate of Trust with the Secretary of State of the State of Delaware by [the Delaware Trustee and](#) one of the Regular Trustees.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 10.1 Limitation of Rights of Shareholders

The death or incapacity of any person having an interest, beneficial or otherwise, in Shares shall not operate to terminate this Agreement, nor entitle the legal representatives or heirs of such person or any Shareholder for such person to claim an accounting, take any action or bring any proceeding in any court for a partition or winding-up of the arrangements contemplated hereby, nor otherwise affect the rights, obligations and liabilities of the parties hereto or any of them.

Table of Contents**Section 10.2 Amendment**

This Agreement may be amended, revised, supplemented or otherwise modified, and the provisions hereof may be waived, from time to time by the Sponsor, acting through the Board of Directors, and by the Regular Trustees at the direction of the Sponsor, acting through the Board of Directors without the vote of any Shareholder or the Delaware Trustee; *provided, however*, that no such ~~amendment~~modification shall alter the rights, powers or immunities of the Delaware Trustee without its written consent; *provided, further*, that, subject to Section 2.4(b)(ii), the Sponsor shall not, and no Trustee shall, without the affirmative vote of a majority of the then Outstanding Voting Shares present in person or represented by proxy at a meeting of the Shareholders entitled to vote thereon (i) enter into or consent to any ~~amendment to~~such modification or waiver of the provisions of this Agreement which would cause the Trust to fail or cease to qualify for the exemption from the status of an investment company under the 1940 Act, (ii) cause the Trust to issue a class of common equity securities other than the Common Shares (it being understood that a separate series of the Common Shares shall not constitute a different class of equity security from the Common Shares) or issue any debt securities or any derivative securities or amend the provision of Section 2.4 of this Agreement prohibiting such issuance, (iii) enter into or consent to any ~~amendment to~~such modification or waiver of the provisions of this Agreement that would affect the exclusive and absolute right of the Shareholders entitled to vote to direct the voting of the Trust, as a member of the Sponsor, pursuant to Section 5.6 of this Agreement, with respect to all matters reserved for the vote of members of the Sponsor pursuant to the provisions of the Sponsor Agreement or (iv) effect the merger or consolidation of the Trust, effect the sale, lease or exchange of all or substantially all of the Trust Property and, subject to Section 7.2 hereof, certain other Business Combinations or transactions; *provided, further*, that, subject to Section 2.4(b)(ii), Section 2.4, Section 3.1 and this Section 10.2 of this Agreement may not be ~~amended~~so modified without the affirmative vote of a majority of the then Outstanding Voting Shares present in person or represented by proxy at a meeting of Shareholders entitled to vote.

Section 10.3 Separability

In case any provision in this Agreement or in the Share Certificates or the application of such provision to any person or circumstance, shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Trust Agreement or in the Shares Certificates or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not in any way be affected or impaired thereby.

Section 10.4 Specific Performance

The Sponsor and the Trustees agree that each party to this Agreement would be irreparably damaged if any of the provisions of this Agreement were not performed in accordance with their specific terms and that monetary damages would not provide an adequate remedy in such event. Accordingly, it is agreed that, in addition to any other remedy to which the nonbreaching party may be entitled, at law or in equity, each nonbreaching party shall be entitled to seek injunctive relief to prevent breaches of the provisions of this Agreement and specifically to enforce the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction thereof.

