
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (Date of Earliest Event Reported): May 21, 2015 (May 20, 2015)

Fortress Transportation and Infrastructure Investors LLC
(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-37386
(Commission
File Number)

32-0434238
(IRS Employer
Identification No.)

1345 Avenue of the Americas, 46th Floor, New York, New York 10105
(Address of Principal Executive Offices) (Zip Code)

(212) 798-6100
(Registrant's Telephone Number, Including Area Code)

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement.

In connection with the initial public offering by Fortress Transportation and Infrastructure Investors LLC (the “Company”) of its common shares representing limited liability company interests, par value \$0.01 per share (the “Common Shares”), described in the Registration Statement on Form S-1 (File No. 333-193182), as amended (the “Registration Statement”), on May 20, 2015, the following agreements were entered into:

1. the Amended and Restated Limited Liability Company Agreement of the Company, dated as of May 20, 2015 (the “LLC Agreement”);
2. the Fourth Amended and Restated Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership, dated as of May 20, 2015, by and among Fortress Worldwide Transportation and Infrastructure Master GP LLC, as the Fortress Partner, the Company, as the Operating Partner, and the other partners from time to time party thereto (the “Partnership Agreement”);
3. the Management and Advisory Agreement, dated as of May 20, 2015, between the Company and FIG LLC (the “Management Agreement”); and
4. the Registration Rights Agreement, dated as of May 20, 2015, among the Company, FIG LLC and Fortress Worldwide Transportation and Infrastructure Master GP LLC (the “Registration Rights Agreement”).

The LLC Agreement, the Partnership Agreement, the Management Agreement and the Registration Rights Agreement are filed herewith as Exhibits 3.1, 10.1, 10.2 and 10.3, respectively, and are incorporated herein by reference. The terms of these agreements are substantially the same as the terms set forth in the forms of such agreements filed as exhibits to the Registration Statement and as described therein.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Effective as of May 20, 2015, Scott Christopher, 42, the Company’s Chief Accounting Officer, was appointed the Company’s principal accounting officer. From 2010 to 2015, Mr. Christopher worked as Deputy Corporate Controller at American International Group, Inc. Prior to that, he worked at Deloitte & Touche LLP in various capacities in Audit, Advisory and Merger & Acquisition Services. Mr. Christopher received a Bachelor of Business Administration in Accounting from the University of Wisconsin –Madison and is a certified public accountant.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On May 20, 2015, the LLC Agreement became effective. The LLC Agreement is filed herewith as Exhibit 3.1 and is incorporated herein by reference. The terms of the LLC Agreement are substantially the same as the terms set forth in the forms previously filed as Exhibit 3.1 to the Registration Statement and as described therein.

Item 8.01 Other Events.

On May 20, 2015, the Company completed its initial public offering of Common Shares by issuing 20,000,000 Common Shares for cash consideration of \$17.00 per share to a syndicate of underwriters led by Citigroup Global Markets Inc., Merrill Lynch, Pierce Fenner & Smith Incorporated and Barclays Capital Inc. In connection therewith, the Company adopted the Fortress Transportation and Infrastructure Investors LLC Nonqualified Stock Option and Incentive Award Plan (the “Incentive Award Plan”). The Incentive Award Plan is filed herewith as Exhibit 10.4 and is incorporated herein by reference. The terms of the Incentive Award Plan are substantially the same as the terms set forth in the form of such agreement filed as an exhibit to the Registration Statement and as described therein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
3.1	Amended and Restated Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC, dated as of May 20, 2015

- 10.1 Fourth Amended and Restated Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership, dated as of May 20, 2015, by and among Fortress Worldwide Transportation and Infrastructure Master GP LLC, as the Fortress Partner, Fortress Transportation and Infrastructure Investors LLC, as the Operating Partner, and the other partners from time to time party thereto
- 10.2 Management and Advisory Agreement, dated as of May 20, 2015, between Fortress Transportation and Infrastructure Investors LLC and FIG LLC
- 10.3 Registration Rights Agreement, dated as of May 20, 2015, among the Company, FIG LLC and Fortress Worldwide Transportation and Infrastructure Master GP LLC
- †10.4 Fortress Transportation and Infrastructure Investors LLC Nonqualified Stock Option and Incentive Award Plan

† Management contracts and compensatory plans or arrangements.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

FORTRESS TRANSPORTATION AND INFRASTRUCTURE
INVESTORS LLC

By: /s/ Cameron D. MacDougall

Name: Cameron D. MacDougall

Title: Secretary

Date: May 21, 2015

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

OF

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

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**AMENDED AND RESTATED LIMITED LIABILITY
COMPANY AGREEMENT OF FORTRESS TRANSPORTATION AND
INFRASTRUCTURE INVESTORS LLC**

This AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC, is dated as of May 20, 2015. Capitalized terms used herein without definition shall have the respective meanings ascribed thereto in Section 1.1.

WHEREAS, the Company was formed under the Delaware Act pursuant to a certificate of domestication and a certificate of formation, each filed with the Secretary of State of the State of Delaware on February 10, 2014 and effective as of February 13, 2014, and a Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC, dated as of February 19, 2014 (the “**Original LLC Agreement**”); and

WHEREAS, the Board of Directors of the Company have authorized and approved an amendment and restatement of the Original LLC Agreement on the terms set forth herein.

NOW THEREFORE, the Original LLC Agreement is hereby amended and restated to read in its entirety as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

“**Additional Member**” means a Person admitted as a Member of the Company in accordance with Article III as a result of an issuance of Shares to such Person by the Company.

“**Adjusted Capital Account**” means the Capital Account maintained for each Member as of the end of each fiscal year of the Company, (a) increased by any amounts that such Member is obligated to restore under the standards set by Treasury Regulation Section 1.704-1(b)(2)(ii)(c) (or is deemed obligated to restore under Treasury Regulation Sections 1.704-2(g) and 1.704-2(i)(5)) and (b) decreased by (i) the amount of all losses and deductions that, as of the end of such fiscal year, are reasonably expected to be allocated to such Member in subsequent years under Sections 704(e)(2) and 706(d) of the Code and Treasury Regulation Section 1.751-1(b)(2)(ii), and (ii) the amount of all distributions that, as of the end of such fiscal year, are reasonably expected to be made to such Member in subsequent years in accordance with the terms of this Agreement or otherwise to the extent they exceed offsetting increases to such Member’s Capital Account that are reasonably expected to occur during (or prior to) the year in which such distributions are reasonably expected to be made (other than increases as a result of a minimum gain chargeback pursuant to Section 4.1(d)(i) or Section 4.1(d)(ii)). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith. The “**Adjusted Capital Account**” of a Member in respect of a Share shall be the amount that such Adjusted Capital Account would be if such Share were the only interest in the Company held by such Member from and after the date on which such Share was first issued.

“**Adjusted Property**” means any property the Carrying Value of which has been adjusted pursuant to Section 3.6(d)(i) or Section 3.6(d)(ii).

“**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person in question. As used herein, the term “**Control**” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

“**Agreed Allocation**” means any allocation, other than a Required Allocation, of an item of income, gain, loss or deduction pursuant to the provisions of Section 4.1, including a Curative Allocation (if appropriate to the context in which the term “**Agreed Allocation**” is used).

“**Agreed Value**” of any Contributed Property means the fair market value of such property or other consideration at the time of contribution as determined by the Board of Directors, without taking into account any liabilities to which such Contributed Property was subject at such time. The Board of Directors shall use such method as it determines to be appropriate to allocate the aggregate Agreed Value of Contributed Properties contributed to the Company in a single or integrated transaction among each separate property on a basis proportional to the fair market value of each Contributed Property.

“**Agreement**” means this Amended and Restated Limited Liability Company Agreement of Fortress Transportation and Infrastructure Investors LLC, as it may be amended, supplemented or restated from time to time.

“**Board of Directors**” has the meaning assigned to such term in Section 5.1.

“**Book-Tax Disparity**” means, with respect to any item of Contributed Property or Adjusted Property, as of the date of any determination, the difference between the Carrying Value of such Contributed Property or Adjusted Property and the adjusted basis thereof for federal income tax purposes as of such date.

“**Business Day**” means Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States of America or the State of New York shall not be regarded as a Business Day.

“**Capital Account**” means the capital account maintained for a Member pursuant to Section 3.6. The “**Capital Account**” of a Member in respect of a Share shall be the amount that such Capital Account would be if such Share were the only interest in the Company held by such Member from and after the date on which such Share was first issued.

“**Capital Contribution**” means any cash, cash equivalents or the Net Agreed Value of Contributed Property that a Member contributes to the Company pursuant to this Agreement.

“Carrying Value” means (a) with respect to a Contributed Property, the Agreed Value of such property reduced (but not below zero) by all depreciation, amortization and cost recovery deductions charged to the Members’ Capital Accounts in respect of such Contributed Property, and (b) with respect to any other Company property, the adjusted basis of such property for federal income tax purposes, all as of the time of determination. The Carrying Value of any property shall be adjusted from time to time in accordance with Section 3.6(d)(i) and Section 3.6(d)(ii) and to reflect changes, additions or other adjustments to the Carrying Value for dispositions and acquisitions of Company properties, as deemed appropriate by the Board of Directors.

“Certificate” means a certificate (i) substantially in the form of Exhibit A to this Agreement, (ii) in global form in accordance with the rules and regulations of the Depository or (iii) in such other form as may be adopted by the Board of Directors, issued by the Company evidencing ownership of one or more Shares.

“Certificate of Domestication” means the Certificate of Domestication of the Company filed with the Secretary of State of the State of Delaware as referenced in Section 5.20, as such Certificate of Domestication may be amended, supplemented or restated from time to time.

“Certificate of Formation” means the Certificate of Formation of the Company filed with the Secretary of State of the State of Delaware as referenced in Section 5.20, as such Certificate of Formation may be amended, supplemented or restated from time to time.

“Chairman of the Board” has the meaning assigned to such term in Section 5.8.

“Closing Date” means the first date on which the Shares are delivered by the Company to the Underwriters pursuant to the provisions of the Underwriting Agreement.

“Code” means the Internal Revenue Code of 1986, as amended and in effect from time to time. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of any successor law.

“Commission” means the United States Securities and Exchange Commission.

“Common Shares” means any Shares that are not Preferred Shares.

“Company” means Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company, and any successors thereto.

“Company Group” means the Company and each Subsidiary of the Company.

“Company Minimum Gain” means that amount determined in accordance with the principles of Treasury Regulation Section 1.704-2(d).

“Contributed Property” means each property or other asset, in such form as may be permitted by the Delaware Act, but excluding cash, contributed to the Company. Once the Carrying Value of a Contributed Property is adjusted pursuant to Section 3.6(d), such property shall no longer constitute a Contributed Property, but shall be deemed an Adjusted Property.

“**Curative Allocation**” means any allocation of an item of income, gain, deduction, loss or credit pursuant to the provisions of Section 4.1(d)(ix).

“**Delaware Act**” means the Delaware Limited Liability Company Act, 6 Del. C. Section 18-101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

“**Depository**” means, with respect to any Shares issued in global form, The Depository Trust Company and its successors and permitted assigns.

“**DGCL**” means the General Corporation Law of the State of Delaware, 8 Del. C. Section 101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

“**Director**” means a member of the Board of Directors of the Company.

“**Economic Risk of Loss**” has the meaning set forth in Treasury Regulation Section 1.752-2(a).

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

“**Governmental Entity**” means any court, administrative agency, regulatory body, commission or other governmental authority, board, bureau or instrumentality, domestic or foreign and any subdivision thereof.

“**Group Member**” means a member of the Company Group.

“**Indemnified Person**” means (a) any Person who is or was a Director, officer or tax matters partner of the Company, (b) any Person who is or was serving at the request of the Company as an officer, director, member, manager, partner, tax matters partner, fiduciary or trustee of another Person (including any Subsidiary); provided, that a Person shall not be an Indemnified Person by reason of providing, on a fee-for-services basis, trustee, fiduciary or custodial services, and (c) any Person the Board of Directors designates as an “Indemnified Person” for purposes of this Agreement.

“**Independent Director**” means a Director who (i) qualifies as an “independent director” within the meaning of the corporate governance listing standards from time to time adopted by the NYSE (or, if at any time the Company’s Common Shares are not listed on the NYSE and are listed on a stock exchange other than the NYSE, the applicable corporate governance listing standards of such stock exchange) with respect to the composition of the board of directors of a listed company (without regard to any independence criteria applicable under such standards only to the members of a committee of the board of directors) and (ii) also satisfies the minimum requirements of director independence of Rule 10A-3(b)(1) under the Exchange Act (as from time to time in effect), whether or not such Director is a member of the audit committee.

“Initial Members” means FTAI Offshore Holdings L.P., Fortress Worldwide Transportation and Infrastructure Investors LP.

“IPO” means the initial offering and sale of Common Shares to the public, as described in the Registration Statement.

“Liquidation Date” means the date on which an event giving rise to the dissolution of the Company occurs.

“Liquidator” means one or more Persons selected by the Board of Directors to perform the functions described in Section 8.2 as liquidating trustee of the Company within the meaning of the Delaware Act.

“Manager” means FIG LLC, a Delaware limited liability company, together with its permitted assignees under the Management and Advisory Agreement, dated as of May 20, 2015, between the Company and FIG LLC, as amended, supplemented or restated from time to time.

“Member” means each member of the Company, including, unless the context otherwise requires, each Initial Member, each Substitute Member, and each Additional Member.

“Member Nonrecourse Debt” has the meaning set forth in Treasury Regulation Section 1.704-2(b)(4).

“Member Nonrecourse Debt Minimum Gain” has the meaning set forth in Treasury Regulation Section 1.704-2(i)(2).

“Member Nonrecourse Deductions” means any and all items of loss, deduction or expenditure (including any expenditure described in Section 705(a)(2)(B) of the Code) that, in accordance with the principles of Treasury Regulation Section 1.704-2(i), are attributable to a Member Nonrecourse Debt.

“Merger Agreement” has the meaning assigned to such term in Section 10.1.

“National Securities Exchange” means an exchange registered with the Commission under Section 6(a) of the Exchange Act.

“Net Agreed Value” means, (a) in the case of any Contributed Property, the Agreed Value of such property reduced by any liabilities either assumed by the Company upon such contribution or to which such property is subject when contributed, and (b) in the case of any property distributed to a Member by the Company, the Company’s Carrying Value of such property (as adjusted pursuant to Section 3.6(d)(ii)) at the time such property is distributed, reduced by any indebtedness either assumed by such Member upon such distribution or to which such property is subject at the time of distribution, in either case, as determined under Section 752 of the Code.

“Net Income” means, for any taxable year, the excess, if any, of the Company’s items of income and gain for such taxable year over the Company’s items of loss and deduction for such taxable year. The items included in the calculation of Net Income shall be determined in accordance with Section 3.6(b) and shall not include any items specially allocated under Section 4.1(d).

“**Net Loss**” means, for any taxable year, the excess, if any, of the Company’s items of loss and deduction for such taxable year over the Company’s items of income and gain for such taxable year. The items included in the calculation of Net Loss shall be determined in accordance with Section 3.6(b) and shall not include any items specially allocated under Section 4.1(d).

“**NYSE**” means the New York Stock Exchange.

“**Nonrecourse Built-in Gain**” means, with respect to any Contributed Properties or Adjusted Properties that are subject to a mortgage or pledge securing a Nonrecourse Liability, the amount of any taxable gain that would be allocated to the Members pursuant to Section 4.2(b)(i)(A), Section 4.2(b)(ii) (A) and Section 4.2(b)(iii) if such properties were disposed of in a taxable transaction in full satisfaction of such Nonrecourse Liabilities and for no other consideration.

“**Nonrecourse Deductions**” means any and all items of loss, deduction, or expenditure (including any expenditure described in Section 705(a)(2)(B) of the Code) that, in accordance with the principles of Treasury Regulation Section 1.704-2(b), are attributable to a Nonrecourse Liability.

“**Nonrecourse Liability**” has the meaning set forth in Treasury Regulation Section 1.752-1(a)(2).

“**Opinion of Counsel**” means a written opinion of counsel (who may be regular counsel to the Company or any of its Affiliates) acceptable to the Board of Directors.

“**Outstanding**” means, with respect to Shares, all Shares that are issued by the Company and reflected as outstanding on the Company’s books and records as of the date of determination.

“**Percentage Interest**” means, as of any date of determination, (i) as to any Common Shares, the product obtained by multiplying (a) 100% less the percentage applicable to the Shares referred to in clause (ii) by (b) the quotient obtained by dividing (x) the number of such Common Shares by (y) the total number of all Outstanding Common Shares, and (ii) as to any other Shares, the percentage established for such Shares by the Board of Directors as a part of the issuance of such Shares.

“**Person**” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, Governmental Entity or other entity.

“**Plan of Conversion**” has the meaning assigned to such term in Section 10.1.

“**Preferred Shares**” means a class of Shares that entitles the Record Holders thereof to a preference or priority over the Record Holders of any other class of Shares in (i) the right to share profits or losses or items thereof, (ii) the right to share in Company distributions, or (iii) rights upon dissolution or liquidation of the Company.

“Quarter” means, unless the context requires otherwise, a fiscal quarter, or, with respect to the first fiscal quarter after the Closing Date, the portion of such fiscal quarter after the Closing Date, of the Company.

“Recapture Income” means any gain recognized by the Company (computed without regard to any adjustment required by Section 734 or Section 743 of the Code) upon the disposition of any property or asset of the Company, which gain is characterized as ordinary income because it represents the recapture of deductions previously taken with respect to such property or asset.

“Record Date” means the date established by the Company for determining (a) the identity of the Record Holders entitled to notice of, or to vote at, any meeting of Members or entitled to exercise rights in respect of any lawful action of Members or (b) the identity of Record Holders entitled to receive any report or payment of any dividend or other distribution or to participate in any offer.

“Record Holder” or **“holder”** means with respect to any Shares, the Person in whose name such Shares are registered on the books of the Transfer Agent as of the opening of business on a particular Business Day or otherwise the Person in whose name such Shares are registered on the books that the Company has caused to be kept as of the opening of business on such Business Day.

“Registration Rights Agreement” means the Registration Rights Agreement to be entered into by and among Fortress Worldwide Transportation and Infrastructure Master GP LLC, FIG LLC and the Company in connection with the IPO.

“Registration Statement” means the Registration Statement on Form S-1 (Registration No. 333-193182) as it has been or as it may be amended or supplemented from time to time, filed by the Company with the Commission under the Securities Act to register the offering and sale of the Common Shares in the IPO.

“Required Allocations” means (a) any limitation imposed on any allocation of Net Losses under Section 4.1(b) and (b) any allocation of an item of income, gain, loss or deduction pursuant to Sections 4.1(d)(i), 4.1(d)(ii), 4.1(d)(iii), 4.1(d)(vi) or 4.1(d)(viii).

“Residual Gain” or **“Residual Loss”** means any item of gain or loss, as the case may be, of the Company recognized for federal income tax purposes resulting from a sale, exchange or other disposition of a Contributed Property or Adjusted Property, to the extent such item of gain or loss is not allocated pursuant to Section 4.2(b)(i)(A) or Section 4.2(b)(ii)(A), respectively, to eliminate Book-Tax Disparities.

“Securities Act” means the Securities Act of 1933, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

“Share” means a share issued by the Company that evidences a Member’s rights, powers and duties with respect to the Company pursuant to this Agreement and the Delaware Act. Shares may be Common Shares or Preferred Shares, and may be issued in different classes or series.

“**Share Designation**” has the meaning assigned to such term in Section 3.2(b).

“**Share Majority**” means a majority of the total votes that may be cast in the election of Directors by holders of all Outstanding Voting Shares.

“**Solicitation Notice**” has the meaning assigned to such term in Section 11.11(c).

“**Subsidiary**” means, with respect to any Person, as of any date of determination, any other Person as to which such Person owns or otherwise controls, directly or indirectly, more than 50% of the voting shares or other similar interests or a sole general partner interest or managing member or similar interest of such Person.

“**Substitute Member**” means a Person who is admitted as a Member of the Company pursuant to Section 3.5(d) as a result of a transfer of Shares to such Person.

“**Super-Majority**” means two-thirds of the total votes that may be cast in the election of Directors by holders of all Outstanding Voting Shares.

“**Surviving Business Entity**” has the meaning assigned to such term in Section 10.2(a).

“**Tax Matters Partner**” means the “**tax matters partner**” as defined in the Code.

“**transfer**” means, with respect to a Share, a transaction by which the Record Holder of a Share assigns such Share to another Person who is or becomes a Member, and includes a sale, assignment, gift, exchange or any other disposition by law or otherwise, including any transfer upon foreclosure of any pledge, encumbrance, hypothecation or mortgage.

“**Transfer Agent**” means, with respect to any class of Shares, such bank, trust company or other Person (including the Company or one of its Affiliates) as shall be appointed from time to time by the Company to act as registrar and transfer agent for such class of Shares; provided that if no Transfer Agent is specifically designated for such class of Shares, the Company shall act in such capacity.

“**Underwriter**” means each Person named as an underwriter in the Underwriting Agreement who is obligated to purchase Shares pursuant thereto.

“**Underwriting Agreement**” means the Underwriting Agreement entered into by the Company providing for the sale of Common Shares in the IPO.

“**Unrealized Gain**” attributable to any item of Company property means, as of any date of determination, the excess, if any, of (a) the fair market value of such property as of such date (as determined under Section 3.6(d)) over (b) the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section 3.6(d) as of such date).

“**Unrealized Loss**” attributable to any item of Company property means, as of any date of determination, the excess, if any, of (a) the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section 3.6(d) as of such date) over (b) the fair market value of such property as of such date (as determined under Section 3.6(d)).

“U.S. GAAP” means United States generally accepted accounting principles consistently applied.

“Voting Shares” means the Common Shares and any other class of Shares issued after the date of this Agreement that entitles the Record Holder thereof to vote on any matter submitted for consent or approval of Members generally under this Agreement.

Section 1.2 Construction. Unless the context requires otherwise: (a) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa; (b) references to Articles and Sections refer to Articles and Sections of this Agreement; and (c) the term “include” or “includes” means includes, without limitation, and “including” means including, without limitation.

ARTICLE II

ORGANIZATION

Section 2.1 Formation. The Company has been formed as a limited liability company pursuant to the provisions of the Delaware Act. Except as expressly provided to the contrary in this Agreement, the rights, duties, liabilities and obligations of the Members and the administration, dissolution and termination of the Company shall be governed by the Delaware Act. All Shares shall constitute personal property of the owner thereof for all purposes and a Member has no interest in specific Company property.

Section 2.2 Name. The name of the Company shall be “Fortress Transportation and Infrastructure Investors LLC.” The Company’s business may be conducted under any other name or names, as determined by the Board of Directors. The words “**Limited Liability Company**,” “**LLC**,” or similar words or letters shall be included in the Company’s name where necessary for the purpose of complying with the laws of any jurisdiction that so requires. The Board of Directors may change the name of the Company at any time and from time to time and shall notify the Members of such change in the next regular communication to the Members.

Section 2.3 Registered Office; Registered Agent; Principal Office; Other Offices. Unless and until changed by the Board of Directors, the registered office of the Company in the State of Delaware shall be located at 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be The Corporation Trust Company. The principal office of the Company shall be located at 1345 Avenue of the Americas, 46th floor, New York, New York 10105 or such other place as the Board of Directors may from time to time designate by notice to the Members. The Company may maintain offices at such other place or places within or outside the State of Delaware as the Board of Directors determines to be necessary or appropriate.

Section 2.4 Purposes. The purposes of the Company shall be to (a) promote, conduct or engage in, directly or indirectly, any business, purpose or activity that lawfully may be conducted by a limited liability company organized pursuant to the Delaware Act, (b) acquire,

hold and dispose of interests in any corporation, partnership, joint venture, limited liability company or other entity, and, in connection therewith, to exercise all of the rights and powers conferred upon the Company with respect to its interests therein, and (c) conduct any and all activities related or incidental to the foregoing purposes; provided, however, that, except pursuant to Section 10.6, the Company shall not engage, directly or indirectly, in any business activity that the Board of Directors determines would cause the Company to be treated as an association taxable as a corporation or otherwise taxable as an entity for federal income tax purposes.

Section 2.5 Powers. The Company shall be empowered to do any and all acts and things necessary and appropriate for the furtherance and accomplishment of the purposes described in Section 2.4.

Section 2.6 Power of Attorney. Each Member hereby constitutes and appoints each of the Chief Executive Officer, the Chief Financial Officer and the Secretary and, if a Liquidator shall have been selected pursuant to Section 8.2, the Liquidator (and any successor to the Liquidator by merger, transfer, assignment, election or otherwise) and each of their attorneys-in-fact or authorized officers, as the case may be, with full power of substitution, as his true and lawful agent and attorney-in-fact, with full power and authority in his name, place and stead, to:

(a) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices:

(i) all certificates, documents and other instruments (including this Agreement and the Certificate of Formation and all amendments or restatements hereof or thereof) that the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator determines to be necessary or appropriate to form, qualify or continue the existence or qualification of the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property;

(ii) all certificates, documents and other instruments that the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator determines to be necessary or appropriate to reflect, in accordance with its terms, any amendment, change, modification or restatement of this Agreement;

(iii) all certificates, documents and other instruments (including conveyances and a certificate of cancellation) that the Board of Directors or the Liquidator determines to be necessary or appropriate to reflect the dissolution, liquidation and termination of the Company pursuant to the terms of this Agreement;

(iv) all certificates, documents and other instruments relating to the admission, withdrawal, removal or substitution of any Member pursuant to, or other events described in, Articles III or VIII;

(v) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges of any class of Shares issued pursuant to Section 3.2; and

(vi) all certificates, documents and other instruments (including agreements and a certificate of merger) relating to a merger, consolidation or conversion of the Company pursuant to Article X.

(b) execute, swear to, acknowledge, deliver, file and record all ballots, consents, approvals, waivers, certificates, documents and other instruments that the Board of Directors or the Liquidator determines to be necessary or appropriate to (i) make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Members hereunder or is consistent with the terms of this Agreement or (ii) effectuate the terms or intent of this Agreement; provided, that when required by Section 9.2 or any other provision of this Agreement that establishes a percentage of the Members or of the Members of any class or series required to take any action, the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator may exercise the power of attorney made in this Section 2.6(b) only after the necessary vote, consent, approval, agreement or other action of the Members or of the Members of such class or series, as applicable.

Nothing contained in this Section 2.6 shall be construed as authorizing the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator to amend, change or modify this Agreement except in accordance with Article IX or as may be otherwise expressly provided for in this Agreement.

(c) The foregoing power of attorney is hereby declared to be irrevocable and a power coupled with an interest, and it shall survive and, to the maximum extent permitted by law, not be affected by the subsequent death, incompetency, disability, incapacity, dissolution, bankruptcy or termination of any Member and the transfer of all or any portion of such Member's Shares and shall extend to such Member's heirs, successors, assigns and personal representatives. Each such Member hereby agrees to be bound by any representation made by the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Member, to the maximum extent permitted by law, hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator, taken in good faith under such power of attorney in accordance with this Section 2.6. Each Member shall execute and deliver to the Chief Executive Officer, the Chief Financial Officer, the Secretary or the Liquidator, within 15 days after receipt of the request therefor, such further designation, powers of attorney and other instruments as any of such officers or the Liquidator determines to be necessary or appropriate to effectuate this Agreement and the purposes of the Company.

Section 2.7 Term. The Company's term shall be perpetual, unless and until it is dissolved in accordance with the provisions of Article VIII. The existence of the Company as a separate legal entity shall continue until the cancellation of the Certificate of Formation as provided in the Delaware Act.

Section 2.8 Title to Company Assets. Title to Company assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Company as an entity, and no Member, Director or officer, individually or collectively, shall have any ownership interest in such Company assets or any portion thereof. Title to any or all of the Company assets may be held in the name of the Company or one or more nominees, as the Board of Directors may determine. All Company assets shall be recorded as the property of the Company in its books and records, irrespective of the name in which record title to such Company assets is held.

ARTICLE III

MEMBERS AND SHARES

Section 3.1 Members.

(a) A Person shall be admitted as a Member and shall become bound by the terms of this Agreement if such Person purchases or otherwise lawfully acquires any Share and becomes the Record Holder of such Share in accordance with the provisions of Article IV hereof. A Person may become a Record Holder without the consent or approval of any of the Members. A Person may not become a Member without acquiring a Share.

(b) The name and mailing address of each Member shall be listed on the books and records of the Company maintained for such purpose by the Company or the Transfer Agent. The Secretary of the Company shall update the books and records of the Company from time to time as necessary to reflect accurately the information therein (or shall cause the Transfer Agent to do so, as applicable).

(c) Except as otherwise provided in the Delaware Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Members shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member of the Company.

(d) Subject to Articles X and XI, Members may not be expelled from or removed as Members of the Company. Members shall not have any right to withdraw from the Company; provided, that when a transferee of a Member's Shares becomes a Record Holder of such Shares, such transferring Member shall cease to be a member of the Company with respect to the Shares so transferred.

(e) Except to the extent expressly provided in this Agreement (including any Share Designation): (i) no Member shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent, if any, that distributions made pursuant to this Agreement or upon dissolution of the Company may be considered as such by law and then only to the extent provided for in this Agreement; (ii) no Member shall have priority over any other Member either as to the return of Capital Contributions or as to profits, losses or distributions; (iii) no interest shall be paid by the Company on Capital Contributions; and (iv) no Member, in its capacity as such, shall participate in the operation or management of the Company's business, transact any business in the Company's name or have the power to sign documents for or otherwise bind the Company by reason of being a Member.