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Section 10.5 Governing Law

This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Delaware and all rights and remedies shall be governed by such laws without regard to the principles of conflict of laws; *PROVIDED, HOWEVER*, THAT THERE SHALL NOT BE APPLICABLE TO THE PARTIES HEREUNDER OR THIS TRUST AGREEMENT ANY PROVISION OF THE LAWS (COMMON OR STATUTORY) OF THE STATE OF DELAWARE PERTAINING TO TRUSTS (OTHER THAN THE DELAWARE STATUTORY TRUST ACT) THAT RELATE TO OR REGULATE, IN A MANNER INCONSISTENT WITH THE TERMS HEREOF, (A) THE FILING WITH ANY COURT OR GOVERNMENTAL BODY OR AGENCY OF TRUSTEE ACCOUNTS OR SCHEDULES OF TRUSTEE FEES AND CHARGES, (B) AFFIRMATIVE REQUIREMENTS TO POST BONDS FOR TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES OF A TRUST, (C) THE NECESSITY FOR OBTAINING COURT OR OTHER GOVERNMENTAL APPROVAL CONCERNING THE ACQUISITION, HOLDING OR DISPOSITION OF REAL OR PERSONAL PROPERTY, (D) FEES OR OTHER SUMS PAYABLE TO TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES OF A TRUST, (E) THE ALLOCATION OF RECEIPTS AND EXPENDITURES TO INCOME OR PRINCIPAL, (F) RESTRICTIONS OR LIMITATIONS ON THE PERMISSIBLE NATURE, AMOUNT OR CONCENTRATION OF TRUST INVESTMENTS OR REQUIREMENTS RELATING TO THE TITLING, STORAGE OR OTHER MANNER OF HOLDING OR INVESTING TRUST ASSETS OR (G) THE ESTABLISHMENT OF FIDUCIARY OR OTHER STANDARDS OF RESPONSIBILITY OR LIMITATIONS ON THE ACTS OR POWERS OF TRUSTEES THAT ARE INCONSISTENT WITH THE LIMITATIONS OR AUTHORITIES AND POWERS OF THE TRUSTEES HEREUNDER AS SET FORTH OR REFERENCED IN THIS AGREEMENT. SECTION 3540 OF TITLE 12 OF THE DELAWARE CODE SHALL NOT APPLY TO THE TRUST.

Section 10.6 Successors

This Agreement shall be binding upon and shall inure to the benefit of any successor to the Sponsor, the Trust or the Relevant Trustee, including any successor by operation of law.

Section 10.7 Headings

The Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

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Section 10.8 Communications, Notices and Demands

(a) Subject to Sections 5.4 and 5.8, any communications, notices or payment demands which are required or permitted to be given or served to or upon any Shareholder or the Sponsor by any provision of this Agreement shall be in writing and delivered personally, or, when the same is actually received, if sent either by registered or certified mail, postage and charges prepaid, or by facsimile, if such facsimile is followed by a hard copy of the facsimile communication sent promptly thereafter by registered or certified mail, postage and charges prepaid, addressed as follows, or to such other address as such Person may from time to time specify by notice to the Shareholders:

If to the Shareholder, to such Shareholder as such Shareholder's name and address may appear in the Share Register.

If to the Sponsor, to:

Compass Group Diversified Holdings LLC

Sixty One Wilton Road, Second Floor

Westport, CT 06880

Attention: Alan B. Offenberg

Facsimile No.: 203-221-8253

With a copy to:

Squire, ~~Sanders & Dempsey L.L.P.~~ [Patton Boggs \(US\) LLP](#)

221 East Fourth Street, Suite 2900

Cincinnati, Ohio 45202

Attention: Stephen C. Mahon

Facsimile No. 513-361-1201

And a copy to:

Richards, Layton & Finger, P.A.

One Rodney Square

920 North King Street

Wilmington, Delaware 19801

Attention: Eric A. Mazie

Facsimile No.: (302) 651-7701

or to such other address as such Person may from time to time specify by notice to the other parties hereto. Such communication, notice or demand to or upon a Shareholder shall be deemed to have been sufficiently given, or made, for all purposes, upon hand delivery, mailing or transmission.

(b) Any notice, demand or other communication which by any provision of this Agreement is required or permitted to be given or served to or upon the Trust, the Delaware Trustee or the Regular Trustees shall be given in writing (which may be by facsimile transmission) addressed (until another address is published by the Trust) as follows: (a) with respect to the Delaware Trustee, to ~~The Bank of New York (BNY Mellon Trust Delaware), 502 White Clay Center, Route 273 P.O. Box 6973, Newark,~~ [301 Bellevue Parkway, 3rd Floor, Wilmington, Delaware 19711-19809](#), and

(b) with respect to each of the Regular Trustees, to him at the address for notices to the Sponsor, marked Attention: Alan B. Offenberg or Attention: ~~James Ryan J. Bottiglieri~~ [Faulkingham](#). Such notice, demand or other communication to or upon the Trust shall be deemed to have been sufficiently given or made only upon actual receipt of the writing by the Trust.

Section 10.9 Counterpart Execution

This Agreement may be executed in any number of counterparts with the same effect as if all of the Parties had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

[signatures on following page]

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IN WITNESS WHEREOF, the ~~parties hereto~~ Sponsor, by its officers hereunto duly authorized, and the Regular Trustees have caused this Second Amended and Restated Trust Agreement to be duly executed ~~by their respective officers hereunto duly authorized~~, as of the day and year first above written.

[Signature blocks intentionally omitted.]

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EXHIBIT A FORM OF SHARE CERTIFICATE

SPECIMEN

Number

_____Shares

Series

CREATED UNDER THE LAWS

OF

THE STATE OF DELAWARE

COMPASS DIVERSIFIED HOLDINGS

This Certifies that _____ is the owner of Shares of [Compass Diversified Holdings, a Delaware statutory trust](#) (the "Trust") with such rights and privileges as are set forth in the [Second](#) Amended and Restated Trust Agreement of the Trust dated ~~-, 2006~~ [as of](#) [, 2016](#) (the "Trust Agreement"), as it may be amended from time to time.

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), THE SECURITIES LAWS OF ANY STATE (THE "STATE ACTS") OR THE SECURITIES LAWS OF ANY OTHER JURISDICTION, AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. THE SHARES [REPRESENTED BY THIS CERTIFICATE](#) HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, BY ANY STATE SECURITIES COMMISSION OR BY ANY OTHER REGULATORY AUTHORITY OF ANY OTHER JURISDICTION. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

NEITHER THE SHARES [REPRESENTED BY THIS CERTIFICATE](#) NOR ANY PART THEREOF MAY BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT (A) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR IN A TRANSACTION WHICH IS EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OR FOR WHICH SUCH REGISTRATION IS OTHERWISE NOT REQUIRED AND (B) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER ANY APPLICABLE STATE ACTS OR IN A TRANSACTION WHICH IS EXEMPT FROM REGISTRATION UNDER SUCH STATE ACTS OR FOR WHICH SUCH REGISTRATION OTHERWISE IS NOT REQUIRED.

~~THE SHARES REPRESENTED BY THIS CERTIFICATE EVIDENCE THE PROPORTIONATE PORTION OF SUCH HOLDER'S SHARES IN THE TRUST.~~ A STATEMENT OF THE RELATIVE RIGHTS AND PREFERENCES OF THE TRUST'S SHARES WILL BE FURNISHED BY THE TRUST TO THE HOLDER HEREOF UPON REQUEST WITHOUT CHARGE.

IN WITNESS WHEREOF, said Trust has caused this Certificate to be signed by its Regular Trustee this _____ day of _____, A.D. ~~2006~~ [_____](#).

COMPASS DIVERSIFIED HOLDINGS

By:

Name:

Title: Regular Trustee

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EXHIBIT B ALLOCATIONS OF PROFITS AND LOSSES

ARTICLE B.I

DEFINITIONS

The following additional definitions, [subject to any applicable Share Designation](#), apply for purposes of this ~~Exhibit~~ [Exhibit](#) B and the Agreement:

Adjusted Capital Account Deficit means, with respect to any Shareholder, the deficit balance, if any, in such Shareholder's Capital Account as of the end of the relevant Allocation Year, after giving effect to the following adjustments:

- (i) credit to such Capital Account any amounts which such Shareholder is deemed to be obligated to restore pursuant to the penultimate sentence in each of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and
- (ii) debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of **Adjusted Capital Account Deficit** is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

Allocation Year means (i) the period ending on December 31, 2007, (ii) any subsequent twelve (12)-month period commencing on January 1 and ending on December 31, or (iii) any portion of the period described in clause (i) or (ii) above for which the Trust is required to allocate Profits, Losses and other items of Trust income, gain, loss or deduction pursuant to Section 3.4 and Article B.II.