(f) Any Member shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Company, including business interests and activities in direct competition with the Company Group. Neither the Company nor any of the other Members shall have any rights by virtue of this Agreement in any such business interests or activities of any Member.

Section 3.2 Authorization to Issue Shares.

(a) The Company may issue Shares, and options, rights, warrants and appreciation rights relating to Shares, for any Company purpose at any time and from time to time to such Persons for such consideration (which may be cash, property, services or any other lawful consideration) or for no consideration and on such terms and conditions as the Board of Directors shall determine, all without the approval of any Members, notwithstanding any provision of Sections 7.1 or 7.2. Each Share shall have the rights and be governed by the provisions set forth in this Agreement (including any Share Designation). Except to the extent expressly provided in this Agreement (including any Share Designation), no Shares shall entitle any Member to any preemptive, preferential, or similar rights with respect to the issuance of Shares.

(b) As of the date of this Agreement, there is one class of Shares outstanding and the Initial Members hold an aggregate of 53,502,873 Common Shares, and on the Closing Date, the Company will issue additional Common Shares to the Underwriters in accordance with the Underwriting Agreement. The Common Shares shall entitle the Record Holders thereof to one vote per Common Share on any and all matters submitted for the consent or approval of Members generally. The Company and certain Affiliates of the Initial Members are expected to enter into the Registration Rights Agreement, which is expected to set forth certain agreements among them, including with respect to the registration of the Common Shares held by them under the Securities Act.

(c) In addition to the Common Shares Outstanding on the date hereof, and without the consent or approval of any Members, additional Shares may be issued by the Company in one or more classes, with such designations, preferences, rights, powers and duties (which may be junior to, equivalent to, or senior or superior to, any existing classes 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 in compliance with Section 5.1 (each, a “**Share Designation**”), including (i) the right to share Company profits and losses or items thereof; (ii) the right to share in Company 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 Company; (iv) whether, and the terms and conditions upon which, the Company may redeem the Shares; (v) whether such Shares are issued with the privilege of conversion or exchange and, if so, the conversion or exchange price or prices or rate or rates, or any adjustments thereto, the date or dates on which, or the period or periods during which, the 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 Shares will be issued, evidenced by certificates and assigned or transferred; (vii) the method for determining the Percentage Interest, if any, applicable to such Shares; (viii) the terms and amounts of any sinking fund provided for the

purchase or redemption of Shares of the class or series; (ix) whether there will be restrictions on the issuance of 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 Share to vote on Company matters, including matters relating to the relative rights, preferences and privileges of such 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 Company for inclusion among the permanent records of the Company, 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 then Outstanding.

(d) The Company is authorized to issue up to 2,000,000,000 Common Shares and up to 200,000,000 Preferred Shares. All Shares issued pursuant to, and in accordance with the requirements of, this Article III shall be validly issued Shares in the Company, except to the extent otherwise provided in the Delaware Act or this Agreement (including any Share Designation).

(e) The Board of Directors may, without the consent or approval of any Members, amend this Agreement and make any filings under the Delaware Act or otherwise to the extent the Board of Directors determines that it is necessary or desirable in order to effectuate any issuance of Shares pursuant to this Article III, including, without limitation, an amendment of Section 3.2(d).

Section 3.3 Certificates.

(a) Upon the Company's issuance of Shares to any Person, the Company shall issue one or more Certificates in the name of such Person evidencing the number of such Shares being so issued. Certificates shall be executed on behalf of the Company by the Chairman or any Co-Chairman of the Board, the Chief Executive Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary. No Certificate representing Shares shall be valid for any purpose until it has been countersigned by the Transfer Agent; provided, however, that if the Board of Directors elects to issue Shares in global form, the Certificates representing Shares shall be valid upon receipt of a certificate from the Transfer Agent certifying that the Shares have been duly registered in accordance with the directions of the Company. Any or all of the signatures required on the Certificate may be by facsimile. If any officer or Transfer Agent who shall have signed or whose facsimile signature shall have been placed upon any such Certificate shall have ceased to be such officer or Transfer Agent before such Certificate is issued by the Company, such Certificate may nevertheless be issued by the Company with the same effect as if such Person were such officer or Transfer Agent at the date of issue. Certificates for each class of Shares shall be consecutively numbered and shall be entered on the books and records of the Company as they are issued and shall exhibit the holder's name and number and type of Shares.

(b) If any mutilated Certificate is surrendered to the Transfer Agent, the appropriate officers on behalf of the Company shall execute, and the Transfer Agent shall countersign and deliver in exchange therefor, a new Certificate evidencing the same number and class or series of Shares as the Certificate so surrendered. The appropriate officers on behalf of the

Company shall execute, and the Transfer Agent shall countersign and deliver, a new Certificate in place of any Certificate previously issued if the Record Holder of the Certificate: (i) makes proof by affidavit, in form and substance satisfactory to the Company, that a previously issued Certificate has been lost, destroyed or stolen; (ii) requests the issuance of a new Certificate before the Company has notice that the Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim; (iii) if requested by the Company, delivers to the Company a bond, in form and substance satisfactory to the Company, with surety or sureties and with fixed or open penalty as the Company may direct to indemnify the Company and the Transfer Agent against any claim that may be made on account of the alleged loss, destruction or theft of the Certificate; and (iv) satisfies any other reasonable requirements imposed by the Company. If a Member fails to notify the Company within a reasonable time after he has notice of the loss, destruction or theft of a Certificate, and a transfer of the Shares represented by the Certificate is registered before the Company or the Transfer Agent receives such notification, the Member shall be precluded from making any claim against the Company or the Transfer Agent for such transfer or for a new Certificate. As a condition to the issuance of any new Certificate under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Transfer Agent) reasonably connected therewith.

Section 3.4 Record Holders. The Company shall be entitled to recognize the Record Holder as the owner of a Share and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Share on the part of any other Person, regardless of whether the Company shall have actual or other notice thereof, except as otherwise provided by law or any applicable rule, regulation, guideline or requirement of any National Securities Exchange on which such Shares are listed for trading. Without limiting the foregoing, when a Person (such as a broker, dealer, bank, trust company or clearing corporation or an agent of any of the foregoing) is acting as nominee, agent or in some other representative capacity for another Person in acquiring and/or holding Shares, as between the Company on the one hand, and such other Persons on the other, such representative Person shall be the Record Holder of such Shares.

Section 3.5 Registration and Transfer of Shares.

(a) The term “**transfer**,” when used in this Agreement with respect to a Share, shall be deemed to refer to a transaction by which the Record Holder of a Share assigns such Share to another Person who is or becomes a Member, and includes a sale, assignment, gift, exchange or any other disposition by law or otherwise, including any transfer upon foreclosure of any pledge, encumbrance, hypothecation or mortgage.

(b) The Company shall keep or cause to be kept on behalf of the Company a register that will provide for the registration and transfer of Shares. The Transfer Agent is hereby appointed registrar and transfer agent for the purpose of registering Common Shares and transfers of such Common Shares as herein provided. Upon surrender of a Certificate for registration of transfer of any Shares evidenced by a Certificate, the appropriate officers of the Company shall execute and deliver, and in the case of Common Shares, the Transfer Agent shall countersign and deliver, in the name of the holder or the designated transferee or transferees, as required pursuant to the Record Holder’s instructions, one or more new Certificates evidencing the same aggregate number and type of Shares as were evidenced by the Certificate so surrendered, provided that a transferor shall provide the address and facsimile number for each such transferee as contemplated by Section 12.1.

(c) The Company shall not recognize any transfer of Shares until the Certificates evidencing such Shares are surrendered for registration of transfer. No charge shall be imposed by the Company for such transfer; provided, that as a condition to the issuance of any new Certificate, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed with respect thereto.

(d) By acceptance of the transfer of any Share, each transferee of a Share (including any nominee holder or an agent or representative acquiring such Shares for the account of another Person) (i) shall be admitted to the Company as a Substitute Member with respect to the Shares so transferred to such transferee when any such transfer or admission is reflected in the books and records of the Company, (ii) shall be deemed to agree to be bound by the terms of this Agreement, (iii) shall become the Record Holder of the Shares so transferred, (iv) grants powers of attorney to the officers of the Company and any Liquidator of the Company, as specified herein, and (v) makes the consents and waivers contained in this Agreement. The transfer of any Shares and the admission of any new Member shall not constitute an amendment to this Agreement.

(e) Nothing contained in this Agreement shall preclude the settlement of any transactions involving Shares entered into through the facilities of any National Securities Exchange on which such Shares are listed for trading.

Section 3.6 Capital Accounts.

(a) The Company shall maintain for each Member (or a beneficial owner of Shares held by a nominee in any case in which the nominee has furnished the identity of such owner to the Company in accordance with Section 6031(c) of the Code or any other method acceptable to the Company) owning Shares a separate Capital Account with respect to such Shares in accordance with the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). The Company shall maintain such Capital Accounts on a per class or series basis, as appropriate. Such Capital Account shall be increased by (i) the amount of all Capital Contributions made to the Company with respect to such Shares pursuant to this Agreement and (ii) all items of Company income and gain (including income and gain exempt from tax) computed in accordance with Section 3.6(b) and allocated with respect to such Shares pursuant to Section 4.1, and decreased by (x) the amount of cash or Net Agreed Value of all actual and deemed distributions of cash or property made with respect to such Shares pursuant to this Agreement and (y) all items of Company deduction and loss computed in accordance with Section 3.6(b) and allocated with respect to such Shares pursuant to Section 4.1. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulation. In the event the Board of Directors shall determine that it is prudent to modify the manner in which the Capital Accounts or any adjustments thereto (including adjustments relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or any Members) are computed in order to comply with such Treasury Regulation, 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 pursuant to Article VIII hereof upon the dissolution

of the Company. The Board of Directors also shall (i) make any adjustments that are necessary or appropriate to maintain equality among the Capital Accounts of the Members and the amount of capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulation 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 Treasury Regulation Section 1.704-1(b).

(b) For purposes of computing the amount of any item of income, gain, loss or deduction, which is to be allocated pursuant to Article IV and is to be reflected in the Members' Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes (including any method of depreciation, cost recovery or amortization used for that purpose), provided, that:

(i) Solely for purposes of this Section 3.6, the Company shall be treated as owning directly its proportionate share (as determined by the Board of Directors based upon the provisions of the applicable Group Member Agreement or governing, organizational or similar documents) of all property owned by (x) any other Group Member that is classified as a partnership for federal income tax purposes and (y) any other partnership, limited liability company, unincorporated business or other entity or arrangement that is classified as a partnership for federal income tax purposes, of which a Group Member is, directly or indirectly, a partner.

(ii) All fees and other expenses incurred by the Company to promote the sale of (or to sell) Shares that can neither be deducted nor amortized under Section 709 of the Code, if any, shall, for purposes of Capital Account maintenance, be treated as an item of deduction at the time such fees and other expenses are incurred and shall be allocated among the Members pursuant to Section 4.1.

(iii) Except as otherwise provided in Treasury Regulation Section 1.704-1(b)(2)(iv)(m), the computation of all items of income, gain, loss and deduction shall be made without regard to any election under Section 754 of the Code which may be made by the Company and, as to those items described in Section 705(a)(1)(B) or 705(a)(2)(B) of the Code, without regard to the fact that such items are not includable in gross income or are neither currently deductible nor capitalized for federal income tax purposes. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment in the Capital Accounts shall be treated as an item of gain or loss.

(iv) Any income, gain or loss attributable to the taxable disposition of any Company property shall be determined as if the adjusted basis of such property as of such date of disposition were equal in amount to the Company's Carrying Value with respect to such property as of such date.

(v) In accordance with the requirements of Section 704(b) of the Code, any deductions for depreciation, cost recovery or amortization attributable to any Contributed Property shall be determined in the manner described in Regulation Section 1.704-3(d)(2). Upon an adjustment pursuant to Section 3.6(d) to the Carrying Value of any Adjusted Property that is subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or amortization attributable to such property shall be determined in the manner described in Regulation Section 1.704-3(d)(2).

(c) A transferee of Shares shall succeed to a pro rata portion of the Capital Account of the transferor based on the number of Shares so transferred.

(d) (i) In accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f), on an issuance of additional Shares for cash or Contributed Property and the issuance of Shares as consideration for the provision of services, the Capital Account of all Members and the Carrying Value of each Company property immediately prior to such issuance may, in the sole discretion of the Company, be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Company property, as if such Unrealized Gain or Unrealized Loss had been recognized on an actual sale of each such property immediately prior to such issuance and had been allocated to the Members at such time pursuant to Section 4.1 in the same manner as any item of gain or loss actually recognized during such period would have been allocated. In determining such Unrealized Gain or Unrealized Loss, the aggregate cash amount and fair market value of all Company assets (including cash or cash equivalents) immediately prior to the issuance of additional Shares shall be determined by the Board of Directors using such method of valuation as it may adopt; provided, however, that the Board of Directors, in arriving at such valuation, must take fully into account the fair market value of the Shares of all Members at such time. The Board of Directors shall allocate such aggregate value among the assets of the Company (in such manner as it determines) to arrive at a fair market value for individual properties.

(ii) In accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f), immediately prior to any actual or deemed distribution to a Member of any Company property (other than a distribution of cash that is not in redemption or retirement of a Share), the Capital Accounts of all Members and the Carrying Value of all Company property may be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Company property, as if such Unrealized Gain or Unrealized Loss had been recognized in a sale of such property immediately prior to such distribution for an amount equal to its fair market value, and had been allocated to the Members, at such time, pursuant to Section 4.1 in the same manner as any item of gain or loss actually recognized during such period would have been allocated. In determining such Unrealized Gain or Unrealized Loss the aggregate cash amount and fair market value of all Company assets (including cash or cash equivalents) immediately prior to a distribution shall (A) in the case of an actual distribution that is not made pursuant to Section 8.3 or in the case of a deemed distribution, be determined and allocated in the same manner as that provided in Section 3.6(d)(i) or (B) in the case of a liquidating distribution pursuant to Section 8.3, be determined and allocated by the Liquidator using such method of valuation as it may adopt.

(iii) The Board of Directors may make the adjustments described in clauses (i) and (ii) above in the manner set forth therein if the Board of Directors determines that such adjustments are necessary or useful to effectuate the intended economic arrangement among the Members (i.e., that equal distributions be paid with respect to each Common Share), including Members who received Shares in connection with the performance of services to or for the benefit of the Company.

(e) Notwithstanding anything expressed or implied to the contrary in this Agreement, in the event the Board of Directors shall determine, in its sole and absolute discretion, that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, as well as book and tax allocations of items of income, gain, loss and deduction are computed in order to effectuate the intended economic sharing arrangement of the Members (i.e., that equal distributions be paid with respect to each Common Share), the Board of Directors may make such modification.

Section 3.7 Splits and Combinations.

(a) Subject to paragraph (d) of this Section, the Company may make a pro rata distribution of Shares of any class or series to all Record Holders of such class or series of Shares, or may effect a subdivision or combination of Shares of any class or series so long as, after any such event, each Member shall have the same Percentage Interest in the Company as before such event, and any amounts calculated on a per Share basis or stated as a number of Shares are proportionately adjusted.

(b) Whenever such a distribution, subdivision or combination of Shares is declared, the Board of Directors shall select a Record Date as of which the distribution, subdivision or combination shall be effective and shall send notice thereof at least 20 days prior to such Record Date to each Record Holder as of a date not less than 10 days prior to the date of such notice. The Board of Directors also may cause a firm of independent public accountants selected by it to calculate the number of Shares to be held by each Record Holder after giving effect to such distribution, subdivision or combination. The Board of Directors shall be entitled to rely on any certificate provided by such firm as conclusive evidence of the accuracy of such calculation.

(c) Promptly following any such distribution, subdivision or combination, the Company may issue Certificates to the Record Holders of Shares as of the applicable Record Date representing the new number of Shares held by such Record Holders, or the Board of Directors may adopt such other procedures that it determines to be necessary or appropriate to reflect such changes. If any such combination results in a smaller total number of Shares Outstanding, the Company shall require, as a condition to the delivery to a Record Holder of such new Certificate, the surrender of any Certificate held by such Record Holder immediately prior to such Record Date.

(d) The Company shall not issue fractional Shares upon any distribution, subdivision or combination of Shares. If a distribution, subdivision or combination of Shares would otherwise result in the issuance of fractional Shares, each fractional Share shall be rounded to the nearest whole Share (and a 0.5 Share shall be rounded to the next higher Share) or the Company may pay cash in lieu of the issuance of any such fractional Shares as determined by the Board of Directors.

ARTICLE IV

ALLOCATIONS AND DISTRIBUTIONS

Section 4.1 Allocations for Capital Account Purposes. For purposes of maintaining the Capital Accounts and in determining the rights of the Members among themselves, the Company's items of income, gain, loss and deduction (computed in accordance with Section 3.6(b)) shall be allocated among the Members in each taxable year (or portion thereof) as provided herein below.

(a) Net Income. After giving effect to the special allocations set forth in Section 4.1(d), Net Income for each taxable year and all items of income, gain, loss and deduction taken into account in computing Net Income for such taxable year shall be allocated to the Members in accordance with their respective Percentage Interests.

(b) Net Losses. After giving effect to the special allocations set forth in Section 4.1(d), Net Losses for each taxable period and all items of income, gain, loss and deduction taken into account in computing Net Losses for such taxable period shall be allocated to the Members in accordance with their respective Percentage Interests; provided that to the extent any allocation of Net Losses would cause any Members to have a deficit balance in its Adjusted Capital Account at the end of such taxable year (or increase any existing deficit balance in its Adjusted Capital Account), such allocation of Net Loss shall be reallocated among the other Members in accordance with their respective Percentage Interests.

(c) Allocation upon Termination. With respect to all Section 4.1(a) and (b) allocations following a Liquidation Date, such allocations shall be made after Capital Account balances have been adjusted by all other allocations provided under this Section 4.1 and after giving effect to all distributions during such taxable year; provided, however, that solely for purposes of this Section 4.1(c), Capital Accounts shall not be adjusted for distributions made pursuant to Section 8.3.

(d) Special Allocations. Notwithstanding any other provision of this Section 4.1, the following special allocations shall be made for such taxable period:

(i) Company Minimum Gain Chargeback. Notwithstanding any other provision of this Section 4.1, if there is a net decrease in Company Minimum Gain during any Company taxable period, each Member shall be allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in Treasury Regulation Sections 1.704-2(f)(6), 1.704-2(g)(2) and 1.704-2(j)(2)(i), or any successor

provision. For purposes of this Section 4.1(d), each Member's Adjusted Capital Account balance shall be determined, and the allocation of income and gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 4.1(d) with respect to such taxable period (other than an allocation pursuant to Sections 4.1(d)(iii) and 4.1(d)(vi)). This Section 4.1(d)(i) is intended to comply with the Company Minimum Gain chargeback requirement in Treasury Regulation Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) Chargeback of Member Nonrecourse Debt Minimum Gain. Notwithstanding the other provisions of this Section 4.1 (other than Section 4.1(d)(i)), except as provided in Treasury Regulation Section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Company taxable period, any Member with a share of Member Nonrecourse Debt Minimum Gain at the beginning of such taxable period shall be allocated items of Company income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in Treasury Regulation Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. For purposes of this Section 4.1(d), each Member's Adjusted Capital Account balance shall be determined, and the allocation of income and gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 4.1(d), other than Section 4.1(d)(i) and other than an allocation pursuant to Sections 4.1(d)(v) and 4.1(d)(vi), with respect to such taxable period. This Section 4.1(d)(ii) is intended to comply with the chargeback of items of income and gain requirement in Treasury Regulation Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(iii) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations promulgated under Section 704(b) of the Code, the deficit balance, if any, in its Adjusted Capital Account created by such adjustments, allocations or distributions as quickly as possible unless such deficit balance is otherwise eliminated pursuant to Sections 4.1(d)(i) or (ii). This Section 4.1(d)(iii) is intended to qualify and be construed as a "qualified income offset" within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(iv) Gross Income Allocations. In the event any Member has a deficit balance in its Capital Account at the end of any Company taxable period in excess of the sum of (A) the amount such Member is required to restore pursuant to the provisions of this Agreement and (B) the amount such Member is deemed obligated to restore pursuant to Treasury Regulation Sections 1.704-2(g) and 1.704-2(i)(5), such Member shall be specially allocated items of Company gross income and gain in the amount of such excess as quickly as possible; provided, that an allocation pursuant to this Section 4.1(d)(iv) shall be made only if

and to the extent that such Member would have a deficit balance in its Capital Account as adjusted after all other allocations provided for in this Section 4.1 have been tentatively made as if this Section 4.1(d)(iv) were not in this Agreement.

(v) Nonrecourse Deductions. Nonrecourse Deductions for any taxable period shall be allocated to the Members in accordance with their respective Percentage Interests. If the Board of Directors determines that the Company's Nonrecourse Deductions should be allocated in a different ratio to satisfy the safe harbor requirements of the Treasury Regulations promulgated under Section 704(b) of the Code, the Board of Directors is authorized, upon notice to the other Members, to revise the prescribed ratio to the numerically closest ratio that does satisfy such requirements.

(vi) Member Nonrecourse Deductions. Member Nonrecourse Deductions for any taxable period shall be allocated 100% to the Member that bears the Economic Risk of Loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulation Section 1.704-2(i). If more than one Member bears the Economic Risk of Loss with respect to a Member Nonrecourse Debt, such Member Nonrecourse Deductions attributable thereto shall be allocated between or among such Members in accordance with the ratios in which they share such Economic Risk of Loss.

(vii) Nonrecourse Liabilities. Nonrecourse Liabilities of the Company described in Treasury Regulation Section 1.752-3(a)(3) shall be allocated among the Members in a manner chosen by the Board of Directors and consistent with such Treasury Regulation.

(viii) Code Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the 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 item of gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Treasury Regulations.

(ix) Curative Allocation.

(A) The Required Allocations are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Required Allocations shall be offset either with other Required Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Section 4.1(d)(ix).

Therefore, notwithstanding any other provision of this Article IV (other than the Required Allocations), the Board of Directors shall make such offsetting special allocations of Company income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Required Allocations were not part of this Agreement and all Company items were allocated pursuant to the economic agreement among the Members.

(B) The Board of Directors shall, with respect to each taxable period, (1) apply the provisions of Section 4.1(d)(ix)(A) in whatever order is most likely to minimize the economic distortions that might otherwise result from the Required Allocations, and (2) divide all allocations pursuant to Section 4.1(d)(ix)(A) among the Members in a manner that is likely to minimize such economic distortions.

Section 4.2 Allocations for Tax Purposes.

(a) Except as otherwise provided herein, for federal income tax purposes, each item of income, gain, loss and deduction shall be allocated among the Members in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Section 4.1.

(b) In an attempt to eliminate Book-Tax Disparities attributable to a Contributed Property or an Adjusted Property, items of income, gain, loss, depreciation, amortization and cost recovery deductions shall be allocated for federal income tax purposes among the Members as follows:

(i) (A) In the case of a Contributed Property, such items attributable thereto shall be allocated among the Members in the manner provided under Section 704(c) of the Code that takes into account the variation between the Agreed Value of such property and its adjusted basis at the time of contribution; and (B) any item of Residual Gain or Residual Loss attributable to a Contributed Property shall be allocated among the Members in the same manner as its correlative item of "book" gain or loss is allocated pursuant to Section 4.1.

(ii) (A) In the case of an Adjusted Property, such items shall (1) first, be allocated among the Members in a manner consistent with the principles of Section 704(c) of the Code to take into account the Unrealized Gain or Unrealized Loss attributable to such property and the allocations thereof pursuant to Sections 3.6(d)(i) or 3.6(d)(ii), and (2) second, in the event such property was originally a Contributed Property, be allocated among the Members in a manner consistent with Section 4.2(b)(i)(A); and (B) any item of Residual Gain or Residual Loss attributable to an Adjusted Property shall be allocated among the Members in the same manner as its correlative item of "book" gain or loss is allocated pursuant to Section 4.1.

(iii) The Board of Directors shall apply the principles of Treasury Regulation Section 1.704-3(d) to eliminate Book-Tax Disparities. Notwithstanding the preceding sentence, the Board of Directors may cause the Company to eliminate Book-Tax Disparities using another method described in Treasury Regulation Section 1.704-3.

(c) For the proper administration of the Company and for the preservation of uniformity of the Shares (or any class or classes thereof), the Board of Directors shall (i) adopt such conventions as it deems appropriate in determining the amount of depreciation, amortization and cost recovery deductions; (ii) make special allocations for federal income tax purposes of income (including gross income) or deductions; (iii) amend or interpret the provisions of this Agreement as appropriate (x) to reflect the proposal or promulgation of Treasury Regulations under Section 704(b) or Section 704(c) of the Code or (y) otherwise to preserve or achieve uniformity of the Shares (or any class or classes thereof); and (iv) adopt and employ such methods for (A) the maintenance of Capital Accounts for book and tax purposes, (B) the determination and allocation of adjustments under Sections 704(c), 734 and 743 of the Code, (C) the determination and allocation of taxable income, tax loss and items thereof under this Agreement and pursuant to the Code, (D) the determination of the identities and tax classification of Members, (E) the provision of tax information and reports to the Members, (F) the adoption of reasonable conventions and methods for the valuation of assets and the determination of tax basis, (G) the allocation of asset values and tax basis, (H) the adoption and maintenance of accounting methods, (I) the recognition of the transfer of Shares, (J) tax compliance and other tax-related requirements, including the use of computer software, and to use filing and reporting procedures similar to those employed by publicly-traded partnerships and limited liability companies, as it determines in its sole discretion are necessary and appropriate to execute the provisions of this Agreement and to comply with federal, state and local tax law, and to achieve uniformity of Shares within a class. The Board of Directors may adopt such conventions, make such allocations and make such amendments or interpretations to this Agreement as provided in this Section 4.2(c) only if such conventions, allocations, amendments or interpretations would not have a material adverse effect on the amount of distributions to which each Member is entitled.

(d) The Board of Directors may determine to depreciate or amortize the portion of an adjustment under Section 743(b) of the Code attributable to unrealized appreciation in any Adjusted Property (to the extent of the unamortized Book-Tax Disparity) using a predetermined rate derived from the depreciation or amortization method and useful life applied to the Company's common basis of such property, despite any inconsistency of such approach with Treasury Regulation Section 1.167(c)-1(a)(6) or any successor regulations thereto. If the Board of Directors determines that such reporting position cannot be taken, the Board of Directors may adopt depreciation and amortization conventions under which all purchasers acquiring Shares in the same month would receive depreciation and amortization deductions, based upon the same applicable rate as if they had purchased a direct interest in the Company's property. If the Board of Directors chooses not to utilize such aggregate method, the Board of Directors may use any other depreciation and amortization conventions to preserve the uniformity of the intrinsic tax characteristics of any Shares.

(e) Any gain allocated to the Members upon the sale or other taxable disposition of any Company asset shall, to the extent possible, after taking into account other required allocations of gain pursuant to this Section 4.2, be characterized as Recapture Income in the same proportions and to the same extent as such Members (or their predecessors in interest) have been allocated any deductions directly or indirectly giving rise to the treatment of such gains as Recapture Income.

(f) All items of income, gain, loss, deduction and credit recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof shall be determined without regard to any election under Section 754 of the Code that may be made by the Company; provided, however, that such allocations, once made, shall be adjusted (in the manner determined by the Board of Directors) to take into account those adjustments permitted or required by Sections 734 and 743 of the Code.

(g) Pursuant to Section 4.2(c), the Board of Directors may adopt and employ such conventions and methods as it determines in its sole discretion to be appropriate for the determination for federal income tax purposes of each item of Company income, gain, loss, and deduction and the allocation of such items among Members and between transferors and transferees under this Agreement and pursuant to the Code (including Section 706 of the Code) and the regulations or rulings promulgated thereunder. The Board of Directors may revise, alter or otherwise modify such methods of allocation to the extent permitted or required by Section 706 of the Code and the regulations or rulings promulgated thereunder.

(h) Allocations that would otherwise be made to a Member under the provisions of this Article IV shall instead be made to the beneficial owner of Shares held by a nominee in any case in which the nominee has furnished the identity of such owner to the Company in accordance with Section 6031(c) of the Code or any other method determined by the Board of Directors.

Section 4.3 Distributions to Record Holders.

(a) Subject to the applicable provisions of the Delaware Act, the Board of Directors may, in its sole and absolute discretion, at any time and from time to time, declare, make and pay distributions of cash or other assets to the Members. Subject to the terms of any Share Designation, distributions shall be paid to Members in accordance with their respective Percentage Interests as of the Record Date selected by the Board of Directors.

(b) Notwithstanding Section 4.3(a), in the event of the dissolution and liquidation of the Company, all distributions shall be made in accordance with, and subject to the terms and conditions of, Section 8.3.

(c) Pursuant to Section 7.4, the Company is authorized to withhold from payments or other distributions to the Members, and to pay over to any U.S. federal, state and local government or any foreign government, any amounts required to be so withheld pursuant to the Code or any other law. All amounts withheld with respect to any payment or other distribution by the Company to the Members shall be treated as amounts paid to the Members with respect to which such amounts were withheld pursuant to this Section 4.3(c) or Section 8.3 for all purposes under this Agreement.

(d) Each distribution in respect of any Shares shall be paid by the Company, directly or through the Transfer Agent or through any other Person or agent, only to the Record Holder of such Shares as of the Record Date set for such distribution. Such payment shall constitute full payment and satisfaction of the Company's liability in respect of such payment, regardless of any claim of any Person who may have an interest in such payment by reason of an assignment or otherwise.

ARTICLE V

MANAGEMENT AND OPERATION OF BUSINESS

Section 5.1 Power and Authority of Board of Directors. Except as otherwise expressly provided in this Agreement, the business and affairs of the Company shall be managed by or under the direction of a board of directors (the "**Board of Directors**"). As provided in Section 5.21, the Board of Directors shall have the power and authority to appoint officers of the Company. The Directors and officers of the Company shall constitute "**managers**" within the meaning of the Delaware Act. No Member, by virtue of its status as such, shall have any management power over the business and affairs of the Company or actual or apparent authority to enter into, execute or deliver contracts on behalf of, or to otherwise bind, the Company. Except as otherwise specifically provided in this Agreement, the authority and functions of the Board of Directors, on the one hand, and of the officers, on the other hand, shall be identical to the authority and functions of the board of directors and officers, respectively, of a corporation organized under the DGCL. In addition to the powers that now or hereafter can be granted to managers under the Delaware Act and to all other powers granted under any other provision of this Agreement, the Board of Directors shall have full power and authority to do, and to direct the officers to do, all things and on such terms as it determines to be necessary or appropriate to conduct the business of the Company, to exercise all powers set forth in Section 2.5 and to effectuate the purposes set forth in Section 2.4, including the following:

(a) the making of any expenditures, the lending or borrowing of money, the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness, including indebtedness that is convertible into Shares, and the incurring of any other obligations;

(b) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Company;

(c) the acquisition, disposition, mortgage, pledge, encumbrance, hypothecation or exchange of any or all of the assets of the Company or the merger or other combination of the Company with or into another Person (subject, however, to any prior approval of Members that may be required by this Agreement);

(d) the adoption, amendment, revision or termination of any policies or guidelines with respect to acquisitions or investments made on behalf of any Group Member by an external manager of the Company (including the Manager);

(e) the use of the assets of the Company (including cash on hand) for any purpose consistent with the terms of this Agreement, including the financing of the conduct of the operations of the Company and its Subsidiaries; the lending of funds to other Persons (including other Group Members); the repayment of obligations of the Company and its Subsidiaries; and the making of capital contributions to any Member of the Company or any of its Subsidiaries;

(f) the negotiation, execution and performance of any contracts, conveyances or other instruments (including instruments that limit the liability of the Company under contractual arrangements to all or particular assets of the Company);

(g) the declaration and payment of distributions of cash or other assets to Members;

(h) the selection and dismissal of an external manager, officers, employees, agents, outside attorneys, accountants, consultants and contractors and the determination of their compensation and other terms of employment or hiring, and the creation and operation of employee benefit plans, employee programs and employee practices;

(i) the entering into agreements and amendments thereto, including management agreements, with an external manager (including the Manager);

(j) the maintenance of insurance for the benefit of the Company Group and the Indemnified Persons;

(k) the formation of, or acquisition or disposition of an interest in, and the contribution of property and the making of loans to, any limited or general partnership, joint venture, corporation, limited liability company or other entity or arrangement;

(l) the control of any matters affecting the rights and obligations of the Company, including the bringing and defending of actions at law or in equity and otherwise engaging in the conduct of litigation, arbitration or remediation, and the incurring of legal expense and the settlement of claims and litigation;

(m) the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(n) the entering into of listing agreements with any National Securities Exchange and the delisting of some or all of the Shares from, or requesting that trading be suspended on, any such exchange;

(o) the issuance, sale or other disposition, and the purchase or other acquisition, of Shares or options, rights, warrants or appreciation rights relating to Shares, including to the Manager;

(p) the undertaking of any action in connection with the Company's interest or participation in any Group Member;

(q) the registration of any offer, issuance, sale or resale of Shares or other securities issued or to be issued by the Company under the Securities Act and any other applicable securities laws (including any resale of Shares or other securities by Members or other securityholders); and

(r) the execution and delivery of agreements with Affiliates of the Company or any external manager (including the Manager) to render services to a Group Member.

Section 5.2 Number, Qualification and Term of Office of Directors. The number of Directors which shall constitute the whole Board of Directors shall be five at the time of the execution of this Agreement. After completion of the IPO, the number of Directors which shall constitute the whole Board of Directors shall be determined from time to time by resolution adopted by a majority of the Board of Directors then in office, but shall be not fewer than three and no more than nine. The Directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of Directors constituting the whole Board of Directors. The initial division of the Board of Directors into classes shall be made by the decision of the affirmative vote of a majority of the entire Board of Directors. At the time of the execution of this Agreement, the Class I Directors shall have a term expiring at the 2016 annual meeting of Members, the Class II Directors shall have a term expiring at the 2017 annual meeting of Members, and the Class III Directors shall have a term expiring at the 2018 annual meeting of Members. Each Director shall hold office until his successor is elected or appointed and qualified, or until his or her earlier death, resignation or removal.

Section 5.3 Election of Directors. At each succeeding annual meeting of Members beginning in 2016, successors to the class of Directors whose term expires at that annual meeting shall be elected for a three (3)-year term and until their successors are duly elected or appointed and qualified. If the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class as nearly equal as possible, and any additional Director of any class elected to fill a vacancy resulting from an increase in such class or from the death, resignation or removal from office of a Director or other cause shall hold office for a term that shall coincide with the remaining term of that class, but in no case will a decrease in the number of Directors shorten the term of any incumbent Director. Directors need not be Members. The Directors shall be elected at the annual meeting of Members, except as provided in Section 5.6, and each Director elected shall hold office until the third succeeding meeting next after such Director's election and until such Director's successor is duly elected and qualified, or until such Director's death or until such Director resigns or is removed in the manner hereinafter provided. Directors shall be elected by a plurality of the votes of Outstanding Voting Shares present in person or represented by proxy and entitled to vote on the election of Directors at any annual or special meeting of Members. The Board of Directors shall present to the Members nominations of candidates for election to the Board of Directors (or recommend the election of such candidates as nominated by others) such that, and shall take such other corporate actions as may be reasonably required to provide that, to the best knowledge of the Board of Directors, if such candidates are elected by the Members, at least a majority of the

members of the Board of Directors shall be Independent Directors. The Board of Directors shall only elect any Person to fill a vacancy on the Board of Directors if, to the best knowledge of the Board of Directors, after such person's election at least a majority of the members of the Board of Directors shall be Independent Directors. The foregoing provisions of this paragraph shall not cause a Director who, upon commencing his or her service as a member of the Board of Directors was determined by the Board of Directors to be an Independent Director but did not in fact qualify as such, or who by reason of any change in circumstances ceases to qualify as an Independent Director, from serving the remainder of the term as a Director for which he or she was selected. Notwithstanding the foregoing provisions of this paragraph, no action of the Board of Directors shall be invalid by reason of the failure at any time of a majority of the members of the Board of Directors to be Independent Directors.

Section 5.4 Removal. A Director or the whole Board of Directors may be removed, only for cause, by the affirmative vote of holders of at least eighty percent (80%) of the then issued and outstanding Shares entitled to vote in the election of Directors, given at an annual meeting or at a special meeting of Members called for that purpose. The vacancy in the Board of Directors caused by any such removal shall be filled by the Board of Directors as provided in Section 5.6. Any Director serving on a committee of the Board of Directors may be removed from such committee at any time by the Board of Directors.

Section 5.5 Resignations. Any Director of the Company may resign from the Board of Directors or any committee thereof at any time, by giving notice in writing or electronic transmission to (i) the Chairman of the Board of Directors, if there be one, or to the Chief Executive Officer, if there is no Chairman, and (ii) the Secretary of the Company and, in the case of a committee, to the chairman of such committee, if there be one. Such resignation shall take effect at the time therein specified or, if no time is specified, immediately; and, unless otherwise specified in such notice, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.6 Vacancies. Unless otherwise required by law, any vacancy on the Board of Directors that results from newly created Directorships resulting from any increase in the authorized number of Directors may be filled by a majority of the Directors then in office, provided that a quorum is present, and any other vacancies may be filled by a majority of the Directors then in office, though less than a quorum, or by a sole remaining Director or, solely in the event of the removal of the entire Board of Directors, by the affirmative vote of the holders of at least eighty percent (80%) of the voting power of the then issued and outstanding shares of capital stock of the Company entitled to vote in the election of Directors. Any Director of any class elected to fill a vacancy resulting from an increase in the number of Directors of such class shall hold office for a term that shall coincide with the remaining term of that class and until such Director's successor is duly elected or appointed and qualified, or until his or her earlier death, resignation or removal. Any Director elected to fill a vacancy not resulting from an increase in the number of Directors shall have the same remaining term as that of such Director's predecessor and until such Director's successor is duly elected or appointed and qualified, or until his or her earlier death, resignation or removal.

Section 5.7 Nomination of Directors. Only persons who are nominated in accordance with the procedures set forth in Section 11.11(b) shall be eligible for election as

Directors of the Company, except as may be otherwise provided in any Share Designation with respect to the right of Members of any class of Shares to nominate and elect a specified number of Directors in certain circumstances.

Section 5.8 Chairman of Meetings. The Board of Directors may elect one of its members as Chairman of the Board (the “**Chairman of the Board**”). The Chairman of the Board of Directors, if there be one, shall preside at all meetings of the Members and of the Board of Directors. The Chairman of the Board of Directors (who must be a Director but is not required to be an employee of the Company) shall be designated by the Board of Directors and, except where by law the signature of the Chief Executive Officer is required, the Chairman of the Board of Directors shall possess the same power as the Chief Executive Officer to sign all contracts, certificates and other instruments of the Company that may be authorized by the Board of Directors. During the absence or disability of the Chief Executive Officer, the Chairman of the Board of Directors shall exercise all the powers and discharge all the duties of the Chief Executive Officer. The Chairman of the Board of Directors shall also perform such other duties and may exercise such other powers as may from time to time be assigned by this Agreement or by the Board of Directors.

Section 5.9 Place of Meetings. The Board of Directors and any committee thereof may hold meetings, both regular and special, either within or outside the State of Delaware.

Section 5.10 Regular Meetings. A regular meeting of the Board of Directors and any committee thereof shall be held without any other notice than this Agreement, immediately after, and at the same place (if any) as, each annual meeting of Members. Additional regular meetings of the Board of Directors or any committee thereof may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors or such committee, respectively. Unless otherwise determined by the Board of Directors, the Secretary of the Company shall act as Secretary at all regular meetings of the Board of Directors and in the Secretary’s absence a temporary Secretary shall be appointed by the chairman of the meeting. The Independent Directors shall meet periodically without any member of management present and, except as the Independent Directors may otherwise determine, without any other Director present to consider the overall performance of management and the performance of the role of the Independent Directors in the governance of the Company; such meetings shall be held in connection with a regularly scheduled meeting of the Board of Directors except as the Independent Directors shall otherwise determine.

Section 5.11 Special Meetings; Notice. Special meetings of the Board of Directors may be called by the Chairman, if there be one, the Chief Executive Officer, or by any two Directors. Special meetings of any committee of the Board of Directors may be called by the chairman of such committee, if there be one, the Chief Executive Officer or any Director serving on such committee. Notice thereof stating the place, date and hour of the special meeting shall be given to each Director (or, in the case of a committee, to each member of such committee) either by mail not less than forty-eight (48) hours before the date of the meeting, by telephone, facsimile, email or other electronic means on twenty-four (24) hours’ notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. A notice of a special meeting of the Board of Directors or any committee thereof need not specify the purpose of the meeting unless required by this Agreement. Notice of any Meetings of the Board

shall not, however, be required to be given to any Director who submits a signed waiver of notice, or waives notice of such meeting by electronic transmission, whether before or after the meeting, or if he or she shall be present at such meeting; and any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all the Directors of the Company then in office shall be present thereat or shall have waived notice thereof.

Section 5.12 Action Without Meeting. Any action required or permitted to be taken at any meeting by the Board of Directors or any committee thereof, as the case may be, may be taken without a meeting if a consent thereto is signed or transmitted electronically, as the case may be, by all members of the Board or of such committee, as the case may be, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or such committee.

Section 5.13 Conference Telephone Meetings. Members of the Board of Directors, or any committee thereof, may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 5.14 Quorum. Except as otherwise required by law, this Agreement or the rules and regulations of any securities exchange on which the Company's securities are listed and traded, at all meetings of the Board of Directors or any committee thereof, a majority of the entire Board of Directors or a majority of the Directors constituting such committee, as the case may be, shall constitute a quorum for the transaction of business, and the act of a majority of the Directors or a majority of the Directors constituting such committee, as the case may be, shall be the act of the Board of Directors or such committee, as applicable. If a quorum shall not be present at any meeting of the Board of Directors or any committee, a majority of the Directors or members, as the case may be, present thereat may adjourn the meeting from time to time without further notice other than announcement at the meeting of the time and place of the adjourned meeting, until a quorum shall be present.

Section 5.15 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the Directors of the Company. Each member of a committee must meet the requirements for membership, if any, imposed by applicable law and the rules and regulations of any securities exchange or quotation system on which the securities of the Company are listed or quoted for trading. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of any such committee. Subject to the rules and regulations of any securities exchange or quotation system on which the securities of the Company are listed or quoted for trading, in the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another qualified member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent permitted by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the

Company, and may authorize the seal of the Company to be affixed to all papers that may require it. Each committee shall keep regular minutes and report to the Board of Directors when required. Notwithstanding anything to the contrary contained in this Agreement, the resolution of the Board of Directors establishing any committee of the Board of Directors and/or the charter of any such committee may establish requirements or procedures relating to the governance and/or operation of such committee that are different from, or in addition to, those set forth in this Agreement and, to the extent that there is any inconsistency between this Agreement and any such resolution or charter, the terms of such resolution or charter shall be controlling.

Section 5.16 [Reserved].

Section 5.17 Minutes of Committees. Each committee shall keep regular minutes of its meetings and proceedings and report the same to the Board of Directors at the next meeting thereof.

Section 5.18 Remuneration. The Board of Directors, by affirmative vote of a majority of the Directors then in office, and irrespective of any personal interest of any of its members, may establish reasonable compensation (including reasonable pensions, disability or death benefits, and other benefits or payments) of Directors for services to the Company as Directors, or may delegate such authority to an appropriate committee. The Directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary for service as a Director, payable in cash or securities. No such payment shall preclude any Director from serving the Company in any other capacity and receiving compensation therefor. Members of special or standing committees may be compensated for their service on such committee. The amount and form of compensation shall be set by the Board of Directors.

Section 5.19 Exculpation, Indemnification, Advances and Insurance.

(a) Power to Indemnify in Actions, Suits or Proceedings other than Those by or in the Right of the Company. Subject to 5.19(c), the Company shall indemnify any Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company), by reason of the fact that such Indemnified Person is or was within the category of persons constituting Indemnified Persons of the Company, or is or was within the category of persons constituting Indemnified Persons of the Company serving at the request of the Company as a director, officer, employee or agent of another company, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such Indemnified Person in connection with such action, suit or proceeding if such Indemnified Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such Indemnified Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which such Indemnified Person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such Indemnified Person's conduct was unlawful.

(b) Power to Indemnify in Actions, Suits or Proceedings by or in the Right of the Company. Subject to 5.19(c), the Company shall indemnify any Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that such Indemnified Person is or was a within the category of persons constituting Indemnified Persons of the Company, or is or was within the category of persons constituting Indemnified Persons of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such Person in connection with the defense or settlement of such action or suit if such Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interests of the Company; except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

(c) Authorization of Indemnification. Any indemnification under this Section 5.19 (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Indemnified Person is proper in the circumstances because such Indemnified Person has met the applicable standard of conduct set forth in subsections (a) and (b) of this Section 5.19, as the case may be. Such determination shall be made, with respect to an Indemnified Person who was a Director, officer, tax matters partner or other individual designated by the Board of Directors as an Indemnified Person of the Company at the time of such determination, (i) by a majority vote of the Directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) by a committee of such Directors designated by a majority vote of such Directors, even though less than a quorum, or (iii) if there are no such Directors, or if such Directors so direct, by independent legal counsel in a written opinion or (iv) by the Members. Such determination shall be made, with respect to former Directors, officers, tax matters partners or other individuals designated by the Board of Directors as Indemnified Persons of the Company, by any person or persons having the authority to act on the matter on behalf of the Company. To the extent, however, that a present or former Director, officer, tax matters partner or other individual designated by the Board of Directors as an Indemnified Person of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such Indemnified Person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such Indemnified Person in connection therewith, without the necessity of authorization in the specific case.

(d) Good Faith Defined. For purposes of any determination under Section 5.19(c), an Indemnified Person shall be deemed to have acted in good faith and in a manner such Indemnified Person reasonably believed to be in or not opposed to the best interests of the Company, or, with respect to any criminal action or proceeding, to have had no reasonable

cause to believe such person's conduct was unlawful, if such Indemnified Person's action is based on the records or books of account of the Company or another enterprise, or on information supplied to such Indemnified Person by the officers of the Company or another enterprise in the course of their duties, or on the advice of legal counsel for the Company or another enterprise or on information or records given or reports made to the Company or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Company or another enterprise. The provisions of this Section 5.19(d) shall not be deemed to be exclusive or to limit in any way the circumstances in which an Indemnified Person may be deemed to have met the applicable standard of conduct set forth in subsections (a) or (b) of this Section 5.19, as the case may be.

(e) Indemnification by a Court. Notwithstanding any contrary determination in the specific case under Section 5.19(c), and notwithstanding the absence of any determination thereunder, any Indemnified Person may apply to the Court of Chancery of the State of Delaware or any other court of competent jurisdiction in the State of Delaware for indemnification to the extent otherwise permissible under subsections (a) or (b) of this Section 5.19. The basis of such indemnification by a court shall be a determination by such court that indemnification of the Indemnified Person is proper in the circumstances because such Indemnified Person has met the applicable standard of conduct set forth in (a) or (b) of this Section 5.19, as the case may be. Neither a contrary determination in the specific case under Section 5.19(c) nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the Indemnified Person seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 5.19(e) shall be given to the Company promptly upon the filing of such application. If successful, in whole or in part, the Indemnified Person seeking indemnification shall also be entitled to be paid the expense of prosecuting such application; provided, however, that such notice shall not be a requirement for an award of or a determination of entitlement to indemnification or advancement of expenses.

(f) Expenses Payable in Advance. Expenses (including attorneys' and other professionals' disbursements and fees and court costs) incurred by an Indemnified Person in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Director or officer to repay such amount if it shall ultimately be determined that such Person is not entitled to be indemnified by the Company as authorized in this Section 5.19. Such expenses (including attorneys' fees) incurred by former Directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Company deems appropriate.

(g) Non-exclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.19 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under this Agreement, any agreement, vote of Members or disinterested Directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Company that indemnification of and the advancement of expenses to the persons specified in subsections (a) and (b) of this Section 5.19 shall be made to the fullest extent permitted by law. The

provisions of this Section 5.19 shall not be deemed to preclude the indemnification of any Person who is not specified in subsections(a) and (b) of this Section 5.19 but whom the Company would have the power or obligation to indemnify under the provisions of the DGCL, if the Company were a Delaware corporation, the Delaware Act or otherwise.

(h) Insurance. The Company may purchase and maintain at its expense insurance on behalf of any Person entitled to indemnification under this Section 5.19 against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as such, whether or not the Company would have the power or the obligation to indemnify such Person against such liability under the provisions of this Section 5.19.

(i) Certain Definitions. For purposes of this Section 5.19, references to the "Company" shall include, in addition to the resulting company, any constituent company (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any Person who is or was a director or officer of such constituent company, or is or was a director or officer of such constituent company serving at the request of such constituent company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 5.19 with respect to the resulting or surviving corporation as such Person would have with respect to such constituent corporation if its separate existence had continued. The term "another enterprise" as used in this Section 5.19 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such Person is or was serving at the request of the Company as a director, officer, employee or agent. For purposes of this Section 5.19, references to "fines" shall include any excise taxes assessed on a Person with respect to an employee benefit plan; and references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company that imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a Person who acted in good faith and in a manner such Person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this Section 5.19.

(j) Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.19 shall, unless otherwise provided when authorized or ratified, continue as to a Person who has ceased to be an Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(k) Limitation on Indemnification. Notwithstanding anything contained in this Section 5.19 to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 5.19(e)), the Company shall not be obligated to indemnify any Indemnified Person (or such Indemnified Person's heirs, executors or personal or legal representatives) or advance expenses in connection with a proceeding (or part thereof) initiated by such Indemnified Person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors of the Company.

(l) Indemnification of Employees and Agents. The Company may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Company and/or the Manager and to the employees and agents of the Company Group similar to those conferred in this Section 5.19 to Indemnified Persons.

(m) Contractual Rights. Nothing contained in this Section 5.19 shall prevent the Company from entering into with any Person any agreement that provides independent indemnification, hold harmless or exoneration rights to such Person or further regulates the terms on which indemnification, hold harmless or exoneration rights are to be provided to such Person or provides independent assurance of any one or more of the Company's obligations to indemnify, hold harmless, and exonerate such person, whether or not such indemnification, hold harmless or exoneration rights are on the same or different terms than provided for by this Section 5.19 or is in respect of such Person acting in any other capacity, and nothing contained herein shall be exclusive of, or a limitation on, any right to indemnification, to be held harmless, to exoneration or to advancement of expenses to which any Person is otherwise entitled. The Company may create a trust fund, grant a security interest or use other means (including a letter of credit) to ensure the payment of such amounts as may be necessary to effect indemnification and the advancement of expenses as provided in this Section 5.19. The rights conferred upon any Person in this Section 5.19 shall be contract rights and such rights shall continue as to any Person who has ceased to be a director, officer, employee, trustee or agent of the Company, and shall inure to the benefit of such person's heirs, executors and administrators. A right to indemnification or to advancement of expenses arising under any provision of this Section 5.19 shall not be eliminated or impaired by an amendment, alteration or repeal of any provision of this Agreement after the occurrence of the act or omission that is the subject of the proceeding for which indemnification or advancement of expenses is sought (even in the case of a proceeding based on such a state of facts that is commenced after such time).

Section 5.20 Certificate of Formation and Certificate of Domestication. The Certificate of Formation and the Certificate of Domestication have each been filed with the Secretary of State of the State of Delaware as required by the Delaware Act, such filing being hereby confirmed, ratified and approved in all respects. The Board of Directors shall use all reasonable efforts to cause to be filed such other certificates or documents that it determines to be necessary or appropriate for the formation, continuation, qualification and operation of a limited liability company in the State of Delaware or any other state in which the Company may elect to do business or own property. To the extent that the Board of Directors determines such action to be necessary or appropriate, the Board of Directors shall direct the appropriate officers of the Company to file amendments to and restatements of the Certificate of Formation and do all things to maintain the Company as a limited liability company under the laws of the State of Delaware or of any other state in which the Company may elect to do business or own property, and any such officer so directed shall be an "authorized person" of the Company within the meaning of the Delaware Act for purposes of filing any such certificate with the Secretary of State of the State of Delaware. The Company shall not be required, before or after filing, to deliver or mail a copy of the Certificate of Formation, the Certificate of Domestication, any qualification document or any amendment thereto to any Member.

Section 5.21 Officers.

(a) General. The officers of the Company shall be chosen by the Board of Directors and initially shall be a Chief Executive Officer, a Chief Financial Officer and a Secretary. The Board of Directors, in its discretion, also may choose a Chairman of the Board of Directors (who must be a Director but is not required to be an employee of the Company), a Treasurer and one or more other officers. Any number of offices may be held by the same person, unless otherwise prohibited by law or this Agreement. The officers of the Company need not be Members nor, except in the case of the Chairman of the Board of Directors (who must be a Director), be Directors. Whenever an officer or officers is absent, or whenever for any reason the Board of Directors may deem it desirable, the Board may delegate the powers and duties of any officer or officers to any Director or Directors. The Board of Directors may from time to time delegate the powers or duties of any officer to any other officers or agents, notwithstanding any other provision hereof.

(b) Election. The Board of Directors shall elect the officers of the Company who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors, and each officer of the Company shall hold office until such officer's successor is elected and qualified, or until such officer's earlier death, resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the Board of Directors, including by unanimous written consent. Any vacancy occurring in any office of the Company shall be filled by the Board of Directors.

(c) Voting Securities Owned by the Company. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Company may be executed in the name of and on behalf of the Company by the Chief Executive Officer, the Chief Financial Officer, the Secretary or any other officer authorized to do so by the Board of Directors and any such officer may, in the name of and on behalf of the Company, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Company may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Company might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

(d) Chief Executive Officer. The Chief Executive Officer shall, subject to the control of the Board of Directors and if there be one, the Chairman of the Board of Directors, have general supervision of the affairs of the Company, general and active control of all its business and shall see that all orders and resolutions of the Board of Directors are carried into effect. In the absence or disability of the Chairman of the Board of Directors, or if there be none, the Chief Executive Officer or his or her designee shall preside at all meetings of the Members and, provided the Chief Executive Officer is also a Director, the Board of Directors. The Chief Executive Officer shall see that all orders and resolutions of the Board of Directors and the Members are carried into effect. The Chief Executive Officer shall have general authority to execute bonds, deeds and contracts in the name of the Company and affix the seal of the Company thereto; to sign stock certificates; to cause the employment or appointment of such employees and agents of the Company as the proper conduct of operations may require, and to fix their

compensation, subject to the provisions of this Agreement; to remove or suspend any employee or agent who shall have been employed or appointed under the Chief Executive Officer's authority or under authority of an officer subordinate to the Chief Executive Officer; to suspend for cause, pending final action by the authority which shall have elected or appointed the Chief Executive Officer, any officer subordinate to the Chief Executive Officer; and, in general, to exercise all the powers and authority usually appertaining to the chief executive officer of a corporation, except as otherwise provided in this Agreement.

(e) Chief Financial Officer. The Chief Financial Officer shall, subject to the control of the Board of Directors, and if there be one, the Chairman of the Board, the Chief Executive Officer, cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Company and shall cause to be deposited all monies and other valuable effects in the name and to the credit of the Company in such depositories as shall be designated by the Board of Directors or, in the absence of such designation in such depositories, as the Chief Financial Officer shall from time to time deem proper. The Chief Financial Officer shall be the Treasurer of the Company, unless another Treasurer shall be appointed. The Chief Financial Officer shall disburse the funds of the Company as shall be ordered by the Board of Directors, taking proper vouchers for such disbursements, shall promptly render to the Chief Executive Officer and to the Board of Directors such statements of the Chief Financial Officer's transactions and accounts as the Chief Executive Officer and the Board of Directors respectively may from time to time require, and in general, shall exercise all the powers and authority usually appertaining to the chief financial officer of a corporation, except as otherwise provided in this Agreement.

(f) Absence of the Chief Executive Officer. At the request of the Chief Executive Officer or in the Chief Executive Officer's absence or in the event of the Chief Executive Officer's inability or refusal to act (and if there be no Chairman of the Board of Directors), another officer designated by the Board of Directors shall perform the duties of the Chief Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer. Each officer shall perform such other duties and have such other powers as the Board of Directors from time to time may prescribe. If there be no Chairman of the Board of Directors, the Board of Directors shall designate an officer of the Company who, in the absence of the Chief Executive Officer or in the event of the inability or refusal of the Chief Executive Officer to act, shall perform the duties of the Chief Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

(g) Secretary. Except as otherwise provided herein, the Secretary shall record all the proceedings of meetings of the Board of Directors and all meetings of the Members in a book or books to be kept for that purpose, and the Secretary shall also perform like duties for committees of the Board of Directors when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors or the Chief Executive Officer, under whose supervision the Secretary shall be. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the Members and special meetings of the Board of Directors, and if there be no Assistant Secretary, then either the Board of Directors or the Chief Executive Officer may choose another officer to

cause such notice to be given. The Secretary shall have custody of the seal of the Company and the Secretary or any Assistant Secretary, if there be one, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Company and to attest to the affixing by such officer's signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

(h) Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors. The Board of Directors may delegate to any other officer of the Company the power to appoint such other officers and to prescribe their respective duties and powers.

(i) Resignation. Any officer may resign by delivering his or her written resignation to the Company at its principal office, and such resignation shall be effective upon receipt unless it is specified to be effective at a later time. If a resignation is made effective at a later date and the Company accepts the future effective date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor shall not take office until the effective date. An officer's resignation shall not affect the Company's contract rights, if any, with the officer.

(j) Removal. The Board of Directors may remove any officer with or without cause. Nothing herein shall limit the power of any officer to discharge any subordinate.

Section 5.22 Duties of Officers and Directors.

(a) Except as otherwise expressly provided in this Agreement or required by the Delaware Act, (i) the duties and obligations owed to the Company by the officers and Directors shall be the same as the duties and obligations owed to a corporation organized under DGCL by its officers and Directors, respectively, and (ii) the duties and obligations owed to the Members by the officers and Directors shall be the same as the duties and obligations owed to the stockholders of a corporation under the DGCL by its officers and Directors, respectively.

(b) The business and affairs of the Company shall be managed by or under the direction of the Board of Directors, which may exercise all such powers of the Company and do all such lawful acts and things as are not by statute or by this Agreement required to be exercised or done by the Members. The Board of Directors shall not be responsible for the misconduct or negligence on the part of any such officer duly appointed or duly authorized by the Board of Directors in good faith.

Section 5.23 Outside Activities.