Capital Account means, with respect to any Shareholder, the Capital Account established and maintained for such Shareholder by the Trust in accordance with the following provisions:

- (i) to each Shareholder's Capital Account there shall be credited (A) such Shareholder's Capital Contributions (net of any liabilities relating to such Property), and (B) such Shareholder's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Sections B.1 or B.2;
- (ii) to each Shareholder's Capital Account there shall be debited (A) the amount of money and the Gross Asset Value of any Property distributed to such Shareholder pursuant to any provision of this Agreement (net of any liabilities relating to such Property), and (B) such Shareholder's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Sections B.1 or B.2;

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(iii) in the event Shares are Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Shares; and

(iv) in determining the amount of any liability for purposes of subparagraphs (i) and (ii) above, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and the Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Board of Directors of the Sponsor shall determine that it is prudent to modify the manner in which the Capital Accounts or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Trust or any Shareholders) are computed in order to comply with such Regulations, the Board of Directors may make such modification; *provided*, that it is not likely to have a material effect on the amounts distributed to any Person upon the dissolution of the Trust. The Board of Directors also shall (i) make any adjustments that are necessary or appropriate to maintain equality among the Capital Accounts of the Shareholders and the amount of capital reflected on the Trust's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b). [The Board of Directors may maintain separate Capital Accounts with respect to Preferred Shares and Common Shares held by any Shareholder if they determine it is necessary to properly maintain the economic expectations for each class of Shares.](#)

Capital Contributions means, with respect to any Shareholder, the amount of money and the initial Gross Asset Value of any Property (other than money) net of any liabilities relating to such Property contributed to the Trust with respect to the Shares of the Trust held or subscribed for by such Shareholder.

Code means the United States Internal Revenue Code of 1986, as amended and in effect from time to time. Any reference herein to a specific section of the Code shall be deemed to include a reference to any corresponding provision of law in effect in the future.

Depreciation means, for each Allocation Year or part thereof, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Allocation Year or part thereof, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Allocation Year, the depreciation, amortization, or other cost recovery deduction for such Allocation Year or part thereof shall be an amount which bears the same ratio to such Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Allocation Year or part thereof bears to such adjusted tax basis, provided however, that if the adjusted basis for federal income tax purposes is zero, Depreciation shall be determined with reference to the Gross Asset Value using any reasonable method determined by the Board of Directors of the Sponsor.

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Dissolution Event shall be any event that leads to the dissolution of the Trust pursuant to Article IX.

Gross Asset Value means, with respect to any asset, the asset's adjusted basis for U.S. federal income tax purposes, except as follows:

(i) the initial Gross Asset Value of any asset contributed by a Shareholder to the Trust shall be the gross fair market value of such asset, as determined by the Board of Directors;

(ii) the Gross Asset Values of all Trust assets shall be adjusted by the Tax Matters Member to equal their respective gross fair market values (taking Code Section 7701(g) into account), as determined by the Tax Matters Member as of the following times: (A) the acquisition of an additional interest in the Trust by any new or existing Shareholder in exchange for more than a de minimis Capital Contribution; (B) the distribution by the Trust to a Shareholder of more than a de minimis amount of Trust Property as consideration for an interest in the Trust; (C) in connection with the grant of an interest in the Trust (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Trust by an existing Shareholder acting in a partner capacity or by a new Shareholder acting in a partner capacity or in anticipation of being a Shareholder; or (D) the liquidation of the Trust within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, that an adjustment described in clauses (A) ~~and (B)~~ through (C) of this subparagraph (ii) shall be made only if the Tax Matters Member reasonably determines that such adjustment is necessary to reflect the relative economic interests of the Shareholders in the Trust;

(iii) the Gross Asset Value of any item of Trust assets distributed to any Shareholder shall be adjusted to equal the gross fair market value (taking Code Section 7701(g) into account) of such asset on the date of distribution, as determined by the Tax Matters Member; and

(iv) the Gross Asset Values of Trust assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and subparagraph (vi) of the definition of Profits and Losses; *provided, however*, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (iv) to the extent that an adjustment pursuant to subparagraph (ii) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraph (ii) or (iv), such Gross Asset Value shall thereafter be adjusted by Depreciation.

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Losses has the meaning set forth in the definition of **Profits** and **Losses** below.