(a) Definitions. For purposes of this Section 5.23, the following definitions shall apply:

(i) “Affiliate” means, with respect to a given person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with, such person; provided, however, that for purposes of this definition and this Section 5.23, none of (i) the FTAI Entities and any entities (including corporations, partnerships, limited liability companies, or other persons) in which such FTAI Entities hold, directly or indirectly, an ownership interest, on the one hand, or (ii) the Fortress Members and their Affiliates (excluding any FTAI Entities or other entities described in clause (i)), on the other hand, shall be deemed to be “Affiliates” of one another. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) as applied to any person, means the possession, directly or indirectly, of beneficial ownership of, or the power to vote, 10% or more of the securities having voting power for the election of Directors (or other persons acting in similar capacities) of such Person or the power otherwise to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise.

(ii) “beneficially own” and “beneficial ownership” and similar terms used herein shall be determined in accordance with Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934.

(iii) “Corporate Opportunity” shall include, but not be limited to, business opportunities that the Company is financially able to undertake, which are, from their nature, in the line of the Company’s business, are of practical advantage to it and are ones in which the Company has an interest or a reasonable expectancy, and in which, by embracing the opportunities, the self-interest of the Fortress Members or any of their Affiliates or their officers or directors will be brought into conflict with that of any of the FTAI Entities or their Affiliates.

(iv) “Entire Board of Directors” means the total number of Directors which the Company would have if there were no vacancies.

(v) “FTAI Entities” means the Company and its Subsidiaries, and “FTAI Entity” shall mean any of the FTAI Entities.

(vi) “Fortress Affiliate Members” shall mean (A) any Director of the Company who may be deemed an Affiliate of Fortress Investment Group LLC (“FIG”) or the Manager, (B) any director or officer of FIG or its Affiliates or the Manager or its Affiliates and (C) any investment funds (including any managed accounts) managed directly or indirectly by FIG or its Affiliates or the Manager or its Affiliates.

(vii) “Fortress Members” shall mean (i) the Initial Members and (ii) each Fortress Affiliate Member and (iii) each Permitted Transferee and (iv) the Manager.

(viii) “Governmental Entity” shall mean any national, state, provincial, municipal, local or foreign government, any court, arbitral tribunal, administrative agency or commission, or other governmental or regulatory authority, commission, or agency, or any non-governmental, self-regulatory authority, commission, or agency.

(ix) “Judgment” shall mean any order, writ, injunction, award, judgment, ruling, or decree of any Governmental Entity.

(x) “Law” shall mean any statute, law, code, ordinance, rule, or regulation of any Governmental Entity.

(xi) “Lien” shall mean any pledge, claim, equity, option, lien, charge, mortgage, easement, right-of-way, call right, right of first refusal, “tag”- or “drag”- along right, encumbrance, security interest, or other similar restriction of any kind or nature whatsoever.

(xii) “Listing” shall mean the listing of the Common Stock on the NYSE or other national securities exchange.

(xiii) “Permitted Transferee” shall mean, with respect to each Fortress Member, (i) any other Fortress Member, (ii) such Fortress Member’s Affiliates and (iii) in the case of any Fortress Member, (A) any member or general or limited partner of such Fortress Member (including, without limitation, any member of the Initial Members), (B) any corporation, partnership, limited liability company, or other entity that is an Affiliate of such Fortress Member or any member, general or limited partner of such Fortress Member (collectively, “Fortress Member Affiliates”), (C) any investment funds managed directly or indirectly by such Fortress Member or any Fortress Member Affiliate (a “Fortress Member Fund”), (D) any general or limited partner of any Fortress Member Fund, (E) any managing director, general partner, director, limited partner, officer, or employee of any Fortress Member Affiliate, or any spouse, lineal descendant, sibling, parent, heir, executor, administrator, testamentary trustee, legatee, or beneficiary of any of the foregoing persons described in this clause (E) (collectively, “Fortress Member Associates”), or (F) any trust, the beneficiaries of which, or any corporation, limited liability company or partnership, the stockholders, members or general or limited partners of which, consist solely of any one or more of such Fortress Members, any general or limited partner of such Fortress Members, any Fortress Member Affiliates, any Fortress Member Funds, any Fortress Member Associates, their spouses or their lineal descendants.

(xiv) “Restriction” with respect to any capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security, shall mean any voting or other trust or agreement, option, warrant, preemptive right, right of first offer, right of first refusal, escrow arrangement, proxy, buy-sell agreement, power of attorney or other contract, any Law, license, permit, or Judgment that, conditionally or unconditionally, (i) grants

to any Person the right to purchase or otherwise acquire, or obligates any Person to sell or otherwise dispose of or issue, or otherwise results or, whether upon the occurrence of any event or with notice or lapse of time or both or otherwise, may result in any Person acquiring, (A) any of such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security, (B) any of the proceeds of, or any distributions paid or that are or may become payable with respect to, any of such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security, or (C) any interest in such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security or any such proceeds or distributions, (ii) restricts or, whether upon the occurrence of any event or with notice or lapse of time or both or otherwise, is reasonably likely to restrict the transfer or voting of, or the exercise of any rights or the enjoyment of any benefits arising by reason of ownership of, any such capital stock, partnership interest, membership interest in a limited liability company, or other equity interest or security or any such proceeds or distributions or (iii) creates or, whether upon the occurrence of any event or with notice or lapse of time, or both, or otherwise, is reasonably likely to create a Lien or purported Lien affecting such capital stock, partnership interest, membership interest in a limited liability company or other equity interest or security, proceeds or distributions.

(xv) "Subsidiary" with respect to any Person means: (i) a corporation, a majority of whose capital stock with voting power, under ordinary circumstances, to elect Directors is at the time, directly or indirectly owned by such person, by a Subsidiary of such person, or by such Person and one or more Subsidiaries of such person, without regard to whether the voting of such capital stock is subject to a voting agreement or similar Restriction, (ii) a partnership or limited liability company in which such Person or a Subsidiary of such Person is, at the date of determination, (A) in the case of a partnership, a general partner of such partnership with the power affirmatively to direct the policies and management of such partnership or (B) in the case of a limited liability company, the managing member or, in the absence of a managing member, a member with the power affirmatively to direct the policies and management of such limited liability company or (iii) any other Person (other than a corporation) in which such Person, a Subsidiary of such Person or such Person and one or more Subsidiaries of such person, directly or indirectly, at the date of determination thereof, has (A) the power to elect or direct the election of a majority of the members of the governing body of such Person (whether or not such power is subject to a voting agreement or similar restriction) or (B) in the absence of such a governing body, a majority ownership interest.

(b) Fortress Members. In anticipation and in recognition that:

(i) the Initial Members or their Permitted Transferees or their Affiliates will be the only Members of the Company;

(ii) any one or more directors, officers and employees of the Fortress Members and their Affiliates may serve as any one or more directors, officers, and employees of the FTAI Entities and their Affiliates;

(iii) the FTAI Entities and their Affiliates, on the one hand, and the Fortress Members and their Affiliates, on the other hand, may engage in the same, similar or related lines of business and may have an interest in the same, similar or related areas of corporate opportunities;

(iv) the FTAI Entities and their Affiliates, on the one hand, and the Fortress Members and their Affiliates, on the other hand, may enter into, engage in, perform and consummate contracts, agreements, arrangements, transactions and other business relations including one or more management agreements and amendments thereof; and

(v) the FTAI Entities and their Affiliates will derive benefits therefrom and through their continued contractual, corporate and business relations with the Fortress Members and their Affiliates, the provisions of this Section 5.23 are set forth to regulate, define and guide, to the fullest extent permitted by Law, the conduct of certain affairs of the FTAI Entities and their Affiliates as they may involve the Fortress Members and their Affiliates and their officers and directors, and the powers, rights, duties and liabilities of the FTAI Entities and their Affiliates and their officers, directors and stockholders in connection therewith.

(c) Related Business Activities. Except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, the Fortress Members and their Affiliates shall have the right to, and shall have no duty to abstain from exercising such right to, (i) engage or invest, directly or indirectly, in the same, similar, or related business activities or lines of business as the FTAI Entities or their Affiliates, (ii) do business with any client, customer, vendor or lessor of any of the FTAI Entities or their Affiliates or (iii) employ or otherwise engage any officer, director or employee of the FTAI Entities or their Affiliates, and, to the fullest extent permitted by Law, the Fortress Members and their Affiliates and officers, directors and employees thereof (subject to subsection (e) of this Section 5.23) shall not have or be under any fiduciary duty, duty of loyalty or duty to act in good faith or in the best interests of the Company or its Members and shall not be liable to the Company or its Members for any breach or alleged breach thereof or for any derivation of any personal economic gain by reason of any such activities of the Fortress Members or any of their Affiliates or of any of their officers, directors' or employees' participation therein.

(d) Corporate Opportunity. Except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, if the Fortress Members or any of their Affiliates, or any officer, director or employee thereof (subject to the provisions of subsection (e) of this Section 5.23), acquires knowledge of a potential transaction or matter that may be a Corporate Opportunity for the Fortress Members or any of their Affiliates, none of the FTAI Entities or their Affiliates or any stockholder thereof shall have an interest in, or expectation that, such Corporate Opportunity be

offered to it or that it be offered an opportunity to participate therein, and any such interest, expectation, offer or opportunity to participate, and any other interest or expectation otherwise due to the Company or any other FTAI Entity with respect to such Corporate Opportunity, is hereby renounced by the Company on its behalf and on behalf of the other FTAI Entities and their respective Affiliates and stockholders in accordance with the provisions of Section 122(17) of the DGCL, which provisions apply to the Company as though it were a corporation organized under DGCL. Accordingly, subject to subsection (e) of this Section 5.23 and except as the Fortress Members or their Affiliates may otherwise agree in writing, (i) none of the Fortress Members or their Affiliates or any officer, director or employee thereof will be under any obligation to present, communicate or offer any such Corporate Opportunity to the FTAI Entities or their Affiliates and (ii) the Fortress Members and any of their Affiliates shall have the right to hold any such Corporate Opportunity for their own account, or to direct, recommend, sell, assign or otherwise transfer such Corporate Opportunity to any person or persons other than the FTAI Entities and their Affiliates, and, to the fullest extent permitted by Law, the Fortress Members and their respective Affiliates and officers, directors and employees thereof (subject to subsection (e) of this Section 5.23) shall not have or be under any fiduciary duty, duty of loyalty or duty to act in good faith or in the best interests of the Company, the other FTAI Entities and their respective Affiliates and stockholders and shall not be liable to the Company, the other FTAI Entities or their respective Affiliates and stockholders for any breach or alleged breach thereof or for any derivation of personal economic gain by reason of the fact that any of the Fortress Members or any of their Affiliates or any of their officers, directors or employees pursues or acquires the Corporate Opportunity for itself, or directs, recommends, sells, assigns, or otherwise transfers the Corporate Opportunity to another person, or any of the Fortress Members or any of their Affiliates or any of their officers, directors or employees does not present, offer or communicate information regarding the Corporate Opportunity to the FTAI Entities or their Affiliates.

(e) Directors, Officers and Employees. Except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, in the event that a director or officer of any of the FTAI Entities or their Affiliates who is also a director, officer or employee of the Fortress Members or their Affiliates acquires knowledge of a potential transaction or matter that may be a Corporate Opportunity or is offered a Corporate Opportunity, if (i) such Person acts in good faith and (ii) such knowledge of such potential transaction or matter was not obtained solely in connection with, or such Corporate Opportunity was not offered to such Person solely in, such person's capacity as director or officer of any of the FTAI Entities or their Affiliates, then (A) such director, officer or employee, to the fullest extent permitted by Law, (1) shall be deemed to have fully satisfied and fulfilled such person's fiduciary duty to the Company, the other FTAI Entities and their respective Affiliates and stockholders with respect to such Corporate Opportunity, (2) shall not have or be under any fiduciary duty to the Company, the other FTAI Entities and their respective Affiliates and stockholders and shall not be liable to the Company, the other FTAI Entities or their respective Affiliates and stockholders for any breach or alleged breach thereof by reason of the fact that any of the Fortress Members or their Affiliates pursues or acquires the Corporate Opportunity for itself, or directs, recommends, sells, assigns or otherwise transfers the Corporate Opportunity to another person, or any of the Fortress Members or their Affiliates or such director, officer or employee does not present, offer or communicate information regarding the Corporate Opportunity to the FTAI Entities or their Affiliates, (3) shall be deemed to have acted in good faith and in a manner such Person reasonably believes to be in, and not opposed to, the best interests of the Company and

its Members for the purposes this Agreement and (4) shall not have any duty of loyalty to the Company, the other FTAI Entities and their respective Affiliates and stockholders or any duty not to derive any personal benefit therefrom and shall not be liable to the Company, the other FTAI Entities or their respective Affiliates and stockholders for any breach or alleged breach thereof for purposes of this Agreement as a result thereof and (B) such potential transaction or matter that may be a Corporate Opportunity, or the Corporate Opportunity, shall belong to the applicable Fortress Member or respective Affiliates thereof (and not to any of the FTAI Entities or Affiliates thereof).

(f) Agreements with Fortress Members. The FTAI Entities and their Affiliates may from time to time enter into and perform one or more agreements (or modifications or supplements to pre-existing agreements) with the Fortress Members and their respective Affiliates pursuant to which the FTAI Entities and their Affiliates, on the one hand, and the Fortress Members and their respective Affiliates, on the other hand, agree to engage in transactions of any kind or nature with each other and/or agree to compete, or to refrain from competing or to limit or restrict their competition, with each other, including to allocate and to cause their respective directors, officers and employees (including any who are directors, officers or employees of both) to allocate corporate opportunities between or to refer corporate opportunities to each other. Subject to subsection (e) of this Section 5.23, except as otherwise required by Law, and except as the Fortress Members and their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, no such agreement, or the performance thereof by the FTAI Entities and their Affiliates, or the Fortress Members or their Affiliates, shall be considered contrary to or inconsistent with any fiduciary duty to the Company, any other FTAI Entity or their respective Affiliates and stockholders of any director or officer of the Company, any other FTAI Entity or any Affiliate thereof who is also a director, officer or employee of the Fortress Members or their Affiliates or to any stockholder thereof. Subject to subsection (e) of this Section 5.23, to the fullest extent permitted by Law, and except as the Fortress Members or their Affiliates, on the one hand, and the FTAI Entities or their Affiliates, on the other hand, may otherwise agree in writing, none of the Fortress Members or their Affiliates shall have or be under any fiduciary duty to refrain from entering into any agreement or participating in any transaction referred to in this subsection (f) of Section 5.23 and no director, officer or employee of the Company, any other FTAI Entity or any Affiliate thereof who is also a director, officer or employee of the Fortress Members or their Affiliates shall have or be under any fiduciary duty to the Company, the other FTAI Entities and their respective Affiliates and stockholders to refrain from acting on behalf of the Fortress Members or their Affiliates in respect of any such agreement or transaction or performing any such agreement in accordance with its terms.

(g) Ambiguity. For the avoidance of doubt and in furtherance of the foregoing, nothing contained in this Section 5.23 amends or modifies, or will amend or modify, in any respect, any written contractual arrangement between the Fortress Members or any of their Affiliates, on the one hand and the FTAI Entities or any of their Affiliates, on the other hand.

(h) Application of Provision. This Section 5.23 shall apply as set forth above except as otherwise provided by Law. It is the intention of this Section 5.23 to take full advantage of statutory amendments, the effect of which may be to specifically authorize or approve provisions such as this Section 5.23. No alteration, amendment, termination, expiration or repeal of this Section 5.23 nor the adoption of any provision of this Agreement inconsistent with

this Section 5.23 shall eliminate, reduce, apply to or have any effect on the protections afforded hereby to any director, officer, employee or stockholder of the FTAI Entities or their Affiliates for or with respect to any investments, activities or opportunities of which such director, officer, employee or stockholder becomes aware prior to such alteration, amendment, termination, expiration, repeal or adoption, or any matters occurring, or any cause of action, suit or claim that, but for this Section 5.23, would accrue or arise, prior to such alteration, amendment, termination, expiration, repeal or adoption.

(i) Deemed Notice. Any person or entity purchasing or otherwise acquiring any interest in any Shares of the Company shall be deemed to have notice of and to have consented to the provisions of this Section 5.23.

(j) Chairman or Chairman of a Committee. For purposes of this Section 5.23, a Director who is the Chairman of the Board of Directors or chairman of a committee of the Board of Directors is not deemed an officer of the Company by reason of holding that position unless that Person is a full-time employee of the Company.

(k) Severability. If this Section 5.23 or any portion hereof shall be invalidated or held to be unenforceable on any ground by any court of competent jurisdiction, the decision of which shall not have been reversed on appeal, this Section 5.23 shall be deemed to be modified to the minimum extent necessary to avoid a violation of law and, as so modified, this Section 5.23 and the remaining provisions hereof shall remain valid and enforceable in accordance with their terms to the fullest extent permitted by law.

Neither the alteration, amendment or repeal of this Section 5.23 nor the adoption of any provision of this Agreement inconsistent with this Section 5.23 shall eliminate or reduce the effect of this Section 5.23 in respect of any matter occurring, or any cause of action, suit or claim that, but for this Section 5.23, would accrue or arise, prior to such alteration, amendment, repeal or adoption. Following the expiration of this Section 5.23, any contract, agreement, arrangement or transaction involving a Corporate Opportunity shall not by reason thereof result in any breach of any fiduciary duty or duty of loyalty or failure to act in good faith or in the best interests of the Company or derivation of any improper benefit or personal economic gain, but shall be governed by the other provisions of this Agreement, the DGCL and other applicable law.

Section 5.24 Reliance by Third Parties. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Company shall be entitled to assume that the Board of Directors and any officer authorized by the Board of Directors to act on behalf of and in the name of the Company has full power and authority to encumber, sell or otherwise use in any manner any and all assets of the Company and to enter into any authorized contracts on behalf of the Company, and such Person shall be entitled to deal with the Board of Directors or any officer of the Company as if it were the Company's sole party in interest, both legally and beneficially. Each Member hereby waives, to the fullest extent permitted by law, any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the Board of Directors or any officer of the Company in connection with any such dealing. In no event shall any Person dealing with the Board of Directors or any officer or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expedience of any act or action of the Board of Directors or any officer or its

representatives. Each and every certificate, document or other instrument executed on behalf of the Company by the Board of Directors or any officer of the Company or its representatives shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (a) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (b) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Company and (c) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Company.

ARTICLE VI

BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 6.1 Records and Accounting. The Board of Directors shall keep or cause to be kept at the principal office of the Company appropriate books and records with respect to the Company's business, including all books and records necessary to provide to the Members any information required to be provided pursuant to this Agreement. Any books and records maintained by or on behalf of the Company in the regular course of its business, including the record of the Members, books of account and records of Company proceedings, may be kept on, or be in the form of, computer disks, hard drives, punch cards, magnetic tape, photographs, micrographics or any other information storage device. The books of the Company shall be maintained, for tax and financial reporting purposes, on an accrual basis in accordance with U.S. generally accepted accounting principles.

Section 6.2 Fiscal Year. The fiscal year for tax and financial reporting purposes of the Company shall be a calendar year ending December 31 unless otherwise required by the Code or other applicable law.

Section 6.3 Reports.

(a) As soon as practicable, but in no event later than 120 days after the close of each fiscal year of the Company, the Board of Directors shall cause to be mailed or made available to each Record Holder of a Share, as of a date selected by the Board of Directors, an annual report containing financial statements of the Company for such fiscal year of the Company, presented in accordance with U.S. generally accepted accounting principles, including a balance sheet and statements of operations, equity and cash flows, such statements to be audited by a registered public accounting firm selected by the Board of Directors.

(b) As soon as practicable, but in no event later than 90 days after the close of each Quarter except the last Quarter of each fiscal year, the Board of Directors shall cause to be mailed or made available to each Record Holder of a Share, as of a date selected by the Board of Directors, a report containing unaudited financial statements of the Company and such other information as may be required by applicable law, regulation or rule of any National Securities Exchange on which the Shares are listed for trading, or as the Board of Directors determines to be necessary or appropriate.

ARTICLE VII

TAX MATTERS

Section 7.1 Tax Returns and Information. The Company shall timely file all returns of the Company that are required for federal, state and local income tax purposes on the basis of the accrual method and its fiscal year. The officers of the Company shall use reasonable efforts to furnish to all Members necessary tax information as promptly as possible after the end of the fiscal year of the Company; provided, however, that delivery of such tax information may be subject to delay as a result of the late receipt of any necessary tax information from an entity in which the Company or any Group Member holds an interest. The classification, realization and recognition of income, gain, losses and deductions and other items shall be on the accrual method of accounting for federal income tax purposes.

Section 7.2 Tax Elections.

(a) The Company may make the election under Section 754 of the Code in accordance with applicable regulations thereunder, subject to the reservation of the right to seek to revoke any such election upon the Board of Directors' determination that such revocation is in the best interests of the Members. Notwithstanding any other provision herein contained, for the purposes of computing the adjustments under Section 743(b) of the Code, the Board of Directors shall be authorized (but not required) to adopt a convention whereby the price paid by a transferee of a Share will be deemed to be the lowest quoted closing price of the Shares on any National Securities Exchange on which such Shares are traded during the calendar month in which such transfer is deemed to occur pursuant to Section 4.2(g) without regard to the actual price paid by such transferee.

(b) Except as otherwise provided herein, the Board of Directors shall determine whether the Company should make any other elections permitted by the Code.

Section 7.3 Tax Controversies. The Board of Directors shall designate one Member as the Tax Matters Partner. The Tax Matters Partner is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. Each Member agrees to cooperate with the Tax Matters Partner and to do or refrain from doing any or all things reasonably required by the Tax Matters Partner to conduct such proceedings.

Section 7.4 Withholding. Notwithstanding any other provision of this Agreement, the Board of Directors is authorized to take any action that may be required to cause the Company and other Group Members to comply with any withholding requirements established under the Code or any other federal, state, local or foreign law including pursuant to Sections 1441, 1442, 1445, 1446, 1471 and 1472 of the Code. To the extent that the Company is required or elects to withhold and pay over to any taxing authority any amount resulting from the allocation or distribution of income to any Member (including by reason of Section 1446 of the Code), the Board of Directors may treat the amount withheld as a distribution of cash pursuant to Sections 4.3 or 8.3 in the amount of such withholding from such Member. In such instances where the

Company is unable to cost efficiently determine the Member in respect of which such tax is withheld, the Board of Directors may treat the amount withheld as a distribution of cash pursuant to Sections 4.3 or 8.3 to all of the Members in accordance with their Percentage Interests.

ARTICLE VIII

DISSOLUTION AND LIQUIDATION

Section 8.1 Dissolution. The Company shall not be dissolved by the admission of Substitute Members or Additional Members. The Company shall dissolve, and its affairs shall be wound up, upon:

- (a) an election to dissolve the Company by the Board of Directors that is approved by the holders of a Share Majority;
- (b) the sale, exchange or other disposition of all or substantially all of the assets and properties of the Company;
- (c) the entry of a decree of judicial dissolution of the Company pursuant to the provisions of the Delaware Act; or
- (d) at any time that there are no Members of the Company, unless the business of the Company is continued in accordance with the Delaware Act.

Section 8.2 Liquidator. Upon dissolution of the Company, the Board of Directors shall select one or more Persons to act as Liquidator. The Liquidator (if other than the Board of Directors) shall be entitled to receive such compensation for its services as may be approved by holders of a Share Majority. The Liquidator (if other than the Board of Directors) shall agree not to resign at any time without 15 days' prior notice and may be removed at any time, with or without cause, by notice of removal approved by holders of a Share Majority. Upon dissolution, death, incapacity, removal or resignation of the Liquidator, a successor and substitute Liquidator (who shall have and succeed to all rights, powers and duties of the original Liquidator) shall within 30 days thereafter be approved by holders of a Share Majority. The right to approve a successor or substitute Liquidator in the manner provided herein shall be deemed to refer also to any such successor or substitute Liquidator approved in the manner herein provided. Except as expressly provided in this Article VIII, the Liquidator approved in the manner provided herein shall have and may exercise, without further authorization or consent of any of the parties hereto, all of the powers conferred upon the Board of Directors under the terms of this Agreement (but subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers) necessary or appropriate to carry out the duties and functions of the Liquidator hereunder for and during the period of time required to complete the winding up and liquidation of the Company as provided for herein.

Section 8.3 Liquidation. The Liquidator shall proceed to dispose of the assets of the Company, discharge its liabilities, and otherwise wind up its affairs in such manner and over such period as determined by the Liquidator, subject to Section 18-804 of the Delaware Act and the following:

(a) Subject to Section 8.3(c), the assets may be disposed of by public or private sale or by distribution in kind to one or more Members on such terms as the Liquidator and such Member or Members may agree. If any property is distributed in kind, the Member receiving the property shall be deemed for purposes of Section 8.3(c) to have received cash equal to its fair market value; and contemporaneously therewith, appropriate cash distributions must be made to the other Members. Notwithstanding anything to the contrary contained in this Agreement, the Members understand and acknowledge that a Member may be compelled to accept a distribution of any asset in kind from the Company despite the fact that the percentage of the asset distributed to such Member exceeds the percentage of that asset which is equal to the percentage in which such Member shares in distributions from the Company. The Liquidator may defer liquidation or distribution of the Company's assets for a reasonable time if it determines that an immediate sale or distribution of all or some of the Company's assets would be impractical or would cause undue loss to the Members. The Liquidator may distribute the Company's assets, in whole or in part, in kind if it determines that a sale would be impractical or would cause undue loss to the Members.

(b) Liabilities of the Company include amounts owed to the Liquidator as compensation for serving in such capacity (subject to the terms of Section 8.2) and amounts to Members otherwise than in respect of their distribution rights under Article IV. With respect to any liability that is contingent, conditional or unmatured or is otherwise not yet due and payable, the Liquidator shall either settle such claim for such amount as it thinks appropriate or establish a reserve of cash or other assets to provide for its payment. When paid, any unused portion of the reserve shall be applied to other liabilities or distributed as additional liquidation proceeds.

(c) Subject to the terms of any Share Designation, all property and all cash in excess of that required to discharge liabilities as provided in Section 8.3(b) shall be distributed to the Members in accordance with and to the extent of the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments (other than those made by reason of distributions pursuant to this Section 8.3(c)) for the taxable year of the Company during which the liquidation of the Company occurs (with such date of occurrence being determined by the Board of Directors, and such distribution shall be made by the end of such taxable year (or, if later, within 90 days after said date of such occurrence).

(d) Notwithstanding any other provision of this Agreement, if, upon the dissolution and liquidation of the Company pursuant to this Article VIII and after all other allocations provided for in Section 4.1 have been tentatively made as if this section were not in this Agreement, either (i) the positive Capital Account balance attributable to one or more Shares having a liquidation preference is not equal to such liquidation preference, or (ii) the quotient obtained by dividing the positive balance of a Member's Capital Account with respect to Common Shares by the aggregate of all Members' Capital Account balances with respect to Common Shares at such time would differ from such Member's Percentage Interest, then Net Income (and items thereof) and Net Loss (and items thereof) for the Fiscal Year in which the Company dissolves and liquidates pursuant to this Article VIII shall be allocated among the Members (x) first, to the extent necessary to ensure that the Capital Account balance attributable to a Share having a liquidation preference is equal to such liquidation preference, and (y) second, in a manner such that the positive balance in the Capital Account of each Member with respect to Common Shares on a share by share basis, immediately after giving effect to such allocation, is, as nearly as possible, equal to each such Member's Percentage Interest on a share by share basis.

Section 8.4 Cancellation of Certificate of Formation. Upon the completion of the distribution of Company cash and property as provided in Section 8.3 in connection with the liquidation of the Company, the Certificate of Formation and all qualifications of the Company as a foreign limited liability company in jurisdictions other than the State of Delaware shall be canceled and such other actions as may be necessary to terminate the Company shall be taken.

Section 8.5 Return of Contributions. None of any member of the Board of Directors or any officer of the Company will be personally liable for, or have any obligation to contribute or loan any monies or property to the Company to enable it to effectuate, the return of the Capital Contributions of the Members, or any portion thereof, it being expressly understood that any such return shall be made solely from Company assets.

Section 8.6 Waiver of Partition. To the maximum extent permitted by law, each Member hereby waives any right to partition of the Company property.

Section 8.7 Capital Account Restoration. No Member shall have any obligation to restore any negative balance in its Capital Account upon liquidation of the Company.

ARTICLE IX

AMENDMENT OF AGREEMENT

Section 9.1 General. Except as provided in Section 9.2, Section 9.3 and Section 9.4, the Board of Directors may amend any of the terms of this Agreement but only in compliance with the terms, conditions and procedures set forth in this Section 9.1. If the Board of Directors desires to amend any provision of this Agreement other than pursuant to Section 9.3, then it shall first adopt a resolution setting forth the amendment proposed, declaring its advisability, and then (i) call a special meeting of the Members entitled to vote in respect thereof for the consideration of such amendment, (ii) direct that the amendment proposed be considered at the next annual meeting of the Members or (iii) seek the written consent of the Members. Amendments to this Agreement may be proposed only by or with the consent of the Board of Directors. Such special or annual meeting shall be called and held upon notice in accordance with Article XI of this Agreement. The notice shall set forth such amendment in full or a brief summary of the changes to be effected thereby, as the Board of Directors shall deem advisable. At the meeting, a vote of Members entitled to vote thereon shall be taken for and against the proposed amendment. A proposed amendment shall be effective upon its approval by a Share Majority, unless a greater percentage is required under this Agreement or by Delaware law.

Section 9.2 Super-Majority Amendments. Notwithstanding Section 9.1, the affirmative vote of the holders of a Super-Majority, voting together as a single class, shall be required to alter or amend any provision of this Section 9.2 or Section 9.4(b).

Section 9.3 Amendments to be Adopted Solely by the Board of Directors. Notwithstanding Section 9.1, the Board of Directors, without the approval of any Member, may amend any provision of this Agreement, and execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection therewith, to reflect:

(a) a change in the name of the Company, the location of the principal place of business of the Company, the registered agent of the Company or the registered office of the Company;

(b) the admission, substitution, withdrawal or removal of Members in accordance with this Agreement;

(c) a change that the Board of Directors determines to be necessary or appropriate to qualify or continue the qualification of the Company as a limited liability company under the laws of any state or to ensure that the Company will not be treated as an association taxable as a corporation or otherwise taxed as an entity for federal income tax purposes other than as the Company specifically so designates;

(d) a change that, in the sole discretion of the Board of Directors, it determines (i) does not adversely affect the Members (including adversely affecting the holders of any particular class or series of Shares as compared to other holders of other classes or series of Shares) in any material respect, (ii) to be necessary or appropriate to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any federal or state agency or judicial authority or contained in any federal or state statute (including the Delaware Act), (iii) to be necessary, desirable or appropriate to facilitate the trading of the Shares (including, without limitation, the division of any class or classes or series of Outstanding Shares into different classes or series to facilitate uniformity of tax consequences within such classes or series of Shares) or comply with any rule, regulation, guideline or requirement of any National Securities Exchange on which Shares are or will be listed for trading, compliance with any of which the Board of Directors deems to be in the best interests of the Company and the Members, (iv) to be necessary or appropriate in connection with action taken by the Board of Directors pursuant to Section 3.7 or (v) is required to effect the intent expressed in the Registration Statement or the intent of the provisions of this Agreement or is otherwise contemplated by this Agreement;

(e) a change in the fiscal year or taxable year of the Company and any other changes that the Board of Directors determines to be necessary or appropriate as a result of a change in the fiscal year or taxable year of the Company;

(f) an amendment that the Board of Directors determines, based on the advice of counsel, to be necessary or appropriate to prevent the Company or its Directors, officers, trustees or agents from in any manner being subjected to the provisions of the Investment Company Act of 1940, as amended, the Investment Advisers Act of 1940, as amended, or "plan asset" regulations adopted under the Employee Retirement Income Security Act of 1974, as amended, regardless of whether such are substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor;

(g) an amendment that the Board of Directors determines to be necessary or appropriate in connection with the authorization or issuance of any class or series of Shares pursuant to Section 3.2 and the admission of Additional Members;

(h) any amendment expressly permitted in this Agreement to be made by the Board of Directors acting alone;

(i) an amendment effected, necessitated or contemplated by a Merger Agreement approved in accordance with Section 10.3;

(j) an amendment that the Board of Directors determines to be necessary or appropriate to reflect and account for the formation by the Company of, or investment by the Company in, any corporation, partnership, joint venture, limited liability company or other entity, in connection with the conduct by the Company of activities permitted by the terms of Section 2.4;

(k) a merger, conversion or conveyance pursuant to Section 10.3(d); or

(l) any other amendments substantially similar to the foregoing.

Section 9.4 Amendment Requirements.

(a) Notwithstanding the provisions of Sections 9.1 and 9.3, no provision of this Agreement that establishes a percentage of Outstanding Voting Shares required to take any action shall be amended, altered, changed, repealed or rescinded in any respect that would have the effect of reducing such voting percentage unless such amendment is approved by the affirmative vote of holders of Outstanding Voting Shares whose aggregate Outstanding Voting Shares constitute not less than the voting requirement sought to be reduced.

(b) Notwithstanding the provisions of Sections 9.1 and 9.3, but subject to the provisions of Section 9.2, no amendment to this Agreement may (i) enlarge the obligations of any Member without its consent, unless such shall be deemed to have occurred as a result of an amendment approved pursuant to Section 9.4(c), (ii) change Section 8.1(a), (iii) change the term of the Company or, (iv) except as set forth in Section 8.1(a), give any Person the right to dissolve the Company.

(c) Except as provided in Section 10.3, and without limitation of the Board of Directors' authority to adopt amendments to this Agreement without the approval of any Members as contemplated in Section 9.1, notwithstanding the provisions of Section 9.1, any amendment that would have a material adverse effect on the rights or preferences of any class or series of Shares in relation to other classes or series of Shares must be approved by the holders of a majority of the Outstanding Shares of the class or series affected.

ARTICLE X

MERGER, CONSOLIDATION OR CONVERSION

Section 10.1 Authority. The Company may merge or consolidate with one or more limited liability companies or "other business entities" as defined in Section 18-209 of the Delaware Act, or convert into any such entity, whether such entity is formed under the laws of the State of Delaware or any other state of the United States of America, pursuant to a written agreement of merger or consolidation ("**Merger Agreement**") or a written plan of conversion ("**Plan of Conversion**"), as the case may be, in accordance with this Article X.

Section 10.2 Procedure for Merger, Consolidation or Conversion. Merger, consolidation or conversion of the Company pursuant to this Article X requires the prior approval of the Board of Directors.

(a) If the Board of Directors shall determine to consent to the merger or consolidation, the Board of Directors shall approve the Merger Agreement, which shall set forth:

(i) the names and jurisdictions of formation or organization of each of the business entities proposing to merge or consolidate;

(ii) the name and jurisdiction of formation or organization of the business entity that is to survive the proposed merger or consolidation (the “**Surviving Business Entity**”);

(iii) the terms and conditions of the proposed merger or consolidation;

(iv) the manner and basis of exchanging or converting the rights or securities of, or interests in, each constituent business entity for, or into, cash, property, rights, or securities of or interests in, the Surviving Business Entity; and if any rights or securities of, or interests in, any constituent business entity are not to be exchanged or converted solely for, or into, cash, property, rights, or securities of or interests in, the Surviving Business Entity, the cash, property, rights, or securities of or interests in, any limited liability company or other business entity which the holders of such rights, securities or interests are to receive, if any;

(v) a statement of any changes in the constituent documents or the adoption of new constituent documents (the certificate of formation or limited liability company agreement, articles or certificate of incorporation, articles of trust, declaration of trust, certificate or agreement of limited partnership or other similar charter or governing document) of the Surviving Business Entity to be effected by such merger or consolidation;

(vi) the effective time of the merger, which may be the date of the filing of the certificate of merger pursuant to Section 10.4 or a later date specified in or determinable in accordance with the Merger Agreement (provided, that if the effective time of the merger is to be later than the date of the filing of the certificate of merger, the effective time shall be fixed no later than the time of the filing of the certificate of merger or the time stated therein); and

(vii) such other provisions with respect to the proposed merger or consolidation that the Board of Directors determines to be necessary or appropriate.

(b) If the Board of Directors shall determine to consent to the conversion, the Board of Directors may approve and adopt a Plan of Conversion containing such terms and conditions that the Board of Directors determines to be necessary or appropriate.

Section 10.3 Approval by Members of Merger, Consolidation or Conversion or Sales of Substantially All of the Company's Assets.

(a) Except as provided in Section 10.3(d), the Board of Directors, upon its approval of the Merger Agreement or Plan of Conversion, as the case may be, shall direct that the Merger Agreement or Plan of Conversion, as applicable, be submitted to a vote of Members, whether at an annual meeting or a special meeting, in either case, in accordance with the requirements of Article IX. A copy or a summary of the Merger Agreement or Plan of Conversion, as applicable, shall be included in or enclosed with the notice of meeting.

(b) Except as provided in Section 10.3(d), the Merger Agreement or Plan of Conversion, as applicable, shall be approved upon receiving the affirmative vote or consent of the holders of a Share Majority unless the Merger Agreement or Plan of Conversion, as applicable, contains any provision that, if contained in an amendment to this Agreement, the provisions of this Agreement or the Delaware Act would require for its approval the vote or consent of a greater percentage of the Outstanding Voting Shares or of any class or series of Members, in which case such greater percentage vote or consent shall be required for approval of the Merger Agreement or Plan of Conversion, as applicable.

(c) Except as provided in Section 10.3(d), after such approval by vote or consent of the Members, and at any time prior to the filing of the certificate of merger or a certificate of conversion pursuant to Section 10.4, the merger, consolidation or conversion may be abandoned pursuant to provisions therefor, if any, set forth in the Merger Agreement or the Plan of Conversion, as the case may be.

(d) Notwithstanding anything else contained in this Article X or in this Agreement, the Board of Directors is permitted, without Member approval, to convert the Company into a new limited liability entity, or to merge the Company into, or convey all of the Company's assets to, another limited liability entity, or which shall be newly formed and shall have no assets, liabilities or operations at the time of such conversion, merger or conveyance other than those it receives from the Company if (i) the Board of Directors has received an Opinion of Counsel that the conversion, merger or conveyance, as the case may be, would not result in the loss of the limited liability of any Member or cause the Company to be treated as an association taxable as a corporation or otherwise to be taxed as an entity for federal income tax purposes (to the extent not previously treated as such), (ii) the sole purpose of such conversion, merger or conveyance is to effect a mere change in the legal form of the Company into another limited liability entity or a change in the jurisdiction of organization of the Company and (iii) the governing instruments of the new entity provide the Members and the Board of Directors with substantially the same rights and obligations as are herein contained.

(e) Members are not entitled to dissenters' rights of appraisal in the event of a merger, consolidation or conversion pursuant to this Article X, a sale of all or substantially all of the assets of the Company or the Company's Subsidiaries, or any other similar transaction or event.

(f) The Board of Directors may not cause the Company to sell, exchange or otherwise dispose of all or substantially all of its assets, in one transaction or a series of related

transactions, or approve on behalf of the Company any such sale, exchange or other disposition, without receiving the affirmative vote or consent of the holders of a Share Majority; provided, however, that the foregoing will not limit the ability of the Board of Directors to authorize the Company to mortgage, pledge, hypothecate or grant a security interest in all or substantially all of the assets of the Company without the approval of any Member.

(g) Each Merger, consolidation or conversion approved pursuant to this Article X shall provide that all holders of Shares shall be entitled to receive the same consideration pursuant to such transaction with respect to each of their Shares.

Section 10.4 Certificate of Merger or Conversion. Upon the required approval by the Board of Directors and the Member of a Merger Agreement or a Plan of Conversion, as the case may be, a certificate of merger or certificate of conversion, as applicable, shall be executed and filed with the Secretary of State of the State of Delaware in conformity with the requirements of the Delaware Act.

Section 10.5 Effect of Merger.

(a) At the effective time of the certificate of merger:

(i) all of the rights, privileges and powers of each of the business entities that has merged or consolidated, and all property, real, personal and mixed, and all debts due to any of those business entities shall be vested in the Surviving Business Entity and after the merger or consolidation shall be the property of the Surviving Business Entity and all other things and causes of action belonging to each of those business entities, shall be vested in the Surviving Business Entity to the extent they were of each constituent business entity;

(ii) the title to any real property vested by deed or otherwise in any of those constituent business entities shall not revert and is not in any way impaired because of the merger or consolidation;

(iii) all rights of creditors and all liens on or security interests in property of any of those constituent business entities shall be preserved unimpaired; and

(iv) all debts, liabilities and duties of those constituent business entities shall attach to the Surviving Business Entity and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.

(b) It is the intent of the parties hereto that a merger or consolidation effected pursuant to this Article X shall not be deemed to result in a transfer or assignment of assets or liabilities from one entity to another.

Section 10.6 Corporate Treatment. The Board of Directors shall use its reasonable best efforts to take such actions as are necessary or appropriate to preserve the status of the Company as a partnership for federal (and applicable state) income tax purposes. If, however,

the Board of Directors determines that it is no longer in the best interests of the Company to continue as a partnership for federal (and applicable state) income tax purposes, the Board of Directors may elect to treat the Company as an association or as a publicly traded partnership taxable as a corporation for federal (and applicable state) income tax purposes. In the event that the Board of Directors determines the Company should seek relief pursuant to Section 7704(e) of the Code to preserve the status of the Company as a partnership for federal (and applicable state) income tax purposes, the Company and each Member shall agree to adjustments required by the tax authorities, and the Company shall pay such amounts as required by the tax authorities, to preserve the status of the Company as a partnership.

ARTICLE XI

MEMBER MEETINGS

Section 11.1 Member Meetings.

(a) All acts of Members to be taken hereunder shall be taken in the manner provided in this Article XI. An annual meeting of the Members for the election of Directors and for the transaction of such other business as may properly come before the meeting shall be held at such time and place as the Board of Directors shall specify, which date shall be within 13 months of the last annual meeting of Members. If authorized by the Board of Directors, and subject to such guidelines and procedures as the Board of Directors may adopt, Members and proxyholders not physically present at a meeting of Members may by means of remote communication participate in such meeting and be deemed present in person and vote at such meeting, provided that the Company 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 Member or proxyholder, to provide such Members or proxyholders a reasonable opportunity to participate in the meeting and to record the votes or other action made by such Members or proxyholders.

(b) A failure to hold the annual meeting of the Members at the designated time or to elect a sufficient number of Directors to conduct the business of the Company shall not affect otherwise valid acts of the Company or work a forfeiture or dissolution of the Company. If the annual meeting for election of Directors is not held on the date designated therefor, the Directors shall cause the meeting to be held as soon as is convenient.

(c) Special meetings of the Members may be called at any time by either (i) the Chairman of the Board of Directors, if there be one, or (ii) the Chief Executive Officer, if there be one, and shall be called by any such officer at the request in writing of (i) the Board of Directors (including a majority thereof) or (ii) a committee of the Board of Directors that has been duly designated by the Board of Directors and whose powers include the authority to call such meetings. No Members or group of Members, acting in its or their capacity as Members, shall have the right to call a special meeting of the Members.

Section 11.2 Notice of Meetings of Members.

(a) Notice, stating the place, day and hour of any annual or special meeting of the Members, as determined by the Board of Directors, and (i) in the case of a special meeting of the Members, the purpose or purposes for which the meeting is called, as determined by the Board of Directors or (ii) in the case of an annual meeting, those matters that the Board of Directors, at the time of giving the notice, intends to present for action by the Members, shall be delivered by the Company not less than 10 calendar days nor more than 60 calendar days before the date of the meeting, in a manner and otherwise in accordance with Section 12.1 to each Record Holder who is entitled to vote at such meeting. Such further notice shall be given as may be required by Delaware law. The notice of any meeting of the Members at which Directors are to be elected shall include the name of any nominee or nominees who, at the time of the notice, the Board of Directors intends to present for election. Only such business shall be conducted at a special meeting of Members as shall have been brought before the meeting pursuant to the Company's notice of meeting.

(b) The Board of Directors shall designate the place of meeting for any annual meeting or for any special meeting of the Members. If no designation is made, the place of meeting shall be the principal office of the Company.

Section 11.3 Record Date. For purposes of determining the Members entitled to notice of or to vote at a meeting of the Members, the Board of Directors may set 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 less than 10 nor more than 60 days before the date of the meeting (unless such requirement conflicts with any rule, regulation, guideline or requirement of any National Securities Exchange on which the Shares are listed for trading, in which case the rule, regulation, guideline or requirement of such exchange shall govern). If no Record Date is fixed by the Board of Directors, the Record Date for determining Members entitled to notice of or to vote at a meeting of Members 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 immediately preceding the day on which the meeting is held. A determination of Members of record entitled to notice of or to vote at a meeting of Members shall apply to any adjournment or postponement of the meeting; provided, however, that the Board of Directors may fix a new Record Date for the adjourned or postponed meeting. In such case, the Board of Directors shall also fix as the Record Date for Members entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of Members entitled to vote in accordance with the foregoing provisions of this clause (a) at the adjourned meeting.

Section 11.4 Adjournment. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting and a new Record Date need not be fixed, if the time and place thereof are announced at the meeting at which the adjournment is taken, unless such adjournment shall be for more than 30 days. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days or if a new Record Date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given in accordance with this Article XI.

Section 11.5 Waiver of Notice; Approval of Meeting. Whenever notice to the Members is required to be given under this Agreement, a written waiver, signed by the Person entitled to notice, whether before or after the time stated therein, or a waiver by electronic transmission by the person or persons entitled to notice, or a waiver by electronic transmission by the person or persons entitled to notice whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a Person at any such meeting of the Members shall constitute a waiver of notice of such meeting, except when the Person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members need be specified in any written waiver of notice unless so required by resolution of the Board of Directors. Any Member so waiving notice of a meeting shall be bound by the proceedings of such meeting in all respects as if due notice thereof had been given. All waivers and approvals shall be filed with the Company records or made part of the minutes of the meeting.

Section 11.6 Quorum; Required Vote for Member Action; Voting for Directors.

(a) At any meeting of the Members, the holders of a majority of the Outstanding Voting Shares of the class or classes or series for which a meeting has been called represented in person or by proxy shall constitute a quorum of such class or classes or series unless any such action by the Members requires approval by holders of a greater percentage of Outstanding Voting Shares, in which case the quorum shall be such greater percentage. The submission of matters to Members for approval and the election of Directors shall occur only at a meeting of the Members duly called and held in accordance with this Agreement at which a quorum is present; provided, however, that the Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by the required percentage of Outstanding Voting Shares specified in this Agreement. Any meeting of Members may be adjourned from time to time by the chairman of the meeting to another place or time, without regard to the presence of a quorum.

(b) Each Outstanding Common Share shall be entitled to one vote per Share on all matters submitted to Members for approval and in the election of Directors.

(c) All matters (other than the election of Directors) submitted to Members for approval shall be determined by a majority of the votes cast affirmatively or negatively by Members holding Outstanding Voting Shares unless a greater percentage is required with respect to such matter under the Delaware Act, under the rules of any National Securities Exchange on which the Shares are listed for trading, or under the provisions of this Agreement, in which case the approval of Members holding Outstanding Voting Shares that in the aggregate represent at least such greater percentage shall be required.

(d) Except as provided in Section 5.6 of Article V, Directors will be elected by a plurality of the votes cast for a particular position.

Section 11.7 Conduct of a Meeting; Member Lists.

(a) The Board of Directors may adopt by resolution such rules and regulations for the conduct of any meeting of the Members as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of any meeting of the Members shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) the determination of when the polls shall open and close for any given matter to be voted on at the meeting; (iii) rules and procedures for maintaining order at the meeting and the safety of those present; (iv) limitations on attendance at or participation in the meeting to Members of record of the Company, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (v) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (vi) limitations on the time allotted to questions or comments by participants.

(b) The chairman of any meeting of Members shall have the power and duty to determine all matters relating to the conduct of the meeting, including determining whether any nomination or item of business has been properly brought before the meeting in accordance with this Agreement (including whether the Member or beneficial owner, if any, on whose behalf the nomination or proposal is made, solicited (or is part of a group that solicited) or did not so solicit, as the case may be, proxies in support of such Member's nominee or proposal in compliance with such Member's representation), and if the chairman should so determine and declare that any nomination or item of business has not been properly brought before a meeting of Members, then such business shall not be transacted or considered at such meeting and such nomination shall be disregarded. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of Members shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) A complete list of Members entitled to vote at any meeting of Members, arranged in alphabetical order for each class or series of Shares and showing the address of each such Member and the number of Outstanding Voting Shares registered in the name of such Member, shall be open to the examination of any Member, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days before the meeting, at the principal place of business of the Company. The Member list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Member who is present.

Section 11.8 No Action Without a Meeting. On any matter that is to be voted on, consented to or approved by Members, the Members may only take such action at an annual or special meeting of Members properly brought in accordance with this Agreement. The ability of Members to consent in writing to the taking of any action is hereby specifically denied.

Section 11.9 Voting and Other Rights.

(a) Only those Record Holders of Outstanding Voting Shares on the Record Date set pursuant to Section 11.3 shall be entitled to notice of, and to vote at, a meeting of Members or to act with respect to matters as to which the holders of the Outstanding Voting Shares have the right to vote or to act. All references in this Agreement to votes of, or other acts that may be taken by, the Outstanding Voting Shares shall be deemed to be references to the votes or acts of the Record Holders of such Outstanding Voting Shares on such Record Date. The Board of Directors, in its discretion, or the Person acting as chairman of a meeting of the Members, in such Person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(b) With respect to Outstanding Voting Shares that are held for a Person's account by another Person (such as a broker, dealer, bank, trust company or clearing corporation, or an agent of any of the foregoing), in whose name such Outstanding Voting Shares are registered, such other Person shall, in exercising the voting rights in respect of such Outstanding Voting Shares on any matter, and unless the arrangement between such Persons provides otherwise, vote such Outstanding Voting Shares in favor of, and at the direction of, the Person who is the beneficial owner, and the Company shall be entitled to assume it is so acting without further inquiry.

Section 11.10 Proxies and Voting.

(a) On any matter that is to be voted on by Members, the Members may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law, but no such proxy shall be voted upon after three years from its date, unless such proxy provides for a longer period. Any such proxy shall be filed in accordance with the procedure established for the meeting. For purposes of this Agreement, the term "**electronic transmission**" means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process. Any copy, facsimile telecommunication, email or other reliable reproduction of the writing or transmission authorizing another person or persons to act as proxy for a Member may be substituted or used in lieu of the original writing, telegram, cablegram or transmission for any and all purposes for which the original writing, telegram or cablegram could be used; provided, however, that such copy, facsimile telecommunication, email or other reproduction shall be a complete reproduction of the entire original writing or transmission.

(b) In advance of any meeting of the Members, the Board of Directors, by resolution, the Chairman of the Board or the Chief Executive Officer shall appoint one or more inspectors to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of the Members, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by applicable law, inspectors may be officers, employees or agents of the Company. Each inspector, before assuming the duties of inspector, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by applicable law.

(c) With respect to the use of proxies at any meeting of Members, the Company shall be governed by paragraphs (b), (c), (d) and (e) of Section 212 of the DGCL and other applicable provisions of the DGCL, as though the Company were a Delaware corporation and as though the Members were stockholders of a Delaware corporation.

Section 11.11 Notice of Member Business and Nominations.

(a) Subject to Article V of this Agreement, nominations of Persons for election to the Board of Directors of the Company and the proposal of business to be considered by the Members may be made at an annual meeting of Members (i) pursuant to the Company's notice of meeting delivered pursuant to Section 11.2 of this Agreement, (ii) by or at the direction of the Board of Directors, (iii) for nominations to the Board of Directors only, by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complied with the notice procedures set forth in paragraph (b) or (d) of this Section and who was a Record Holder of a sufficient number of Outstanding Voting Shares as of the Record Date for such meeting to elect one or more members to the Board of Directors assuming that such holder cast all of the votes it is entitled to cast in such election in favor of a single candidate and such candidate received no other votes from any other holder of Outstanding Voting Shares, or (iv) by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complied with the notice procedures set forth in paragraphs (c) or (d) of this Section and who is a Record Holder of Outstanding Voting Shares at the time such notice is delivered to the Secretary of the Company.

(b) For nominations to be properly brought before an annual meeting by a Member pursuant to Section 11.11(a)(iii), the Member must have given timely notice thereof in writing to the Secretary of the Company. To be timely, a Member's notice shall be delivered to the Secretary at the principal executive offices of the Company not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary of the date of the immediately preceding Annual Meeting of Members; provided, however, that, in the case of the Company's first annual meeting, or if the annual meeting is called for a date that is more than twenty-five (25) days before or after the anniversary of the previous year's annual meeting, notice by the Member in order to be timely must be so received not later than the close of business on the tenth (10th) day following the earlier of the date on which notice of the annual meeting was posted to the Members or the day on which public disclosure of the date of the annual meeting is first made (which may be the date on which proxy materials for such meeting are first mailed). In no event shall the adjournment or postponement of an annual meeting, or the public announcement of such an adjournment or postponement, commence a new time period (or extend any time period) for the giving of a Member's notice as described in this Section 11.11(b). Such Member's notice shall set forth: (A) as to each Person whom the Member proposes to nominate for election or reelection as a Director all information relating to such Person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case, pursuant to Regulation 14A under the Exchange Act, including such Person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected and (B) as to the Member giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made the name and address of such Member, as they appear on the Company's books, and of such beneficial

owner, the class or series and number of Shares of the Company which are owned beneficially and of record by such Member and such beneficial owner. Such holder shall be entitled to nominate as many candidates for election to the Board of Directors as would be elected assuming such holder cast the precise number of votes necessary to elect each candidate and no more votes were cast by such holder or any other holder for such candidates.

(c) For nominations or other business to be properly brought before an annual meeting by a Member pursuant to Section 11.11(a)(iv), (i) the Member must have given timely notice thereof in writing to the Secretary of the Company, (ii) such business must be a proper matter for Member action under this Agreement and the Delaware Act, (iii) if the Member, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the Company with a Solicitation Notice, such Member or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the Company's Outstanding Shares required under this Agreement or Delaware law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and form of proxy to holders of a percentage of the Company's Outstanding Voting Shares reasonably believed by such Member or beneficial holder to be sufficient to elect the nominee or nominees proposed to be nominated by such Member, and must, in either case, have included in such materials the Solicitation Notice and (iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section 11.11, the Member or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice. To be timely, a Member's notice shall be delivered to the Secretary at the principal executive offices of the Company not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary of the date on which the Company first made publicly available (whether by mailing, by filing with the Commission or by posting on an internet web site) its proxy materials for the immediately preceding annual meeting of Members; provided, however, that, in the case of the Company's first annual meeting, or if the annual meeting is called for a date that is more than thirty (30) days before or after the anniversary of the previous year's annual meeting, notice by the Member in order to be timely must be so received not later than the close of business on the tenth (10th) day following the earlier of the date on which notice of the annual meeting was posted to the Members or the day on which public disclosure of the date of the annual meeting is first made (which may be the date on which proxy materials for such meeting are first made publicly available, whether by mailing, by filing with the Commission or by posting on an internet web site). In no event shall the public announcement or postponement of an annual meeting commence a new time period for the giving of a Member's notice as described in this Section 11.11(c). Such Member's notice shall set forth: (A) as to each Person whom the Member proposes to nominate for election or reelection as a Director all information relating to such Person that is required to be disclosed in solicitations of proxies for election of Directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act, including such Person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected; (B) as to any other business that the Member proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such Member and the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the Member giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made the name and address of such Member, as they appear on the Company's books, and of such beneficial owner, the class or series and number of Shares of the

Company which are owned beneficially and of record by such Member and such beneficial owner, and whether either such Member or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of a proposal, at least the percentage of the Company's Outstanding Voting Shares required under this Agreement or Delaware law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Company's Outstanding Shares to elect such nominee or nominees (an affirmative statement of such intent, a "**Solicitation Notice**"). This Section shall be the exclusive means for a Member to make business proposals before a special meeting of Members (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and included in the Company's notice of meeting). Subject to Rule 14a-8 under the Exchange Act, nothing in this Agreement shall be construed to permit any Member, or give any Member the right, to include or have disseminated or described in the Company's proxy statement any business proposal.

(d) Notwithstanding anything in the second sentence of Section 11.11(b) or the first sentence of Section 11.11(c) to the contrary, if 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 Company at least 90 days prior to the anniversary of the date on which the Company first made publicly available (whether by mailing, by filing with the Commission or by posting on an internet web site) its proxy materials for the immediately preceding annual meeting of Members, then a Member's notice required by this Section 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 Company 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 Company.

(e) Only such business shall be conducted at a special meeting of Members as shall have been brought before the meeting pursuant to the Company's notice of meeting pursuant to Section 11.2 of this Agreement. Subject to Section 5.6 of this Agreement, nominations of Persons for election to the Board of Directors may be made at a special meeting of Members at which Directors are to be elected pursuant to the Company's notice of meeting (i) by or at the direction of the Board of Directors, (ii) by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complied with the notice procedures set forth in paragraph (b) or (d) of this Section 11.11 and who was a Record Holder of a sufficient number of Outstanding Voting Shares as of the Record Date for such meeting to elect one or more members to the Board of Directors assuming that such holder cast all of the votes it is entitled to cast in such election in favor of a single candidate and such candidate received no other votes from any other holder of Outstanding Voting Shares, or (iii) by any holder of Outstanding Voting Shares who is entitled to vote at the meeting, who complies with the notice procedures set forth in paragraph (c) or (d) of this Section and who is a Record Holder of Outstanding Voting Shares at the time such notice is delivered to the Secretary of the Company. Nominations by Members of Persons for election to the Board of Directors may be made at such a special meeting of Members if the Member's notice as required by Section 11.11(b) or Section 11.11(c) shall be delivered to the Secretary of the Company not earlier than the 90th day prior to such special meeting and not later than the close of business on the later of the 70th day prior to such special meeting or the 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. Holders of Outstanding Voting Shares making nominations pursuant to Section 11.11(e)(ii) shall be entitled to nominate the number of candidates for election at such special meeting as provided in Section 11.11(b) for an annual meeting.

(f) Except to the extent otherwise provided in Article V with respect to vacancies, only Persons who are nominated in accordance with the procedures set forth in this Section shall be eligible to serve as Directors and only such business shall be conducted at a meeting of Members as shall have been brought before the meeting in accordance with the procedures set forth in this Section. Except as otherwise provided herein or required by law, the chairman of the meeting 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 and, if any proposed nomination or business is not in compliance with this Section, to declare that such defective proposal or nomination shall be disregarded.