Nonrecourse Deductions has the meaning set forth in Section 1.704-2(b)(1) of the Regulations.

Nonrecourse Liability has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

Percentage Interest means, as of any date of determination, (a) with respect to any Shareholder as ~~of any date to~~ such Shareholder's Shares other than Preferred Shares, the ratio (expressed as a percentage) of the number of such Shares held by such Shareholder on such date relative to the aggregate number of such Shares ~~then~~ outstanding as of such date ~~;~~ and (b) with respect to any Shareholder as to such Shareholder's Preferred Shares, the percentage established for such Preferred Shares and specified in the Share Designation establishing such Preferred Shares.

Profits and **Losses** mean, for each Allocation Year, an amount equal to the Trust's taxable income or loss for such Allocation Year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

- (i) any income of the Trust that is exempt from U.S. federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of Profits and Losses shall be added to such taxable income or loss;
- (ii) any expenditures of the Trust described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i) and not otherwise taken into account in computing Profits or Losses pursuant to this definition of Profits and Losses shall be subtracted from such taxable income or loss;
- (iii) in the event the Gross Asset Value of any Trust asset is adjusted pursuant to subparagraph (ii) or (iii) of the definition of Gross Asset Value, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the asset) or an item of loss (if the adjustment decreases the Gross Asset Value of the asset) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses;
- (iv) gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for U.S. federal income tax purposes shall be computed by reference to the Gross Asset Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value;
- (v) to the extent an adjustment to the adjusted tax basis of any Trust asset pursuant to Code Section 734(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Shareholder's interest in the Trust, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses; and

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(vi) notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Sections B.1 or B.2 shall not be taken into account in computing Profits or Losses.

The amounts of the items of Trust income, gain, loss or deduction available to be specially allocated pursuant to Section B.1 or B.2 shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (v) above.

Regulations means the income tax regulations, including temporary regulations, promulgated under the Code, as such regulations are amended from time to time.

Regulatory Allocations has the meaning set forth in Section B.2.

Shareholder Nonrecourse Debt has the same meaning as the term partner nonrecourse debt in Section 1.704-2(b)(4) of the Regulations.

Shareholder Nonrecourse Debt Minimum Gain means an amount, with respect to each Shareholder Nonrecourse Debt, equal to the Trust Minimum Gain that would result if such Shareholder Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

Shareholder Nonrecourse Deductions has the same meaning as the term partner nonrecourse deductions in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

Tax Matters Member has the meaning set forth in Section B.6.

Trust Minimum Gain has the same meaning as the term partnership minimum gain in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

ARTICLE B.II

ALLOCATIONS

[In each case subject to any applicable Share Designation:](#)

Section B.1 Special Allocations

The following special allocations shall [subject to any applicable Share Designation](#) be made in the following order:

(a) **Minimum Gain Chargeback.** Except as otherwise provided in Section 1.704-2(f) of the Regulations, notwithstanding any other provision of Section 3.4 and this Article B.II, if there is a net decrease in Trust Minimum Gain during any Allocation Year, each Shareholder shall be specially allocated items of Trust income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) in an amount equal to such Shareholder's share of the net decrease in Trust Minimum Gain, determined in accordance with Regulations Section 1.704-2(g) and (h). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Shareholder pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section B.1(a) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

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(b) **Shareholder Minimum Gain Chargeback**. Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of Section 3.4 and this Article B.II, if there is a net decrease in Shareholder Nonrecourse Debt Minimum Gain attributable to a Shareholder Nonrecourse Debt during any Allocation Year, each Shareholder who has a share of the Shareholder Nonrecourse Debt Minimum Gain attributable to such Shareholder Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Trust income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) in an amount equal to such Shareholder's share of the net decrease in Shareholder Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Shareholder pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section B.1(b) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) **Qualified Income Offset**. In the event any Shareholder unexpectedly receives any adjustments, allocations or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Trust income and gain shall be specially allocated to such Shareholder in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of the Shareholder as quickly as possible; provided, that an allocation pursuant to this Section B.1(c) shall be made only if and to the extent that the Shareholder would have an Adjusted Capital Account Deficit after all other allocations provided for in Section 3.4 and this Article B.II have been tentatively made as if this Section B.1(c) were not in this Agreement.