(g) Notwithstanding the foregoing provisions of this Section, a Member 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. Nothing in this Section shall be deemed to affect any rights of Members to request inclusion of proposals in the Company's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1 Addresses and Notices. Any notice, demand, request, report or proxy materials required or permitted to be given or made to a Member under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written communication to the Member at the address described below. Any notice, payment or report to be given or made to a Member hereunder shall be deemed conclusively to have been given or made, and the obligation to give such notice or report or to make such payment shall be deemed conclusively to have been fully satisfied, upon sending of such notice, payment or report to the Record Holder of such Shares at his address as shown on the records of the Transfer Agent or as otherwise shown on the records of the Company, regardless of any claim of any Person who may have an interest in such Shares by reason of any assignment or otherwise. An affidavit or certificate of making of any notice, payment or report in accordance with the provisions of this Section 12.1 executed by the Company, the Transfer Agent or the mailing organization shall be prima facie evidence of the giving or making of such notice, payment or report. If any notice, payment or report addressed to a Record Holder at the address of such Record Holder appearing on the books and records of the Transfer Agent or the Company is returned by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver it, such notice, payment or report and any subsequent notices, payments and reports shall be deemed to have been duly given or made without further mailing (until such time as such Record Holder or another Person notifies the Transfer Agent or the Company of a change in his address) if they are available for the Member at the principal office of the Company for a period of one year from the date of the giving or making of such notice, payment or report to the other Members. Any notice to the Company shall be deemed given if received by the Secretary at the principal office of the Company designated pursuant to Section 2.3. The Board of Directors and the officers of the Company may rely and shall be protected in relying on any notice or other document from a Member or other Person if believed by it to be genuine.

Section 12.2 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 12.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 12.4 Integration. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

Section 12.5 Creditors. None of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Company.

Section 12.6 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach of any other covenant, duty, agreement or condition.

Section 12.7 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute an agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto or, in the case of a Person acquiring a Share, upon accepting the Certificate evidencing such Share.

Section 12.8 Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware without regard to principles of conflict of laws. Each Member (i) irrevocably submits to the non-exclusive jurisdiction and venue of any Delaware state court or U.S. federal court sitting in Wilmington, Delaware in any action arising out of this Agreement and (ii) consents to the service of process by mail. Nothing herein shall affect the right of any party to serve legal process in any manner permitted by law or affect its right to bring any action in any other court.

Section 12.9 Invalidity of Provisions. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 12.10 Consent of Members. Each Member hereby expressly consents and agrees that, whenever in this Agreement it is specified that an action may be taken upon the affirmative vote or consent of less than all of the Members, such action may be so taken upon the concurrence of less than all of the Members and each Member shall be bound by the results of such action.

Section 12.11 Facsimile Signatures. The use of facsimile signatures affixed in the name and on behalf of the transfer agent and registrar of the Company on certificates representing Shares is expressly permitted by this Agreement.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

FTAI Offshore Holdings L.P.

By: Fortress Worldwide Transportation and Infrastructure GP
LLC, its general partner

By: /s/ Demetrios Tserpelis

Name: Demetrios Tserpelis

Title: Authorized Signatory

**Fortress Worldwide Transportation and Infrastructure
Investors LP**

By: Fortress Worldwide Transportation and Infrastructure GP
LLC, its general partner

By: /s/ Demetrios Tserpelis

Name: Demetrios Tserpelis

Title: Authorized Signatory

Signature Page to Amended and Restated
Limited Liability Company Agreement

Common Shares

Common Shares

Fortress Transportation and Infrastructure Investors LLC

Formed under the laws of the State of Delaware

CUSIP
SEE REVERSE FOR DEFINITIONS

THIS CERTIFICATE IS TRANSFERABLE IN
NEW YORK, NEW YORK

THIS CERTIFIES THAT

is the owner of

Common Shares of Fortress Transportation and Infrastructure Investors LLC

(hereinafter called the "Company") transferable on the books of the Company by the holder hereof in person or by duly authorized attorney, upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned by the Transfer Agent and registered by the Registrar.

Witness, the facsimile signatures of the duly authorized officers of the Company.

Dated

Chief Financial Officer

Chief Executive Officer

Countersigned and registered:

American Stock Transfer & Trust Company, LLC
(New York, NY)
Transfer Agent & Registrar

Authorized Signature

**Reverse of Certificate
ABBREVIATIONS**

The holder of this certificate, by acceptance of this certificate, shall be deemed to have (i) requested admission as, and agreed to become, a member of the Company, (ii) agreed to comply with, and be bound by, the terms of the Amended and Restated Limited Liability Company Agreement of the Company, as amended, supplemented or restated from time to time (the "Company Agreement"), (iii) granted the powers of attorney provided for in the Company Agreement, and (iv) made the waivers and given the consents and approvals contained in the Company Agreement. The Company will furnish without charge to each Member who so requests a copy of the Company Agreement.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM — as tenants in common

TEN ENT — as tenants by the entireties

JT TEN — as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT —

_____	Custodian	_____
(Cust)		(Minor)
under Uniform Transfers/Gifts to Minors Act		
_____ (State)		

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, _____ hereby sell, assign and transfer unto
Please insert Social Security or other
identifying number of Assignee

(Please print or typewrite name and address, including zip code, of Assignee)

_____ shares represented by the Certificate, and do hereby irrevocably constitute and appoint _____ Attorney to
transfer the said shares on the books of the Company with full power of substitution in the premises.

Dated _____

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

Signature(s) Guaranteed:

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO S.E.C. RULE 17Ad-15.

FOURTH AMENDED AND RESTATED
PARTNERSHIP AGREEMENT

of

FORTRESS WORLDWIDE TRANSPORTATION AND
INFRASTRUCTURE GENERAL PARTNERSHIP

Dated as of May 20, 2015

THE PARTNERSHIP INTERESTS OF FORTRESS WORLDWIDE TRANSPORTATION AND INFRASTRUCTURE GENERAL PARTNERSHIP MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH APPLICABLE LAW AND THE TERMS AND CONDITIONS OF THIS PARTNERSHIP AGREEMENT.

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FOURTH AMENDED AND RESTATED
PARTNERSHIP AGREEMENT

OF

FORTRESS WORLDWIDE TRANSPORTATION AND
INFRASTRUCTURE GENERAL PARTNERSHIP

(A Delaware Partnership)

This FOURTH AMENDED AND RESTATED PARTNERSHIP AGREEMENT of Fortress Worldwide Transportation and Infrastructure General Partnership, a Delaware partnership (the "Partnership"), is made as of the 20th day of May, 2015, by and among Fortress Worldwide Transportation and Infrastructure Master GP LLC, a Delaware limited liability company, as the Fortress Partner (as defined below), Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company (the "Operating Partner"), and each Person admitted as a partner following the date hereof in accordance with the terms of this Agreement (each of the foregoing, a "Partner" and, collectively, the "Partners"), and has been executed for the purpose of continuing the Partnership pursuant to the provisions of the Partnership Act (as defined below) and on the terms set out herein.

W I T N E S S E T H:

WHEREAS, the Fortress Partner and Fortress Worldwide Transportation and Infrastructure Investors LP, a Delaware limited partnership (the "Initial Operating Partner"), established the Partnership pursuant to the Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership, dated as of May 9, 2011 (the "Original Partnership Agreement"), which was amended and restated pursuant to the Amended and Restated Partnership Agreement of the Partnership, dated as of June 23, 2011 (the "First A&R Agreement"), which was further amended and restated pursuant to the Second Amended and Restated Partnership Agreement of the Partnership, dated as of February 13, 2012 (as amended, the "Second A&R Agreement"), and which was further amended and restated pursuant to the Third Amended and Restated Partnership Agreement of the Partnership, dated as of May 19, 2014 (as amended, the "Third A&R Agreement");

WHEREAS, a Statement of Partnership Existence of the Partnership, dated as of May 9, 2011 (as the same may be amended, restated or otherwise modified from time to time, the "Statement"), was executed by the Initial Operating Partner and filed in the office of the Secretary of State of the State of Delaware on May 9, 2011;

WHEREAS, the Operating Partner has been formed prior to the date hereof for the purpose of investing in, and, together with the Fortress Partner, operating the assets of, the Partnership in accordance with the Operating Partner's Second Amended and Restated Limited Liability Company Agreement, dated as of May 20, 2015 (including all annexes, exhibits and schedules thereto, as amended or restated from time to time, the "Operating Agreement");

WHEREAS, the Partners desire to amend and restate the Third A&R Agreement in its entirety pursuant to Section 10.1 thereof, and the terms and conditions contained therein are hereby amended and restated in their entirety as hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein made and intending to be legally bound hereby, the parties hereto agree that the Third A&R Agreement is hereby amended and restated in its entirety as follows:

ARTICLE I

Definitions

As used herein, the following terms shall have the following meanings and all such terms which relate to accounting matters shall be interpreted in accordance with GAAP (as defined below) except as otherwise specifically provided herein:

Affiliate: When used with reference to a specified Person, means, with respect to such Person, any other Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Person in question. As used herein, the term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

Agreement: This Fourth Amended and Restated Partnership Agreement, including the annexes, exhibits and schedules hereto, as the same may be amended or restated from time to time.

Business Day: Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States of America or the State of New York shall not be regarded as a Business Day.

Capital Account: As defined in Section 3.2(a).

Capital Contribution: With respect to any Partner, at any time, the amount of capital contributed to the Partnership by such Partner, including capital contributed with respect to specified operating expenses.

Capital Gains Incentive Allocation: As defined in Section 4.2(b).

Carrying Value: With respect to any asset, the asset's adjusted basis for United States federal income tax purposes, except that the Carrying Values of all Partnership assets may, in the discretion of the Operating Partner, be adjusted to equal their respective Fair Values, on the occurrence of any event described in Section 3.2(d). Upon an adjustment to the Carrying Value (i) (A) for Capital Account maintenance purposes and for purposes of computing Net Income and Net Loss it shall be as though the asset were sold at Fair Value, and gain or loss shall be allocated to Capital Accounts pursuant to Section 3.3 as though the proceeds of such sale had been distributed, and (B) thereafter Net Income and Net Loss shall be determined using Carrying Value as adjusted pursuant to clause (A) immediately foregoing; and (ii) of any Partnership

property subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or other amortization attributable to such property shall for purposes of Capital Account maintenance equal an amount that bears the same ratio to the Carrying Value at the beginning of such year or other period as the United States federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to the property's adjusted tax basis at the beginning of such year or other period; provided that where such property has no remaining tax basis at the beginning of such year or other period, deductions for depreciation, cost recovery or other amortization attributable to such property for purposes of Capital Account maintenance shall be computed using any reasonable method as selected by the Operating Partner.

Code: The United States Internal Revenue Code of 1986, as amended.

Compensatory Interest: As defined in Section 7.2(a).

Delaware Act: The Delaware Limited Liability Company Act, 6 Del. C. Section 18-101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

DGCL: The General Corporation Law of the State of Delaware, 8 Del. C. Section 101, et seq., as amended, supplemented or restated from time to time, and any successor to such statute.

Dissolution Sale: All sales and liquidations by or on behalf of the Partnership of its assets in connection with or in contemplation of the winding-up of the Partnership.

dollars and \$: Unless otherwise specified the term dollars and references to dollar amounts using the symbol "\$" are to be construed as meaning United States dollars.

Event of Dissolution: As defined in Section 9.1.

Fair Value: The value of any real property, loan, security or other asset held by the Partnership as of any date as determined by the Operating Partner.

Final Distribution: The distribution described in Section 9.3.

First A&R Agreement: As defined in the recitals hereto.

Fortress: Fortress Parent and its subsidiaries (excluding, for the avoidance of doubt, Investment Fund Affiliates).

Fortress Affiliates: The Manager, the Fortress Partner, Fortress Parent, existing or future investment funds or accounts managed by the Manager, and their respective Affiliates.

Fortress Parent: Fortress Investment Group LLC, a Delaware limited liability company, and any successor thereto.

Fortress Partner: Fortress Worldwide Transportation and Infrastructure Master GP LLC, a Delaware limited liability company, and/or any transferee or successor admitted pursuant to the terms hereof, in each case in its capacity as the Fortress Partner pursuant to the terms hereof.

GAAP: Generally accepted accounting principles in the United States, as in effect on the date of this Agreement.

Income Incentive Allocation: As defined in Section 4.2(a).

Indemnified Person: (a) Each Person defined as an "Indemnified Person" in the Operating Agreement and (b) (i) the Partnership, the Operating Partner, the Fortress Partner, the Manager, Fortress and the Affiliates of any of them and (ii) the officers, directors, members (other than the members of the Operating Partner exclusively in such capacity), principals, shareholders (other than the shareholders of the Operating Partner exclusively in such capacity), controlling Persons, representatives, partners, managers, employees, consultants, agents, affiliates and assigns of any Person in item (b)(i) above.

Independent Director: As defined in the Operating Agreement.

Initial Operating Partner: As defined in the recitals hereto.

Interest: The interest of a Partner in the Partnership.

Investment Fund Affiliates: Any Pooled Investment Vehicle that is an Affiliate of the Fortress Partner or the Manager.

IPO: As defined in the Operating Agreement.

IPO Date: The date of the IPO.

Management Agreement: The Management Agreement, dated as of May 20, 2015, by and between the Operating Partner, the Partnership and the Manager, including all annexes, exhibits and schedules thereto, as amended or restated from time to time.

Management Fee: As defined in the Management Agreement.

Manager: FIG LLC, a Delaware limited liability company, and/or any assignee or successor under the Management Agreement, in each case in its capacity as manager.

Net Income or Net Loss: For each fiscal year or other period, an amount equal to the Partnership's taxable income or loss for United States federal income tax purposes for such year or other period, determined in accordance with Section 703 of the Code, with the following adjustments:

(i) all items of income, gain, loss or deduction allocated pursuant to Sections 3.3 (b) and (e) shall not be taken into account in computing such taxable income or loss;

(ii) except for items included in subparagraph (i) above, any income of the Partnership that is exempt from United States federal income taxation and is not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition shall be added to such taxable income or loss; and

(iii) except for items included in subparagraph (i) above, any expenditures of the Partnership not deductible in computing taxable income or loss, not properly capitalizable and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition, shall, for purposes of Capital Account maintenance, be treated as items of deduction, subtracted from such taxable income or loss and allocated among the Partners pursuant to Section 3.3(a).

Operating Agreement: As defined in the recitals hereto.

Operating Partner: As defined in the preamble hereto.

Original Partnership Agreement: As defined in the recitals hereto.

Partners: As defined in the preamble hereto.

Partnership: As defined in the preamble hereto.

Partnership Act: The Delaware Revised Uniform Partnership Act, 6 Del. C. §§ 15-101, et. seq., as amended, modified or re-enacted from time to time.

Person: Any individual, partnership, corporation, limited liability company, joint venture, joint-stock company, unincorporated organization or association, trust (including the trustees thereof, in their capacity as such), any federal, state or local government and any agency, department or political subdivision thereof.

Pooled Investment Vehicle: Any investment vehicle formed for the purpose of investing capital contributed by multiple investors in multiple investments.

Pre-Incentive Allocation Net Income: With respect to a calendar quarter, the Operating Partner's net income attributable to members during such quarter calculated in accordance with GAAP, but excluding the Operating Partner's pro rata portion, as applicable, of the following (without duplication): (i) gains and losses, realized or unrealized, (ii) the non-cash portion of any equity-based compensation expense, (iii) the one-time impact of any non-capitalized acquisition-related expenses, including transaction and integration expenses, provided that such amounts are capitalized and amortized in respect of such acquisition and such amortization is included in the calculation of Pre-Incentive Allocation Net Income, (iv) any non-cash portion of the provision for income taxes, net of cash payments for income taxes and (v) any other amounts approved by the Independent Directors upon reasonable request by the Manager. For the avoidance of doubt, amounts paid to the Fortress Partner as an Income Incentive Allocation or a Capital Gains Incentive Allocation during such quarter shall be excluded in computing Pre-Incentive Allocation Net Income.

Proposed Rules: As defined in Section 7.2(a).

Safe Harbor Election: As defined in Section 7.2(a).

Second A&R Agreement: As defined in the recitals hereto.

Statement: As defined in the recitals hereto.

Third A&R Agreement: As defined in the recitals hereto.

Transfer: Assign, pledge, hypothecate, sell, exchange or otherwise transfer or encumber all or a portion of the legal or beneficial interest, whether by contract, operation of law or otherwise, and whether accomplished directly or indirectly, including through any option, forward, swap, structured note or any other hedging or derivative transaction.

Treasury Regulations: The income tax regulations promulgated under the Code, as the same may be hereafter amended from time to time or any successor or successors thereto.

ARTICLE II

General Provisions

2.1 Name. The name of the Partnership shall be “Fortress Worldwide Transportation and Infrastructure General Partnership.” The Partnership’s business may be conducted under any other name or names as determined by the Operating Partner. The Operating Partner may change the name of the Partnership at any time, and from time to time, and shall provide notice to each other Partner of any change in the name of the Partnership.

2.2 Organizational Certificates and Other Filings.

The Partners shall promptly execute all certificates and other documents, and any amendments or renewals of such certificates and other documents as thereafter reasonably required, consistent with the terms of this Agreement, necessary to accomplish all filing, recording, publishing and other acts of similar nature as may be appropriate to comply with all requirements for (a) continuation and operation of the Partnership as a partnership under the laws of the State of Delaware, (b) the operation of the Partnership as a partnership in all jurisdictions where the Partnership proposes to operate (c) the organization and formation of any investment vehicle established to facilitate the investment objectives of the Partnership and (d) all other filings required under any applicable law, rule or regulation to be made by the Partnership. The Operating Partner is hereby authorized to (i) execute, file and record (as may be required by the Partnership Act) such statements, amendments and other documents and maintain such statutory registers and partnership records as are or become necessary or advisable in connection with the operation of the Partnership; and (ii) take all steps which in its discretion it considers necessary or advisable to allow the Partnership to conduct business in any jurisdiction where the Partnership conducts business.

2.3 Purpose and Powers; Authority.

The purposes of the Partnership shall be to (a) promote, conduct or engage in, directly or indirectly, any business, purpose or activity that lawfully may be conducted by a partnership organized pursuant to the Partnership Act, (b) acquire, hold and dispose of interests in any corporation, partnership, joint venture, limited liability company or other entity, and, in connection therewith, to exercise all of the rights and powers conferred upon the Partnership with respect to its interests therein, and (c) conduct any and all activities related or incidental to the foregoing purposes. The Partnership shall be empowered to do any and all acts and things necessary and appropriate for the furtherance and accomplishment of the purposes described in this Section 2.3. To the extent permitted pursuant to the terms hereof and except as otherwise agreed in writing by the Partners, any Partner is authorized to act for and bind the Partnership in the ordinary course of the Partnership's business.

2.4 Principal Place of Business.

The Partnership shall maintain its office and principal place of business at, and its business shall principally be conducted from, 1345 Avenue of the Americas, 46th Floor, New York, New York 10105, or such place or places inside the United States as the Operating Partner may decide. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the Operating Partner determines to be necessary or appropriate.

2.5 Registered Office and Registered Agent.

Unless and until changed by the Operating Partner, the address of the Partnership's registered office in the State of Delaware is The Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. Unless and until changed by the Operating Partner, the name and address of the Partnership's registered agent for service of process in the State of Delaware is The Corporation Trust Company, The Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

2.6 Term.

The term of the Partnership commenced upon filing of the Statement with the office of the Secretary of State for the State of Delaware and shall continue indefinitely unless the Partnership is earlier dissolved pursuant to Section 9.1.

2.7 Fiscal Year.

The fiscal year for tax and financial reporting purposes of the Partnership shall be a calendar year ending December 31 unless otherwise required by the Code or other applicable law.

ARTICLE III

Capital Contributions, Capital Accounts and Allocations

3.1 Capital Contributions.

(a) The Partners shall make Capital Contributions to the Partnership as mutually agreed from time to time by the Partners.

(b) Other than as set forth in this Article III, no Partner shall be entitled to any interest or compensation by reason of its Capital Contributions or by reason of serving as a Partner. No Partner shall be required to lend any funds to the Partnership.

3.2 Capital Accounts.

(a) The Partnership shall maintain a separate capital account (a "Capital Account") for each Partner. Such Capital Account shall be increased by:

(i) the cash amount of all Capital Contributions made by such Partner to the Partnership pursuant to this Agreement; and

(ii) such Partner's allocable share of Net Income and any special allocations of income or gain pursuant to Section 3.3(b) or (d);

and decreased by:

(i) the amount of cash and the Fair Value of any property (reduced by any liabilities secured by the property or otherwise treated as assumed by the Partner under the Code) distributed to such Partner by the Partnership pursuant to this Agreement; and

(ii) such Partner's allocable share of Net Loss and any special allocations of loss or deduction pursuant to Section 3.3(b) or (d);

and otherwise maintained in accordance with the rules of Treasury Regulations Sections 1.704-1 and 1.704-2.

(b) In the event any Interest in the Partnership is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent such Capital Account relates to the transferred Interest except to the extent provided in Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

(c) Immediately prior to the distribution of any property (other than cash) to a Partner, the Capital Account of each Partner shall be increased or decreased, as the case may be, to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such property (that has not previously been reflected in the Capital Accounts of the Partners) would be allocated among the Partners if there were a taxable disposition of such property for its Fair Value.

(d) The Capital Account of each Partner may, in the discretion of the Operating Partner, be increased or decreased, as the case may be, upon the conditions set forth in subsections (i) through (iv) of this Section 3.2(d), to reflect the manner in which the unrealized income, gain, loss and deduction inherent in all of the Partnership's property (that has not previously been reflected in the Capital Accounts of the Partners) would be allocated among the Partners if there were a taxable disposition of all such property for its Fair Value immediately prior to any of the following:

(i) a contribution of money or other property (other than a de minimis amount) to the Partnership by a new or existing Partner as consideration for an Interest in the Partnership, or

(ii) a distribution of money or other property (other than a de minimis amount) by the Partnership to a retiring or continuing Partner as consideration for an Interest in the Partnership, or

(iii) the liquidation of the Partnership for federal income tax purposes within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), or

(iv) any other event specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f).

3.3 Allocations to the Partners.

(a) Subject to Sections 3.3(b) and 3.3(c), Net Income, and Net Loss for any fiscal year shall be allocated proportionately among the Partners in a manner such that the Capital Account of each Partner, immediately after giving effect to such allocation, is, as nearly as possible, equal to the amount of distributions that hypothetically would be made to such Partner during such fiscal year pursuant or by reference to Section 4.2, if (i) the Partnership were dissolved and terminated; (ii) its affairs were wound up and each Partnership asset was sold for cash equal to its Carrying Value (except that any asset that is disposed of during such fiscal year shall be treated as if sold for an amount of cash equal to the sum of (x) the amount of any net cash proceeds actually received by the Partnership in connection with such disposition and (y) the Carrying Value of any property actually received by the Partnership in connection with such disposition); (iii) all Partnership liabilities were satisfied (other than liabilities the discharge of which would give rise to a deduction for U.S. federal income tax purposes and limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability); and (iv) the net assets of the Partnership were distributed in accordance with Section 4.2, to the Partners immediately after giving effect to such allocation. The Operating Partner may, in its discretion, make such other assumptions (whether or not consistent with the above assumptions) as it deems necessary or appropriate in order to effectuate the intended economic arrangement of the Partners.

(b) The following special allocations shall be made in the following order and prior to any other allocations under this Section 3.3:

(i) Minimum Gain Chargeback. Notwithstanding any other provision of this Section 3.3, if there is a net decrease in partnership minimum gain (as defined in Treasury Regulations Sections 1.704-2(b)(2) and (d)) during any fiscal year, each Partner shall be specially allocated items of Partnership income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Partner's share of the net decrease in partnership minimum gain, determined in accordance with Treasury Regulations Sections 1.704-2(f) and (g). This Section 3.3(b)(i) is intended to comply with the minimum gain chargeback requirement in such section of the Treasury Regulations and shall be interpreted consistently therewith;

(ii) Partner Minimum Gain Chargeback. Notwithstanding any other provision of this Section 3.3, if there is a net decrease in partnership nonrecourse debt minimum gain attributable to a Partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(i)) during any fiscal year, the Partners shall be specially allocated items of Partnership income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Partner's share of the net decrease in partner nonrecourse debt minimum gain attributable to such partner nonrecourse debt, determined in accordance with Treasury Regulations Section 1.704-2(i). This Section 3.3(b)(ii) is intended to comply with the minimum gain chargeback requirement in such section of the Treasury Regulations and shall be interpreted consistently therewith;

(iii) Qualified Income Offset. In the event any Partner unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the deficit, if any, in such Partner's Capital Account (as determined under Treasury Regulations Section 1.704-1) as quickly as possible, provided that an allocation pursuant to this Section 3.3(b)(iii) shall be made only if and to the extent that such Partner would have such Capital Account deficit (as determined after crediting such Capital Account for any amounts that the Fortress Partner is obligated to restore or that any Partner is deemed obligated to restore) after all other allocations provided for in this Section 3.3 have been tentatively made as if this Section 3.3(b)(iii) were not in this Agreement; and

(iv) Nonrecourse Deductions. Nonrecourse deductions, as defined in Treasury Regulations Section 1.704-2, shall be allocated among the Partners (including the Fortress Partner) in the manner determined by the tax matters partner.

(c) Loss Allocation Limitation.

(i) No allocation of Net Loss (or items thereof) shall be made to any Partner to the extent that such allocation would create or increase a deficit in such Partner's Capital Account (as determined after debiting such Capital Account for the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4),(5) and (6) and crediting such Capital Account for any amounts that such Partner is obligated to restore or is deemed obligated to restore pursuant to Treasury Regulations Section 1.704-2); and

(ii) Subsequent allocations pursuant to this Section 3.3 shall be made so that the net amount of any items allocated to each Partner shall, to the extent possible, be equal to the net amount that would have been allocated to each Partner if such special allocations pursuant to Section 3.3(b) had not occurred, or the allocations resulting from the limitation in Section 3.3(c)(i) had not occurred, including by allocating Net Income to the Fortress Partner to reverse any allocation pursuant to Section 3.3(c)(i).

(d) Any non-cash items of Net Income or Net Loss shall be allocated as if such non-cash items were distributable pursuant to Section 4.2 or Section 4.4.

(e) If the allocations provided in Section 3.3(a) are modified pursuant to Section 3.3(b), allocations thereunder for subsequent periods shall be adjusted so as to reverse the effect of such modifications on the Capital Accounts of the Partners as rapidly as possible but without causing this Agreement to fail to comply with the Treasury Regulations under Section 704 of the Code.

(f) Net Income and Net Loss shall generally be determined on each disposition of an investment or on such other basis as determined by the Operating Partner using any permissible or required method under the Code as long as such alternate method is required by the Code or does not have an adverse effect on the Partners.

(g) [Reserved].

(h) Allocations for Tax Purposes. Items of income, gain, loss, deduction and credit realized by the Partnership shall, for each fiscal year, be allocated, for federal, state and local income tax purposes, among the Partners in the same manner as the Net Income and Net Loss of which such items are components were allocated, subject, however, to any adjustment required to comply with Treasury Regulations Section 1.704-1(b). In the case of any Partnership asset the Carrying Value of which differs from its adjusted tax basis for United States federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated for United States federal income tax purposes, as reasonably determined by the Operating Partner, in accordance with the principles of Sections 704(b) and (c) of the Code so as to take account of the difference between Carrying Value and adjusted tax basis of such asset.

3.4 Negative Capital Accounts.

Except as may be required by law, no Partner shall be required to reimburse the Partnership for any negative balance in such Partner's Capital Account.

ARTICLE IV

Withdrawals, Allocations and Distributions

4.1 Withdrawal of Capital. The Operating Partner shall have the right to withdraw capital from the Partnership by providing the Fortress Partner with 5 Business Days' advance notice, which notice shall be deemed waived in respect of capital withdrawn by the Operating Partner for the purpose of funding distributions to its shareholders or members or for the purpose of funding ordinary course expenses and costs of the Operating Partner, provided, however that before any amount is withdrawn by the Operating Partner (other than in respect of ordinary course expenses and costs of the Operating Partner) the Income Incentive Allocation and the Capital Gains Incentive Allocation will be determined by, and paid to, the Fortress Partner immediately prior to the withdrawal by the Operating Partner. Distributions of Partnership assets that are provided for in this Agreement shall be made only to Persons who, according to the books and records of the Partnership, are the holders of record of Interests in the Partnership on the date determined by the Operating Partner as of which the Partners are entitled to any such distributions.

4.2 Incentive Allocations.

(a) Income Incentive Allocation. The Fortress Partner will be allocated and paid an income incentive allocation (an "Income Incentive Allocation") with respect to Pre-Incentive Allocation Net Income in each calendar quarter as follows, provided, however, for any period of less than three months the amount paid as an Income Incentive Allocation shall be prorated to reflect such shorter period.