(d) **Nonrecourse Deductions**. Nonrecourse Deductions for any Allocation Year shall be specially allocated to the Shareholders in the manner elected by the Tax Matters Member in conformity with the provisions of Regulations 1.704-2, and in the absence of such an election, to the Shareholders in proportion to their respective Percentage Interests.

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(e) **Shareholder Nonrecourse Deductions.** Any Shareholder Nonrecourse Deductions for any Allocation Year shall be specially allocated to the Shareholder who bears the economic risk of loss with respect to the Shareholder Nonrecourse Debt to which such Shareholder Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(f) **Section 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any Trust asset, pursuant to Code Section 734(b) or Code Section 743(b), is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Shareholder in complete liquidation of such Shareholder's interest in the Trust, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Shareholders in accordance with their interests in the Trust in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies or to the Shareholder to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(g) **Allocations Relating to Taxable Issuance of Trust Shares.** Any income, gain, loss or deduction realized as a direct or indirect result of the issuance of Shares by the Trust to a Shareholder (the ***Issuance Items***) shall be allocated among the Shareholders so that, to the extent possible, the net amount of such Issuance Items, together with all other allocations made under this Agreement to each Shareholder, shall be equal to the net amount that would have been allocated to each such Shareholder if the Issuance Items had not been realized.

Section B.2 Curative Allocations

The allocations set forth in Sections B.1(a), B.1(b), B.1(c), B.1(d), B.1(e), B.1(f), B.1(g) and B.3 (the ***Regulatory Allocations***) are intended to comply with certain requirements of the Regulations. It is the intent of the Shareholders that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Trust income, gain, loss or deduction pursuant to this Section B.2. Therefore, notwithstanding any other provision of Section 3.4 or this Article B.II (other than the Regulatory Allocations), the Board of Directors shall make such offsetting special allocations of Trust income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Shareholder's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Shareholder would have had if the Regulatory Allocations were not part of this Agreement and all Trust items were allocated pursuant to Section 3.4.

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Section B.3 Loss Limitation

Losses allocated pursuant to Section 3.4 shall not exceed the maximum amount of Losses that can be allocated without causing any Shareholder to have an Adjusted Capital Account Deficit at the end of any Allocation Year. In the event some but not all of the Shareholders would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 3.4, the limitation set forth in this Section B.3 shall be applied on a Shareholder-by-Shareholder basis, and Losses not allocable to any Shareholder as a result of such limitation shall be allocated to the other Shareholders in accordance with the positive balances in such Shareholders' Capital Accounts so as to allocate the maximum permissible Losses to each Shareholder under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

Section B.4 Other Allocation Rules

(a) For purposes of determining the Profits and Losses or any other items allocable to any period, Profits, Losses, and any other such items shall be determined on a monthly or other basis, as determined by the Trust using any method permissible under Code Section 706 and the Regulations thereunder.

(b) The Shareholders are aware of the income tax consequences of the allocations made by Section 3.4 and this Article B.II and hereby agree to be bound by the provisions of Section 3.4 and this Article B.II in reporting their shares of Trust income and loss for income tax purposes.

(c) Solely for purposes of determining a Shareholder's proportionate share of the excess nonrecourse liabilities of the Trust within the meaning of Regulations Section 1.752-3(a)(3), the Shareholder's interests in Trust profits are in proportion to their Percentage Interests.

(d) To the extent permitted by Section 1.704-2(h)(3) of the Regulations, the Trustees shall endeavor to treat distributions as having been made from the proceeds of a Nonrecourse Liability or a Shareholder Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Shareholder.

(e) To the extent the Tax Matters Member determines, in consultation with the Trust's tax advisors, that any distribution pursuant to Article III to a Shareholder hereunder (or portion of such distribution) would more properly be characterized as a payment described in Code Section 707(a) or 707(c), such payment may be so characterized in the Trust's tax filings, and in such event, shall be taken into account for federal income tax purposes as an expense of the Trust, and not as an allocation of income to a Shareholder affecting such Shareholder's Capital Account.