(i) No Income Incentive Allocation in any calendar quarter in which Pre-Incentive Allocation Net Income, expressed as a rate of return on the average value of the Operating Partner's net equity capital at the end of the two most recently completed calendar quarters (including, for the avoidance of doubt, the quarter with respect to which such amount is being calculated), does not exceed 2.0% for such quarter (8.0% annualized);

(ii) 100% of Pre-Incentive Allocation Net Income with respect to that portion of such Pre-Incentive Allocation Net Income, if any, that expressed as a rate of return on the average value of the Operating Partner's net equity capital at the end of the two most recently completed calendar quarters (including, for the avoidance of doubt, the quarter with respect to which such amount is being calculated), equals or exceeds 2.00% but does not exceed 2.2223% for such quarter; and

(iii) 10% of Pre-Incentive Allocation Net Income with respect to that portion of such Pre-Incentive Allocation Net Income, if any, that, expressed as a rate of return on the average value of the Operating Partner's net equity capital at the end of the two most recently completed calendar quarters (including, for the avoidance of doubt, the quarter with respect to which such amount is being calculated), exceeds 2.2223% .

(b) Capital Gains Incentive Allocation. The Fortress Partner shall be allocated and paid a capital gains incentive allocation (a "Capital Gains Incentive Allocation") in arrears as of the end of each calendar year equal to 10.0% of the Operating Partner's pro rata share of cumulative realized gains from the IPO Date through the end of such calendar year, net of the Operating Partner's pro rata share of the following, without duplication, (i) any cumulative realized or unrealized losses and the cumulative non-cash portion of equity-based compensation expenses, in each case, for such period and (ii) all realized gains upon which prior performance-based Capital Gains Incentive Allocations were previously paid to the General Partner.

4.3 General Distribution Provisions.

(a) Any cash distributed to the Partners pursuant to Article IV shall be made in dollars unless otherwise agreed to by the Partner receiving such distribution.

(b) [Reserved].

(c) For purposes of this Agreement (other than for purposes of calculating foreign currency gain or loss for purposes of Sections 985-989 of the Code), whenever an amount is to be converted from one currency to another, it shall be converted at the prevailing exchange rate for such conversion at the close of business on the date of such calculation (or the next preceding Business Day if such date of calculation is not a Business Day), as reasonably determined by the Operating Partner.

(d) Upon the request of the Fortress Partner, the Operating Partner may, but shall not be obligated to, in any fiscal year of the Partnership make distributions of cash held by the Partnership to the Fortress Partner, in amounts intended to enable the Fortress Partner (or any Person whose tax liability is determined by reference to the Fortress Partner's income) to discharge its United States federal, state and local income tax liabilities arising from the allocations made (or to be made) pursuant to Section 3.3. The amount distributable pursuant to this Section 4.3(d) shall be determined by the Operating Partner, taking into account the maximum combined United States federal, New York State and New York City tax rate applicable to individuals or corporations (whichever is higher) on ordinary income, qualified dividend income and capital gain (taking into account the applicable holding period), as the case may be, and otherwise based on such reasonable assumptions as the Operating Partner determines in good faith to be appropriate. The aggregate amount distributable to the Fortress Partner pursuant to this Section 4.3(d) in any fiscal year of the Partnership shall be reduced by all previous amounts distributed to the Fortress Partner pursuant to this Section 4.3(d) and Section 4.2 in such fiscal year. The amount distributable to the Fortress Partner pursuant to any clause of Section 4.2 shall be reduced by the amount distributed to such Partner pursuant to this Section 4.3(d), and the amount so distributed under this Section 4.3(d) shall be deemed to have been distributed to the extent of such reduction pursuant to such clause of Section 4.2 for purposes of making the calculations required by Section 4.2.

4.4 Restricted Distributions.

Notwithstanding any provision to the contrary contained in this Agreement, the Partnership shall not make a distribution to any Partner on account of its Interest in the Partnership if such distribution would violate any provisions of the Partnership Act or other applicable law.

4.5 Withholding.

Notwithstanding any other provision of this Agreement, each Partner hereby authorizes the Partnership (and any Affiliate controlled by the Partnership) to withhold and to pay over, or otherwise pay, any withholding or other similar taxes payable by the Partnership (or such Affiliate) (pursuant to the Code or any provision of United States federal, state or local or non-U.S. tax law) with respect to a Partner or as a result of such Partner's participation in the Partnership (including as a result of a distribution in kind). If and to the extent that the Partnership (or such Affiliate) shall be required to withhold or pay any such withholding taxes or other similar taxes attributable to a Partner from amounts paid to a Partner, such Partner shall be deemed for all purposes of this Agreement to have received a payment from the Partnership as of

the time that such withholding or other similar tax is required to be paid, which payment shall be deemed to be a distribution pursuant to Section 4.2 with respect to such Partner's Interest to the extent that a Partner (or any successor to such Partner's Interest) would have received a cash distribution with respect to such Partner but for such withholding.

ARTICLE V

Management

5.1 Relationship Among the Operating Partner, the Fortress Partner, the Manager and the Partners.

Except as expressly limited by the provisions of this Agreement and the Partnership Act, the Partners shall have the full, exclusive and absolute right, power and authority to manage and control the Partnership and the property, assets, affairs and business thereof. Except as so expressly limited, the Partners shall have all of the rights, powers and authority conferred upon it by law or under the provisions of this Agreement. The Fortress Partner shall continue to serve until incapacitated or removed, in accordance with the express provisions of this Agreement. The day-to-day administrative management and operation of the Partnership and its business shall be vested in the Operating Partner, subject to the terms and provisions of this Agreement. The Operating Partner shall, in its discretion, exercise all powers necessary and convenient for the purposes of the Partnership, but subject to the limitations and restrictions expressly set forth herein, including those set out in Section 2.3 and this Section 5.1, on behalf and in the name of the Partnership. The Operating Partner is designated, and is specifically authorized to act as, the "tax matters partner" under the Code and in any similar capacity under state, local or foreign law. Notwithstanding anything to the contrary contained herein, the acts of the Operating Partner in carrying on the business of the Partnership as authorized herein shall bind the Partnership.

5.2 Indemnification, Advances and Insurance.

(a) Indemnification. The Partnership shall indemnify any Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Partnership), by reason of the fact that such Indemnified Person is or was within the category of persons constituting Indemnified Persons of the Partnership, or is or was within the category of persons constituting Indemnified Persons of the Partnership serving at the request of the Partnership as a director, officer, employee or agent of another company, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such Indemnified Person in connection with such action, suit or proceeding, provided that such Indemnified Person shall not be indemnified and held harmless if there has been a final and

non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Indemnified Person is seeking indemnification, the Indemnified Person has acted in bad faith or engaged in fraud or willful misconduct or, with respect to any criminal action or proceeding acted with knowledge that such Indemnified Person's conduct was unlawful.

(b) Expenses Payable in Advance. Expenses (including attorneys' fees) incurred by an Indemnified Person in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Partnership in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Partnership as authorized in this Section 5.2. Such expenses (including attorneys' fees) may be so paid upon such terms and conditions, if any, as the Partnership deems appropriate.

(c) Non-exclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.2 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under this Agreement, any agreement, vote of Members or disinterested directors of the Operating Partner or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Partnership that indemnification of the persons specified in subsection (a) of this Section 5.2 shall be made to the fullest extent permitted by law. The provisions of this Section 5.2 shall not be deemed to preclude the indemnification of any person who is not specified in subsection (a) of this Section 5.2 but whom the Partnership would have the power or obligation to indemnify under the provisions of the DGCL, if the Partnership were a Delaware corporation, the Delaware Act or otherwise.

(d) Insurance. The Partnership may purchase and maintain insurance on behalf of any Person entitled to indemnification under this Section 5.2 against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such Person's status as such, whether or not the Partnership would have the power or the obligation to indemnify such Person against such liability under the provisions of this Section 5.2.

(e) Certain Definitions. For purposes of this Section 5.2, references to the "Partnership" shall include, in addition to the resulting company, any constituent company (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any person who is or was a director or officer of such constituent company, or is or was a director or officer of such constituent company serving at the request of such constituent company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 5.2 with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Section 5.2, references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Partnership" shall include any service as a director, officer, employee or agent of the Partnership that imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries.

(f) Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 5.2 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be an Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) Indemnification of Employees and Agents. The Partnership may, to the extent authorized from time to time by the Operating Partner, provide rights to indemnification and to the advancement of expenses to employees and agents of the Partnership and the Manager similar to those conferred in this Section 5.2 to Indemnified Persons.

ARTICLE VI

Expenses

6.1 Operating Expenses.

(a) The Partnership shall bear or be charged with all of its own operating expenses, except those specifically required to be borne by the Manager under the Management Agreement.

(b) To the extent any operating expenses of the Partnership not specifically required to be borne by the Manager pursuant to the Management Agreement are paid by the Manager, the Fortress Partner or any Affiliate thereof from its own funds, as the case may be, such operating expenses shall be reimbursed by the Partnership. The Partnership will reimburse the Manager and its Affiliates for performing certain legal, accounting, due diligence tasks and other services that outside professionals or outside consultants otherwise would perform, provided that such costs and reimbursements are no greater than those which would be paid to outside professionals or consultants on an arm's length basis. The amount of operating expenses to be borne by the Partnership is not subject to any maximum amount. For the avoidance of doubt, to the extent the Partnership forms intermediate investment vehicles in connection with the making, holding and/or disposing of an investment, the costs and expenses of such vehicles shall be deemed to be costs and expenses of the Partnership for all purposes of this Agreement.

ARTICLE VII

Books and Records and Reports to Partners; Certain Tax Elections

7.1 Records and Accounting. The Operating Partner shall keep or cause to be kept at the principal office of the Partnership appropriate books and records with respect to the Partnership's business, including all books and records necessary to provide to the Partners any information required to be provided pursuant to this Agreement. Any books and records maintained by or on behalf of the Partnership in the regular course of its business, including the record of the Partners, books of account and records of Partnership proceedings, may be kept on,

or be in the form of, computer disks, hard drives, punch cards, magnetic tape, photographs, micrographics or any other information storage device; provided, that the books and records so maintained are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with GAAP.

7.2 Safe Harbor Election and Forfeiture Allocations. (a) The Operating Partner is hereby authorized and directed to cause the Partnership to make an election to value the Fortress Partner interest of the Fortress Partner received as compensation for services to the Partnership (the "Compensatory Interest") at liquidation value (the "Safe Harbor Election"), as the same may be permitted pursuant to or in accordance with the finally promulgated successor rules to Proposed Treasury Regulations Section 1.83-3(l) and IRS Notice 2005-43 (collectively, the "Proposed Rules"). The Operating Partner shall cause the Partnership to make any allocations of items of income, gain, deduction, loss or credit (including forfeiture allocations and elections as to allocation periods) necessary or appropriate to effectuate and maintain the Safe Harbor Election.

(b) Any such Safe Harbor Election shall be binding on the Partnership and on all of its Partners (including, for purposes of this Section 7.2(b), any person to whom a Compensatory Interest is transferred in connection with the performance of services) with respect to all transfers of Compensatory Interests thereafter made by the Partnership while a Safe Harbor Election is in effect. A Safe Harbor Election once made may be revoked by the Operating Partner as permitted by the Proposed Rules or any applicable rule.

(c) Each Partner, by signing this Agreement or by accepting such transfer, hereby agrees to comply with all requirements of the Safe Harbor Election with respect to the Compensatory Interest while the Safe Harbor Election remains effective.

(d) The Operating Partner shall file or cause the Partnership to file all returns, reports and other documentation as may be required to perfect and maintain the Safe Harbor Election with respect to transfers of any Compensatory Interest.

(e) The Operating Partner is hereby authorized and empowered, without further vote or action of the Partners, to amend this Agreement as necessary to comply with the Proposed Rules or any rule, in order to provide for a Safe Harbor Election and the ability to maintain or revoke the same, and shall have the authority to execute any such amendment by and on behalf of each Partner. Any undertakings by the Partners necessary to enable or preserve a Safe Harbor Election may be reflected in such amendments and to the extent so reflected shall be binding on each Partner, respectively; provided, however, that such amendments are not reasonably likely to have a material adverse effect on the rights and obligations of the Partners.

(f) Each Partner agrees to cooperate with the Operating Partner to perfect and maintain any Safe Harbor Election, and to timely execute and deliver any documentation with respect thereto reasonably requested by the Operating Partner.

(g) No transfer, assignment or other disposition of any Interest in the Partnership by a Partner shall be effective unless prior to such transfer, assignment or disposition the transferee, assignee or intended recipient of such Interest shall have agreed in writing to be bound by the provisions of this Section 7.2, in form and substance satisfactory to the Partner.

ARTICLE VIII

Transfers, Admissions, Withdrawals and Default

8.1 Transfer, Withdrawal, Removal or Termination of the Fortress Partner. (a) The Fortress Partner, without the prior written consent of the Operating Partner, shall have no right to Transfer its Interests, and the Fortress Partner shall not have the right to withdraw. The foregoing or any other provision hereof to the contrary notwithstanding, a Transfer by the Fortress Partner of its Interest to an entity whose business and operations are managed or supervised by Mr. Wesley R. Edens shall not be considered violations of this Section 8.1 or any other provision of this Agreement and are expressly permitted without the consent of the Operating Partner. The Operating Partner shall have no right to remove the Fortress Partner from the Partnership except as otherwise expressly provided herein.

(b) [Reserved].

(c) The Fortress Partner shall cease to be a Partner of the Partnership upon the termination of the Management Agreement. Upon termination of the Management Agreement pursuant to Section 13 or Section 15(b) the Partnership shall be required to promptly allocate and pay to the Fortress Partner an amount equal to the incentive allocations that would be allocated and paid to the Fortress Partner pursuant to Section 4.2 hereof if the Partnership's assets were sold for cash at their then current fair market value (as determined by an appraisal, taking into account, among other things, the expected future value of the underlying investments). In addition, after the termination of the Management Agreement, neither the Fortress Partner nor its successors-in-interest shall have any of the powers, obligations or liabilities of a Partner of the Partnership under this Agreement or under applicable law arising after the date of such termination.

(d) [Reserved].

(e) If the Fortress Partner shall be removed or shall withdraw as a Partner, a successor Partner may be admitted or named as a Partner of the Partnership prior to such removal or withdrawal with the consent of the Operating Partner.

The Fortress Partner shall reasonably cooperate to facilitate the substitution of any successor Partner, and, except in the case of a removal as a result of the termination of the Management Agreement pursuant to Section 8.1(c), shall be reimbursed for its reasonable costs and expenses relating thereto. The Partners (or any one or more of them) may Transfer to any successor Partner a portion of their Interest in the Partnership in order to effectuate such substitution.

8.2 Additional Partners. The Partners may agree to admit any additional Partner to the Partnership. In order to become an additional Partner, such Person shall execute and deliver a counterpart signature page to this Agreement (or such other instrument as shall establish that such Person shall be bound by and a party to this Agreement) and such other documentation as the Operating Partner may specify.

8.3 Admissions and Withdrawals Generally. Except as provided herein, no Partner shall have the right to withdraw from the Partnership and no Person may be admitted to the Partnership as a Partner.

8.4 Obligations and Rights of a Prior Fortress Partner.

In the event that the Fortress Partner is removed, withdraws or transfers all of its Interest in the Partnership other than in accordance with the terms of this Agreement, such Fortress Partner shall have no further obligation or liability as a Fortress Partner of the Partnership pursuant to this Agreement with respect to or in connection with any obligations or liabilities arising from and after such removal, withdrawal or transfer, and all such future obligations and liabilities shall automatically cease and terminate and be of no further force or effect with respect to the Fortress Partner; provided, however, that nothing contained herein shall be deemed to relieve the Fortress Partner of any obligations or liabilities (i) arising prior to such removal or withdrawal or (ii) resulting from a dissolution of the Partnership caused by the act of the Fortress Partner where liability is imposed upon the Fortress Partner by law or by the provisions of this Agreement.

ARTICLE IX

Term and Dissolution of the Partnership

9.1 Term.

The Partnership shall continue indefinitely until the Partnership is dissolved, which dissolution shall occur upon the first of any of the following events (each an “Event of Dissolution”):

- (a) the entry of a decree of judicial dissolution under the Partnership Act; or
- (b) a written determination by the Fortress Partner and the Operating Partner that the Partnership should be dissolved.

9.2 Winding-Up.

Upon the occurrence of an Event of Dissolution, the Partnership shall be wound up and liquidated as promptly as business circumstances allow. The Fortress Partner or, if there is no Fortress Partner, a liquidator who may be appointed by the Operating Partner, shall proceed with the Dissolution Sale and the Final Distribution. In the Dissolution Sale, the Fortress Partner or such liquidator shall use its commercially reasonable efforts to reduce to cash and cash equivalent items at Fair Value such assets of the Partnership as the Fortress Partner or such liquidator shall deem it advisable to sell, subject to any tax or other legal considerations. The foregoing notwithstanding, the Fortress Partner shall not administer any Dissolution Sale or Final Distribution if the Fortress Partner had previously been removed as Fortress Partner, if the Fortress Partner had withdrawn as the Fortress Partner in violation of the provisions hereof.

9.3 Final Distribution.

Subject to the Partnership Act, after the Dissolution Sale, the proceeds thereof and the other assets of the Partnership (including restricted securities) shall be distributed in one or more installments in the following order of priority:

(a) To creditors of the Partnership (including, if applicable, the Fortress Partner and its Affiliates and the Manager), to the extent otherwise permitted by law, in satisfaction of liabilities of the Partnership, including the expenses of the winding-up, liquidation and dissolution of the Partnership (whether by payment or the making of reasonable provision for payment thereof).

(b) The remaining proceeds, if any, plus any remaining assets of the Partnership, shall be applied and distributed to the Partners in accordance with Section 4.2. For purposes of the application of this Section 9.3(b) and determining Capital Accounts on dissolution, all realized and unrealized gains, losses and accrued income and deductions of the Partnership shall be treated as realized and recognized immediately before the date of distribution and shall be allocated among the Capital Accounts of the Partners in accordance with Section 3.3.

ARTICLE X

Miscellaneous

10.1 Amendments.

Except as required by law, this Agreement and the Statement may only be amended with the written consent of the Partners.

10.2 Entire Agreement.

This Agreement constitutes the entire agreement among the Partners with respect to the subject matter hereof and thereof and supersedes any prior agreement, and any understanding among or between them with respect to such subject matter.

10.3 Severability.

Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable and contrary to the Partnership Act or existing or future applicable law, such invalidity shall not impair the operation of or affect those provisions of this Agreement which are valid. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of any applicable law, and in the event such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable provisions.

10.4 Notices.

All notices, requests, demands and other communications hereunder shall be deemed to have been duly given if sent to such Partner's business address set forth in the Partnership's books and records; or to such other address as such Partner shall have last designated by notice to the Partnership, and in the case of a change in address by the Fortress Partner, by notice to the Operating Partner. Any notice shall be deemed to have been duly given if personally delivered or sent by overnight mail or courier, by email or by facsimile transmission confirmed by letter, and shall be deemed received, unless earlier received, (i) if sent by overnight mail or courier, when actually received, (ii) if sent by facsimile transmission, on the date sent, provided that confirmatory notice is sent promptly thereafter by overnight mail or courier, postage prepaid, and (iii) if delivered by hand or email, on the date of receipt.

10.5 Governing Law, Waiver of Jury Trial and Waiver of Partition.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. THE COURTS OF THE STATE OF DELAWARE SHALL HAVE, AND NO OTHER COURTS SHALL HAVE, JURISDICTION OVER ANY ACTION, SUIT OR PROCEEDING WITH RESPECT TO THIS AGREEMENT, AND THE OPERATING PARTNER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY HAVE, WHETHER NOW OR IN THE FUTURE, TO THE LAYING OF VENUE IN, OR TO THE JURISDICTION OF, ANY AND EACH OF SUCH COURTS FOR THE PURPOSES OF ANY SUCH SUIT, ACTION, PROCEEDING OR JUDGMENT, AND FURTHER AGREES TO WAIVE ANY CLAIM THAT ANY SUCH SUIT, ACTION, PROCEEDING OR JUDGMENT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM, AND THE OPERATING PARTNER HEREBY SUBJECTS ITSELF TO SUCH JURISDICTION. SUBJECT TO APPLICABLE LAW, THE PARTIES HEREBY AGREE THAT NO PUNITIVE OR CONSEQUENTIAL DAMAGES SHALL BE AWARDED TO THE OPERATING PARTNER IN ANY SUCH ACTION, SUIT OR PROCEEDING. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY MATTER ARISING HEREUNDER.

EACH OF THE PARTNERS HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS THAT SUCH PARTNER MAY HAVE TO MAINTAIN ANY ACTION FOR PARTITION OF ANY OF THE PARTNERSHIP'S PROPERTY.

10.6 Successors and Assigns.

Except with respect to the rights of Indemnified Persons, none of the provisions of this Agreement shall be for the benefit of or enforceable by the creditors of the Partnership, and this Agreement shall be binding upon and inure to the benefit of the Partners and their legal representatives, successors and permitted assigns.

10.7 Counterparts.

This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

10.8 Certain Rules of Construction.

The section headings in this Agreement are for convenience of reference only, and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof. As used herein, masculine pronouns shall include the feminine and neuter, and the singular shall be deemed to include the plural and vice versa. If any time period set forth herein shall expire on a day which is not a Business Day, such time period shall be automatically extended to the first Business Day immediately following the non-Business Day on which such time period would otherwise expire. The term “including” as used herein shall mean “including, without limitation,” unless the context otherwise requires. Whenever in this Agreement the Fortress Partner, Operating Partner or any of their respective Affiliates is permitted or required to make a decision or to take (or not take) an action (i) in its “discretion,” such Person’s exercise of discretion shall be the sole and absolute exercise of a right that may be exercised, granted or withheld without regard to any other matter or fact; or (ii) in its “good faith” or under another express standard, such Person shall act under such express standard and shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein or by relevant provisions of law or in equity or otherwise.

10.9 Further Assurances.

Each Partner agrees to take any and all action necessary or appropriate for the accomplishment of the purposes of the Partnership set forth in Section 2.3 hereof.

10.10 Use of the Name “Fortress”.

Fortress Parent has consented to the use by the Partnership of the identifying word or name “Fortress” in the name of the Partnership. Such consent is conditioned upon a Fortress Affiliate being the Fortress Partner and upon the employment of a Fortress Affiliate as the manager (pursuant to contractual delegation by the Manager or otherwise) of the Partnership’s or the Operating Partner’s assets. The name or identifying word “Fortress” may be used from time to time in other connections and for other purposes by Fortress Affiliates and by any Person authorized by Fortress Parent or its Affiliates. The Fortress Partner may require the Partnership to cease using “Fortress” in the name of the Partnership if a Fortress Affiliate is no longer the Fortress Partner for any reason.

10.11 Anti-Money Laundering.

Notwithstanding any other provision of this Agreement to the contrary, the Operating Partner, in its own name and on behalf of the Partnership, shall be authorized without the consent of any Person, including any other Partner, to take such action as it determines in good faith to be necessary or advisable to comply with any anti-money laundering or anti-terrorist laws, rules, regulations, directives or special measures.

[Remainder of page intentionally left blank]

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

FORTRESS PARTNER:

FORTRESS WORLDWIDE TRANSPORTATION AND
INFRASTRUCTURE MASTER GP LLC

By: /s/ Demetrios Tserpelis

Name: Demetrios Tserpelis

Title: Authorized Signatory

OPERATING PARTNER:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE
INVESTORS LLC

By: /s/ Cameron D. MacDougall

Name: Cameron D. MacDougall

Title: Secretary

FOURTH AMENDED AND RESTATED PARTNERSHIP AGREEMENT OF FORTRESS
WORLDWIDE TRANSPORTATION AND INFRASTRUCTURE GENERAL PARTNERSHIP

MANAGEMENT AND ADVISORY AGREEMENT

dated as of May 20, 2015

between

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

and

FIG LLC

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MANAGEMENT AND ADVISORY AGREEMENT

THIS MANAGEMENT AND ADVISORY AGREEMENT, is made as of May 20, 2015 (the "Agreement") by and among FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC, a Delaware limited liability company (the "Company"), and FIG LLC, a Delaware limited liability company (together with its permitted assignees, the "Manager").

W I T N E S S E T H:

WHEREAS, the Company desires to avail itself of the experience, sources of information, advice, assistance and certain facilities of or available to the Manager and to have the Manager undertake the duties and responsibilities hereinafter set forth, on behalf of the Company, as provided in this Agreement; and

WHEREAS, the Manager is willing to render such services on the terms and conditions hereinafter set forth.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL AGREEMENTS HEREIN SET FORTH, THE PARTIES HERETO AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS.

The following terms have the meanings assigned to them:

- (a) "Acquisitions" means asset acquisitions by the Company and its Subsidiaries.
- (b) "Agreement" means this Management and Advisory Agreement, as amended from time to time.
- (c) "Board of Directors" means the Board of Directors of the Company.
- (d) "Code" means the Internal Revenue Code of 1986, as amended.
- (e) "Common Share" means a common share representing a limited liability company interest of the Company now or hereafter authorized and designated as common shares of the Company.
- (f) "Exchange Act" means the Securities Exchange Act of 1934, as amended.
- (g) "GAAP" means generally accepted accounting principles in the United States, as in effect on the date of this Agreement.
- (h) "Governing Instruments" means, with regard to any entity, the articles of incorporation and bylaws in the case of a corporation, certificate of limited partnership (if applicable) and the partnership agreement in the case of a general or limited partnership, the articles of formation and the operating agreement in the case of a limited liability company, or, in each case, comparable governing documents.

(i) "Independent Directors" means the members of the Board of Directors who are not officers or employees of the Manager.

(j) "Investment Company Act" means the Investment Company Act of 1940, as amended.

(k) "Subsidiary" means any subsidiary of the Company and any partnership, the general or operating partner of which is the Company or any subsidiary of the Company and any limited liability company, the managing member of which is the Company or any subsidiary of the Company.

SECTION 2. APPOINTMENT AND DUTIES OF THE MANAGER.

(a) The Company hereby appoints the Manager to manage the assets and day-to-day operations of the Company and its Subsidiaries subject to the further terms and conditions set forth in this Agreement and the Manager hereby agrees to use its commercially reasonable efforts to perform each of the duties set forth herein. The appointment of the Manager shall be exclusive to the Manager except to the extent that the Manager otherwise agrees, in its sole and absolute discretion, and except to the extent that the Manager elects, pursuant to the terms of this Agreement, to cause the duties of the Manager hereunder to be provided by third parties.

(b) The Manager, in its capacity as manager of the assets and the day-to-day operations of the Company and its Subsidiaries, at all times will be subject to the supervision of the Company's Board of Directors and will have only such functions and authority as the Company may delegate to it including, without limitation, the functions and authority identified herein and delegated to the Manager hereby. The Manager will be responsible for the day-to-day operations of the Company and its Subsidiaries and will perform (or cause to be performed) such services and activities relating to the assets and operations of the Company as may be appropriate, including, without limitation:

(i) serving as the Company's consultant with respect to the periodic review of the acquisition criteria and parameters for Acquisitions, borrowings, financing transactions, and operations;

(ii) investigation, analysis, valuation and selection of Acquisition opportunities;

(iii) with respect to prospective Acquisitions by the Company and dispositions of assets, conducting negotiations with brokers, sellers and purchasers and their respective agents and representatives, investment bankers and owners of privately and publicly held companies;

(iv) engaging and supervising independent contractors that provide services relating to the Company or any of its Subsidiaries or the Company's assets, including, but not limited to, investment banking, legal or regulatory advisory, tax advisory, due diligence, accounting advisory, securities brokerage, brokerage, and other financial, brokerage and consulting services as the Manager determines from time to time is advisable;

(v) negotiating the sale, exchange or other disposition of any asset;

(vi) coordinating and managing operations of any joint venture or co-investment interests held by the Company or any of its Subsidiaries and conducting all matters with the joint venture or co-investment partners;

(vii) coordinating and supervising, all matters related to the Company's or any of its Subsidiaries' assets, including the leasing and/or sale and management of such assets and retaining agents, managers or other advisors in connection with such coordination and supervision;

(viii) providing executive and administrative personnel, office space and office services required in rendering services to the Company;

(ix) administering the day-to-day operations of the Company and its Subsidiaries and performing and supervising the performance of such other administrative functions necessary in the management of the Company and its Subsidiaries as may be agreed upon by the Manager and the Board of Directors, including, without limitation, the collection of revenues and the payment of the Company's debts and obligations and maintenance of appropriate computer services to perform such administrative functions;

(x) communicating with the past, current and prospective holders of any equity or debt securities of the Company and its Subsidiaries as required to satisfy the reporting and other requirements of any governmental bodies or agencies or trading markets and to maintain effective relations with such holders;

(xi) counseling the Company in connection with policy decisions to be made by the Board of Directors;

(xii) evaluating and recommending to the Board of Directors modifications to any hedging strategies in effect on the date hereof and engaging in hedging activities, consistent with such strategies, as in effect from time to time;

(xiii) counseling the Company regarding the maintenance of its exemption from the Investment Company Act and monitoring compliance with the requirements for maintaining an exemption from that Act;

(xiv) assisting the Company in developing criteria that are specifically tailored to the Company's investment objectives and making available to the Company its knowledge and experience with respect to its target assets;

(xv) representing and making recommendations to the Company in connection with the purchase and finance, and commitment to purchase and finance, of its target assets, and in connection with the sale and commitment to sell such assets;

- (xvi) monitoring the operating performance of the Company's and its Subsidiaries' assets and providing periodic reports with respect thereto to the Board of Directors, including comparative information with respect to such operating performance, valuation and budgeted or projected operating results;
- (xvii) investing and re-investing any moneys and securities of the Company and its Subsidiaries (including investing in short-term investments, pending investment in Acquisitions, payment of fees, costs and expenses, or payments of dividends or distributions to shareholders and partners of the Company) and advising the Company as to its capital structure and capital raising;
- (xviii) causing the Company to retain qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting procedures, compliance procedures and testing systems with respect to financial reporting obligations and to conduct quarterly compliance reviews with respect thereto;
- (xix) causing the Company and its Subsidiaries to qualify to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses;
- (xx) taking all necessary actions to enable the Company and its Subsidiaries to make required tax filings and reports, including soliciting shareholders for required information to the extent provided by the provisions of the Code;
- (xxi) assisting the Company and its Subsidiaries in complying with all regulatory requirements applicable thereto in respect of its business activities, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports and documents required under the Exchange Act;
- (xxii) handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) in which the Company or any of its Subsidiaries may be involved or to which the Company or any of its Subsidiaries may be subject arising out of the Company's or any of its Subsidiaries' day-to-day operations, subject to such limitations or parameters as may be imposed from time to time by the Board of Directors;
- (xxiii) using commercially reasonable efforts to cause expenses incurred by or on behalf of the Company and its Subsidiaries to be within any expense guidelines set by the Board of Directors from time to time;
- (xxiv) performing such other services as may be required from time to time for management and other activities relating to the assets of the Company and its Subsidiaries as the Board of Directors and Manager shall agree from time to time or as the Manager shall deem appropriate under the particular circumstances;
- (xxv) using commercially reasonable efforts to cause the Company to comply with all applicable laws; and

(xxvi) traveling in connection with the performance of any services or activities relating to the Company's and its Subsidiaries' assets, operations, Acquisitions or investment analysis.