Section B.5 Tax Allocations; Code Section 704(c)

In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any Property contributed to the capital of the Trust shall, solely for tax purposes, be allocated among the Shareholders so as to take account of any variation between the adjusted basis of such Property to the Trust for U.S. federal income tax purposes and its initial Gross Asset Value (computed in accordance with the definition of Gross Asset Value) using a method, selected in the discretion of the Board of Directors of the Sponsor in accordance with Section 1.704-3 of the Regulations.

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In the event the Gross Asset Value of any Trust asset is adjusted pursuant to subparagraph (ii) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for U.S. federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Board of Directors in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section B.5 are solely for purposes of U.S. federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Shareholder's Capital Account or share of Profits, Losses, other items or distributions pursuant to any provision of this Agreement.

Section B.6 Tax Elections

(a) The [Regular](#) Trustees shall, without any further consent of the Shareholders being required (except as specifically required herein), make (i) the election to adjust the basis of Property pursuant to Code Sections 754, 734(b) and 743(b), or comparable provisions of state, local or foreign law, in connection with Transfers of Shares and Trust distributions; and (ii) any and all other elections for U.S. federal, state, local and foreign tax purposes, including, without limitation, any election, if permitted by applicable law: (x) to extend the statute of limitations for assessment of tax deficiencies against the Shareholders with respect to adjustments to the Trust's U.S. federal, state, local or foreign tax returns; ~~and~~ (y) to the extent provided in Code Sections 6221 through 6231 [\(as in effect prior to amendment by the Bipartisan Budget Act of 2015, P.L. 114-74 \(BBA \)\)](#) and Code Sections 6221 through 6235 [\(following the effective date of the BBA\)](#) and similar provisions of U.S. federal, state, local or foreign law, to represent the Trust and the Shareholders before taxing authorities or courts of competent jurisdiction in tax matters affecting the Trust or the Shareholders in their capacities as Shareholders, and to file any tax returns and execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Shareholders with respect to such tax matters or otherwise affect the rights of the Trust and the Shareholders; ~~James J. Bottiglieri is specifically authorized to act as the Tax Matters Member .~~ and (z) [following the effective date of the BBA, to make all decisions and elections which in their sole discretion will allocate audit adjustments among the Shareholders in an equitable and practicable manner, including the payment and/or allocation of taxes resulting from such audit adjustments. Ryan J. Faulkingham is specifically authorized to act as the tax matters partner \(as defined in Code Section 6231\(a\)\(7\) prior to amendment by the BBA\) and as partner representative \(as referenced in Code Section 6223\(a\) following amendment by the BBA\) \(both such roles referred to herein and in the Agreement as Tax Matters Member .\)](#) under the Code and in any similar capacity under state or local law.

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(b) The Board of Directors of the Sponsor may, by the affirmative vote of at least a majority of the entire Board of Directors, and without any further consent of the Shareholders being required, cause the Trust to elect to be treated as a corporation for U.S. federal income tax purposes; *provided, however*, that such action shall be taken only if the Board of Directors first obtains an opinion from a nationally recognized financial advisor to the effect that it expects the market valuation of the Trust to be significantly lower as a result of the Trust continuing to be treated as a partnership for U.S. federal income tax purposes than if the Trust instead elected to be treated as a corporation for U.S. federal income tax purposes.

Section B.7 Distributions on Liquidation; Compliance with Certain Requirements of Regulations; Deficit Capital Accounts.

In the event the Trust is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), notwithstanding Section 3.1, distributions shall, [subject to any applicable Share Designation](#), be made to the Shareholders who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Shareholder has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all Allocation Years, including the Allocation Year during which such liquidation occurs), such Shareholder shall have no obligation to make any contribution to the capital of the Trust with respect to such deficit, and such deficit shall not be considered a debt owed to the Trust or to any other Person for any purpose whatsoever.

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Exhibit B

~~FOURTH~~FIFTH AMENDED AND RESTATED
OPERATING AGREEMENT
OF
COMPASS GROUP DIVERSIFIED HOLDINGS LLC
Dated as of ~~January 1, 2012~~_____, 2016

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