Without limiting the foregoing, the Manager will perform portfolio management services (the "Portfolio Management Services") on behalf of the Company with respect to Acquisitions. Such services will include, but not be limited to, consulting with the Company on the purchase and sale of, and other investment opportunities in connection with, the Company's portfolio of assets; the collection of information and the submission of reports pertaining to the Company's assets, general economic conditions; periodic review and evaluation of the performance of the Company's portfolio of assets; acting as liaison between the Company and banking, investment banking and other parties with respect to the purchase, financing and disposition of assets; and other customary functions related to portfolio management. Additionally, the Manager will perform monitoring services (the "Monitoring Services") on behalf of the Company with respect to any services provided by third parties, which the Manager determines are material to the performance of the business.

(c) The Manager may enter into agreements with other parties, including its affiliates, including to provide the services above, provided, that any such agreements entered into with affiliates of the Manager shall be (A) on terms no more favorable to such affiliate than could be obtained from a third party on an arm's length basis and (B) to the extent the same do not fall within policies approved by the Board of Directors, approved by a majority of the Independent Directors to the extent required by any Board policy.

(d) The Manager may retain, for and on behalf, and at the sole cost and expense, of the Company, such services of accountants, legal counsel, tax counsel, appraisers, insurers, brokers or business developers, transfer agents, registrars, developers, investment banks, financial advisors, underwriters, asset managers, banks and other lenders and others as the Manager deems necessary or advisable in connection with the management and operations of the Company. Notwithstanding anything contained herein to the contrary, the Manager shall have the right to cause any such services to be rendered by its employees or affiliates (which, for the avoidance of doubt, includes any employees, consultants or agents or any affiliate of the Manager). The Company shall pay or reimburse the Manager or its affiliates performing such services for the cost thereof; provided, that such costs and reimbursements are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm's-length basis.

(e) As frequently as the Manager may deem necessary or advisable, or at the direction of the Board of Directors, the Manager shall, at the sole cost and expense of the Company, prepare, or cause to be prepared, with respect to any investment, (i) reports and information on the Company's operations and asset performance and (ii) other information reasonably requested by the Company.

(f) The Manager shall prepare, or cause to be prepared, at the sole cost and expense of the Company, all reports, financial or otherwise, with respect to the Company reasonably required by the Board of Directors in order for the Company to comply with its Governing Instruments or any other materials required to be filed with any governmental body or agency,

and shall prepare, or cause to be prepared, all materials and data necessary to complete such reports and other materials including, without limitation, an annual audit of the Company's books of account by a nationally recognized independent accounting firm.

(g) The Manager shall prepare regular reports for the Board of Directors to enable the Board of Directors to review the Company's Acquisitions, portfolio composition and characteristics, credit quality, performance and compliance with policies approved by the Board of Directors.

(h) Notwithstanding anything contained in this Agreement to the contrary, except to the extent that the payment of additional monies is proven by the Company to have been required as a direct result of the Manager's acts or omissions which result in the right of the Company to terminate this Agreement pursuant to Section 15 of this Agreement, the Manager shall not be required to expend money ("Excess Funds") in excess of that contained in any applicable Company Account (as herein defined) or otherwise made available by the Company to be expended by the Manager hereunder. Failure of the Manager to expend Excess Funds out-of-pocket shall not give rise or be a contributing factor to the right of the Company under Section 13(a) of this Agreement to terminate this Agreement due to the Manager's unsatisfactory performance.

(i) In performing its duties under this Section 2, the Manager shall be entitled to rely reasonably on qualified experts hired by the Manager.

SECTION 3. DEVOTION OF TIME; ADDITIONAL ACTIVITIES.

(a) The Manager will provide a management team, including a Chief Executive Officer and a Chief Financial Officer of the Company, to provide the management services to be provided by the Manager to the Company hereunder. The members of such team shall devote such of their time to the management of the Company as the Board of Directors reasonably deems necessary and appropriate, commensurate with the level of activity of the Company from time to time.

(b) Except to the extent set forth in clause (a) above, nothing herein shall prevent the Manager or any of its affiliates or any of the officers and employees of any of the foregoing from engaging in other businesses or from rendering services of any kind to any other person or entity, including investment in, or advisory service to others investing in, any type of infrastructure or equipment asset, including investments which meet the principal investment objectives of the Company.

(c) Managers, members, partners, officers, employees and agents of the Manager or affiliates of the Manager may serve as directors, officers, employees, agents, nominees or signatories for the Company or any Subsidiary, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Board of Directors pursuant to the Company's Governing Instruments. When executing documents or otherwise acting in such capacities for the Company, such persons shall use their respective titles in the Company.

SECTION 4. AGENCY.

The Manager shall act as agent of the Company in making, acquiring, financing and disposing of Acquisitions, disbursing and collecting the Company's funds, paying the debts and fulfilling the obligations of the Company, supervising the performance of professionals engaged by or on behalf of the Company and handling, prosecuting and settling any claims of or against the Company, the Board of Directors, holders of the Company's securities or the Company's representatives or properties.

SECTION 5. BANK ACCOUNTS.

The Manager may establish and maintain one or more bank accounts in the name of the Company or any Subsidiary (any such account, a "Company Account"), and may collect and deposit funds into any such Company Account or Company Accounts, and disburse funds from any such Company Account or Company Accounts; and the Manager shall from time to time render appropriate accountings of such collections and payments to the Board of Directors and, upon request, to the auditors of the Company or any Subsidiary.

SECTION 6. RECORDS; CONFIDENTIALITY.

The Manager shall maintain appropriate books of accounts and records relating to services performed under this Agreement, and such books of account and records shall be accessible for inspection by representatives of the Company at any time during normal business hours upon ten (10) business days advance written notice. The Manager shall keep confidential any and all non-public information obtained in connection with the services rendered under this Agreement and shall not disclose any such information to any person, except to (i) its affiliates, members, officers, directors, employees, agents, representatives or advisors who have a need to know such information in order to carry out their duties to the Company and who have a duty to the Manager or to the Company to keep such information confidential, (ii) to appraisers, financing sources and others in the ordinary course of the Manager's business for the purpose of rendering services hereunder, provided that such persons agree to keep such information confidential, (iii) in connection with any governmental or regulatory requests of the Manager and any of its affiliates, members, officers, directors, employees, agents, representatives or advisors, (v) as required by applicable law or regulation or (vi) with the prior written consent of the Board of Directors.

SECTION 7. OBLIGATIONS OF MANAGER; RESTRICTIONS.

(a) The Manager shall use commercially reasonable efforts to require each seller or transferor of assets to the Company to make such representations and warranties regarding such assets as may, in the sole judgment made in good faith of the Manager, be necessary and appropriate. In addition, the Manager shall take such other action as it deems necessary or appropriate with regard to the protection of the Company's assets and investments.

(b) The Manager shall refrain from any action that, in its sole judgment made in good faith, (i) is not in compliance with policies approved by the Board of Directors or (ii) would violate any law, rule or regulation of any governmental body or agency having jurisdiction over

the Company or any Subsidiary or that would otherwise not be permitted by such entity's Governing Instruments. If the Manager is ordered to take any such action by the Board of Directors, the Manager shall promptly notify the Board of Directors of the Manager's judgment that such action would adversely affect such status or violate any such law, rule or regulation or the Governing Instruments. Notwithstanding the foregoing, the Manager, its directors, officers, shareholders and employees shall not be liable to the Company or any Subsidiary, the Board of Directors, or the Company's or any Subsidiary's shareholders or partners for any act or omission by the Manager, its directors, officers, shareholders or employees except as provided in Section 11 of this Agreement.

(c) The Manager shall at all times during the term of this Agreement (including the Original Term and any renewal term) maintain a tangible net worth equal to or greater than \$1,000,000. Additionally, during such period the Manager shall maintain "errors and omissions" insurance coverage and other insurance coverage which is customarily carried by asset and investment managers performing functions similar to those of the Manager under this Agreement with respect to assets similar to the assets of the Company, in an amount which is comparable to that customarily maintained by other managers or servicers of similar assets.

SECTION 8. COMPENSATION.

(a) During the term of this Agreement (as the same may be extended from time to time), the Manager will receive an annual management fee (the "Management Fee") equal to 1.50% of the Company's "Total Equity." The Management Fee shall be calculated and paid monthly in arrears based upon the average of the Total Equity of the Company for the two most recently completed months. The term "Total Equity" for any month means the equity value of the Company, determined on a consolidated basis in accordance with GAAP, but reduced proportionately in the case of a Subsidiary to the extent that the Company owns, directly or indirectly, less than 100% of the equity interests in such Subsidiary. The Management Fee for any partial month shall be appropriately pro-rated.

(b) The Manager shall compute each installment of the Management Fee within 15 days after the end of the month with respect to which such installment is payable, and such installment shall be due and payable no later than the date which is 20 days after the end of the month with respect to which such installment is payable. A copy of the computations made by the Manager to calculate such installment shall thereafter, for informational purposes only and subject in any event to Section 13(a) of this Agreement, promptly be delivered to the Board of Directors within 90 days after the end of each calendar year.

(c) The Management Fee is subject to adjustment pursuant to and in accordance with the provisions of Section 13(a) of this Agreement.

(d) Upon the successful completion of an offering of Common Shares or other equity securities by the Company (including the issuance of Common Shares as consideration in connection with an Acquisition), the Company shall pay and issue to the Manager options to purchase Common Shares in an amount equal to 10% of the number of Common Shares sold in the offering or issued in connection with such Acquisition (or, if the issuance relates to equity securities other than Common Shares, options to purchase a number of Common Shares equal to

10% of the gross capital raised in the equity issuance, divided by the fair market value of a Common Share as of the date of issuance), with an exercise price equal to the price per Common Share paid by the public or other ultimate purchaser in the offering or attributed to such Common Shares in connection with an Acquisition (or, in the case of equity securities other than Common Shares, the fair market value of a Common Share as of the date of equity issuance). For the avoidance of doubt, the initial public offering of Common Shares shall not constitute an “offering” for purposes of this Section 8(d).

SECTION 9. EXPENSES OF THE COMPANY.

The Company shall pay all of its expenses and shall reimburse the Manager or (for the avoidance of doubt) its affiliates for documented expenses of the Manager or its affiliates incurred on its behalf (collectively, the “Expenses”). Expenses include all costs and expenses which are expressly designated elsewhere in this Agreement as the Company’s, together with the following:

(a) expenses in connection with the issuance and transaction costs incident to the acquisition, disposition and financing of Acquisitions;

(b) travel and other out-of-pocket expenses incurred by managers, officers, employees and agents of the Manager or its affiliates in connection with the sourcing, underwriting, purchase, financing, refinancing, sale or other disposition, or asset management of an Acquisition;

(c) costs of legal, accounting, tax, auditing, underwriting, asset management, sourcing, administrative and other services rendered for the Company by providers retained by the Manager or its affiliates or, if provided by the Manager’s or any affiliate’s employees, consultants or agents in amounts which are no greater than those which would be payable to outside professionals or consultants engaged to perform such services pursuant to agreements negotiated on an arm’s-length basis;

(d) the compensation and expenses of the Independent Directors and the cost of liability insurance to indemnify the Company’s directors and officers;

(e) compensation and expenses of the Company’s custodian and transfer agent, if any;

(f) costs associated with the establishment and maintenance of any credit facilities and other indebtedness of the Company (including commitment fees, legal fees, closing and other costs) or any securities offerings of the Company;

(g) costs associated with any computer software or hardware that is used for the Company;

(h) costs and expenses incurred in contracting with third parties, including affiliates of the Manager, in accordance with the terms of this Agreement;

(i) all other costs and expenses relating to the Company’s business and investment operations, including, without limitation, the costs and expenses of sourcing, underwriting, acquiring, financing, refinancing, owning, protecting, maintaining, developing, operating and disposing of Acquisitions, including appraisal, reporting, audit and legal fees;

(j) all insurance costs incurred in connection with the operation of the Company's business except for the costs attributable to the insurance that the Manager elects to carry for itself and its employees;

(k) expenses relating to any office or office facilities maintained for the Company or Acquisitions separate from the office or offices of the Manager;

(l) expenses connected with the payments of interest, dividends or distributions in cash or any other form made or caused to be made by the Board of Directors to or on account of the holders of securities of the Company or its Subsidiaries, including, without limitation, in connection with any dividend reinvestment plan;

(m) expenses connected with communications to holders of securities of the Company or its Subsidiaries and other bookkeeping and clerical work necessary in maintaining relations with holders of such securities and in complying with the continuous reporting and other requirements of governmental bodies or agencies, including, without limitation, all costs of preparing and filing required reports with the Securities and Exchange Commission, the costs payable by the Company to any transfer agent and registrar in connection with the listing and/or trading of the Company's stock on any exchange, the fees payable by the Company to any such exchange in connection with its listing, costs of preparing, printing and mailing the Company's annual report to its shareholders and proxy materials with respect to any meeting of the shareholders of the Company; and

(n) all other expenses actually incurred by the Manager which are reasonably necessary for the performance by the Manager of its duties and functions under this Agreement.

Without regard to the amount of compensation received under this Agreement by the Manager, the Manager shall bear the following expenses, except as expressly set forth herein: (i) wages and salaries of the Manager's officers and employees; (ii) rent attributable to the space occupied by the Manager; and (iii) all other "overhead" expenses of the Manager.

SECTION 10. CALCULATIONS OF EXPENSES.

The Manager shall prepare a statement documenting the Expenses of the Company and the Expenses incurred by the Manager on behalf of the Company during each calendar month, and shall deliver such statement to the Company in the ordinary course of periodic accounting. Expenses incurred by the Manager on behalf of the Company shall be reimbursed monthly to the Manager on the later of (i) the first business day of the month immediately following the date of delivery of such statement and (ii) 10 business days after the date of delivery of such statement.

SECTION 11. LIMITS OF MANAGER RESPONSIBILITY; INDEMNIFICATION.

(a) The Manager assumes no responsibility under this Agreement other than to render the services called for under this Agreement in good faith and shall not be responsible for any action of the Board of Directors in following or declining to follow any advice or

recommendations of the Manager, including as set forth in Section 7(b) of this Agreement. The Manager, its members, managers, officers and employees, sub-advisers and each other Person, if any, controlling the Manager, will not be liable to the Company or any Subsidiary, to the Board of Directors, or the Company's or any Subsidiary's shareholders or partners for any acts or omissions by the Manager, its members, managers, officers or employees, sub-advisers or each other Person, if any, controlling the Manager, pursuant to or in accordance with this Agreement, except by reason of acts constituting bad faith, willful misconduct, gross negligence or reckless disregard of the Manager's duties under this Agreement. The Company shall, to the full extent lawful, reimburse, indemnify and hold the Manager, its members, managers, officers and employees, sub-advisers and each other Person, if any, controlling the Manager (each, an "Indemnified Party"), harmless of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including attorneys' fees) in respect of or arising from any acts or omissions of such Indemnified Party made in good faith in the performance of the Manager's duties under this Agreement and not constituting such Indemnified Party's bad faith, willful misconduct, gross negligence or reckless disregard of the Manager's duties under this Agreement.

(b) The Manager shall, to the full extent lawful, reimburse, indemnify and hold the Company, its members, shareholders, directors, officers and employees and each other Person, if any, controlling the Company (each, a "Company Indemnified Party"), harmless of and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including attorneys' fees) in respect of or arising from the Manager's bad faith, willful misconduct, gross negligence or reckless disregard of its duties under this Agreement.

SECTION 12. NO JOINT VENTURE.

Nothing in this Agreement shall be construed to make the Company and the Manager partners or joint venturers or impose any liability as such on either of them.

SECTION 13. TERM; TERMINATION.

(a) Unless terminated in accordance with Section 14 or Section 15, this Agreement shall be in effect until the date that is ten (10) years after the date hereof (the "Original Term"). At the expiration of the Original Term and each Renewal Term (as defined below), this Agreement shall be deemed renewed automatically each year for an additional one-year period (each, a "Renewal Term") unless (i) a majority consisting of at least two-thirds of the Independent Directors or a simple majority of the holders of outstanding Common Shares, agree that there has been unsatisfactory performance that is materially detrimental to the Company or (ii) a simple majority of the Independent Directors agree that the Management Fee payable to the Manager is unfair; provided, that the Company shall not have the right to terminate this Agreement under clause (ii) if the Manager agrees to continue to provide the services under this Agreement at a fee that a simple majority of the Independent Directors have reasonably determined to be fair. If the Company elects not to renew this Agreement at the expiration of the Original Term or any Renewal Term, the Company shall deliver to the Manager prior written notice (the "Termination Notice") of the Company's intention not to renew this Agreement based upon the terms set forth in this Section 13(a) of this Agreement not less than 60 days prior to the expiration of the then existing term. If the Company so elects not to renew this Agreement, the

Company shall designate the date (the "Effective Termination Date"), not less than 60 days from the date of the notice, on which the Manager shall cease to provide services under this Agreement and this Agreement shall terminate on such date; provided, however, that in the event that such Termination Notice is given in connection with a determination that the compensation payable to the Manager is unfair, the Manager shall have the right to renegotiate the Management Fee by delivering to the Company, no fewer than forty-five (45) days prior to the prospective Effective Termination Date, written notice (any such notice, a "Notice of Proposal to Negotiate") of its intention to renegotiate its compensation under this Agreement. Thereupon, the Company and the Manager shall endeavor to negotiate in good faith the revised compensation payable to the Manager under this Agreement. Provided that the Manager and the Company agree to a revised Management Fee (or other compensation structure) within 45 days following the receipt of the Notice of Proposal to Negotiate, the Termination Notice shall be deemed of no force and effect and this Agreement shall continue in full force and effect on the terms stated in this Agreement, except that the Management Fee shall be the revised Management Fee (or other compensation structure) then agreed upon by the parties to this Agreement. The Company and the Manager agree to execute and deliver an amendment to this Agreement setting forth such revised Management Fee promptly upon reaching an agreement regarding same. In the event that the Company and the Manager are unable to agree to a revised Management Fee during such 45 day period, this Agreement shall terminate, such termination to be effective on the date which is the later of (A) ten (10) days following the end of such 45 day period and (B) the Effective Termination Date originally set forth in the Termination Notice.

(b) In the event that this Agreement is terminated in accordance with the provisions of Section 13(a) of this Agreement, the Company shall pay to the Manager, on the date on which such termination is effective, a termination fee (the "Termination Fee") equal to the amount of the Management Fee earned by the Manager during the period consisting of the twelve (12) full, consecutive calendar months immediately preceding such termination. The obligation of the Company to pay the Termination Fee shall survive the termination of this Agreement.

(c) No later than sixty (60) days prior to the expiration of the Original Term or any Renewal Term, the Manager may deliver written notice to the Company informing it of the Manager's intention not to renew the term, whereupon the Term of this Agreement shall not be renewed and extended and this Agreement shall terminate effective on the expiration date of this Agreement next following the delivery of such notice.

(d) If this Agreement is terminated pursuant to this Section 13, such termination shall be without any further liability or obligation of either party to the other, except as provided in Section 13(b) and Section 16 of this Agreement. In addition, Section 11 of this Agreement shall survive termination of this Agreement.

SECTION 14. ASSIGNMENT.

(a) Except as set forth in Section 14(b) of this Agreement, this Agreement shall terminate automatically in the event of its assignment, in whole or in part, by the Manager, unless such assignment is consented to in writing by the Company with the consent of a majority of the Independent Directors; provided, however, that no such consent shall be required in the case of an assignment by the Manager to an entity whose business and operations are managed or

supervised by Mr. Wesley R. Edens (the "Principal"). Any such permitted assignment shall bind the assignee under this Agreement in the same manner as the Manager is bound, and the Manager shall be liable to the Company for all errors or omissions of the assignee under any such assignment. In addition, the assignee shall execute and deliver to the Company a counterpart of this Agreement naming such assignee as Manager. This Agreement shall not be assigned by the Company without the prior written consent of the Manager, except in the case of assignment by the Company to a successor to the Company (by merger, consolidation or purchase of assets), in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as the Company is bound under this Agreement.

(b) Notwithstanding any provision of this Agreement, the Manager may subcontract and assign any or all of its responsibilities under Section 2 of this Agreement to any of its affiliates in accordance with the terms of this Agreement or as otherwise approved by the Board, and the Company hereby consents to any such assignment and subcontracting. In addition, provided that the Manager provides prior written notice to the Company for informational purposes only, nothing contained in this Agreement shall preclude any pledge, hypothecation or other transfer of any amounts payable to the Manager under this Agreement.

SECTION 15. TERMINATION FOR CAUSE.

(a) The Company may terminate this Agreement effective upon sixty (60) days prior written notice of termination from the Company to the Manager, without payment of any Termination Fee, if any act of fraud, misappropriation of funds, or embezzlement against the Company or other willful violation of this Agreement by the Manager in its corporate capacity (as distinguished from the acts of any employees of the Manager which are taken without the complicity of the Principal) under this Agreement or in the event of any gross negligence on the part of the Manager in the performance of its duties under this Agreement.

(b) The Manager may terminate this Agreement effective upon sixty (60) days prior written notice of termination to the Company in the event that the Company shall default in the performance or observance of any material term, condition or covenant contained in this Agreement and such default shall continue for a period of 30 days after written notice thereof specifying such default and requesting that the same be remedied in such 30 day period.

SECTION 16. ACTION UPON TERMINATION.

(a) From and after the effective date of termination of this Agreement, pursuant to Sections 13, 14, or 15 of this Agreement, the Manager shall not be entitled to compensation for further services under this Agreement, but shall be paid all compensation accruing to the date of termination and, if terminated pursuant to Section 13 or Section 15(b), the applicable Termination Fee. Upon such termination, the Manager shall forthwith:

(i) after deducting any accrued compensation and reimbursement for its expenses to which it is then entitled, pay over to the Company or a Subsidiary all money collected and held for the account of the Company or a Subsidiary pursuant to this Agreement;

(ii) deliver to the Board of Directors a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Board of Directors with respect to the Company or a Subsidiary; and

(iii) deliver to the Board of Directors all property and documents of the Company or any Subsidiary then in the custody of the Manager.

SECTION 17. RELEASE OF MONEY OR OTHER PROPERTY UPON WRITTEN REQUEST.

The Manager agrees that any money or other property of the Company or Subsidiary held by the Manager under this Agreement shall be held by the Manager as custodian for the Company or Subsidiary, and the Manager's records shall be appropriately marked clearly to reflect the ownership of such money or other property by the Company or such Subsidiary. Upon the receipt by the Manager of a written request signed by a duly authorized officer of the Company requesting the Manager to release to the Company or any Subsidiary any money or other property then held by the Manager for the account of the Company or any Subsidiary under this Agreement, the Manager shall release such money or other property to the Company or any Subsidiary within a reasonable period of time, but in no event later than sixty (60) days following such request. The Manager shall not be liable to the Company, any Subsidiary, the Independent Directors, or the Company's or a Subsidiary's shareholders or partners for any acts performed or omissions to act by the Company or any Subsidiary in connection with the money or other property released to the Company or any Subsidiary in accordance with the first sentence of this Section 17. The Company and any Subsidiary shall indemnify the Manager and its members, managers, officers and employees against any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever, which arise in connection with the Manager's release of such money or other property to the Company or any Subsidiary in accordance with the terms of this Section 17. Indemnification pursuant to this provision shall be in addition to any right of the Manager to indemnification under Section 11 of this Agreement.

SECTION 18. NOTICES.

Unless expressly provided otherwise in this Agreement, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of (i) personal delivery, (ii) delivery by reputable overnight courier, (iii) delivery by facsimile transmission or email against answerback, (iv) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

- (a) If to the Company:
Fortress Transportation and Infrastructure Investors LLC
c/o FIG LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: Mr. Jonathan Atkeson
Attention: Mr. Cameron MacDougall
- (b) If to the Manager:
FIG LLC
1345 Avenue of the Americas
46th Floor
New York, New York 10105
Attention: Mr. Randal A. Nardone

Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

SECTION 19. BINDING NATURE OF AGREEMENT; SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided in this Agreement.

SECTION 20. ENTIRE AGREEMENT.

This Agreement, together with Section Article IV of the Fourth Amended and Restated Partnership Agreement of Fortress Worldwide Transportation and Infrastructure General Partnership, contain the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter of this Agreement. The express terms of this Agreement control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms of this Agreement. This Agreement may not be modified or amended other than by an agreement in writing.

SECTION 21. CONTROLLING LAW.

This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

SECTION 22. INDULGENCES, NOT WAIVERS.

Neither the failure nor any delay on the part of a party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

SECTION 23. TITLES NOT TO AFFECT INTERPRETATION.

The titles of paragraphs and subparagraphs contained in this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation of this Agreement.

SECTION 24. EXECUTION IN COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of this Agreement, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

SECTION 25. PROVISIONS SEPARABLE.

The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

SECTION 26. GENDER.

Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

COMPANY:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE
INVESTORS LLC,
a Delaware limited liability company

By: /s/ Cameron D. MacDougall
Name: Cameron D. MacDougall
Title: Secretary

MANAGER:

FIG LLC,
a Delaware limited liability company

By: /s/ David N. Brooks
Name: David N. Brooks
Title: Secretary

Agreed and accepted:

FORTRESS WORLDWIDE TRANSPORTATION AND
INFRASTRUCTURE GENERAL PARTNERSHIP, a
Delaware general partnership

By: /s/ Demetrios Tserpelis
Name: Demetrios Tserpelis
Title: Authorized Signatory

REGISTRATION RIGHTS AGREEMENT

dated as of

May 20, 2015

among

FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC

and

THE SHAREHOLDERS SET FORTH

ON THE SIGNATURE PAGES

HERETO

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REGISTRATION RIGHTS AGREEMENT (this “Agreement”), dated as of May 20, 2015, is made by and among the Initial Shareholders (as defined herein) and Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company (including its successors and assigns, the “Company”).

WHEREAS, the Company intends to consummate an initial public offering (the “Initial Offering”) of its common shares, representing limited liability company interests in the Company (the “Shares”); and

WHEREAS, in connection with the Initial Offering, the Company has agreed to grant the Shareholders rights to the registration under the Securities Act (as defined herein) of the Registrable Securities (as defined herein) acquired by the Shareholders following the consummation of the Initial Offering in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1 DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings:

An “AFFILIATE” of any Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person. “CONTROL” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. “CONTROLLED” and “CONTROLLING” have correlative meanings.

An “AFFILIATE SHAREHOLDER” shall mean (A) any director of the Company who may be deemed an Affiliate of FIG or the Manager, (B) any director or officer of FIG or its Affiliates or the Manager or its Affiliates and (C) any investment funds (including any managed accounts) managed directly or indirectly by FIG, the Manager or their respective Affiliates.

“AGREEMENT” has the meaning set forth in the recitals to this Agreement.

A “BENEFICIAL OWNER” of a security is a Person who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise has or shares: (i) voting power, which includes the power to vote, or to direct the voting of, such security and/or (ii) investment power, which includes the power to dispose, or to direct the disposition of, such security. The terms “BENEFICIALLY OWN” and “BENEFICIAL OWNERSHIP” shall have correlative meanings.

“BLOCK TRADE OFFERING” means an underwritten offering demanded by one or more Demanding Shareholders that is a no-roadshow “block trade” take-down off of a Shelf Registration Statement where pricing is expected to occur no later than the fifth business day after such demand is made.

“BOARD” means the board of directors of the Company or a duly authorized committee thereof.

“CODE” shall mean the Internal Revenue Code of 1986, as amended and in effect from time to time.

“COMMON SHARES” means the Shares and any equity securities issued or issuable in exchange for or with respect to such Common Shares by way of a dividend, split or combination of shares or in connection with a reclassification, recapitalization, merger, consolidation or other reorganization.

“COMPANY” has the meaning set forth in the recitals.

“DEMAND” shall have the meaning set forth in Section 3.1(a).

“DEMAND REGISTRATION” shall have the meaning set forth in Section 3.1(a).

“DEMAND SHAREHOLDER” means any Shareholder or Shareholders that collectively hold at least a Registrable Amount (based on the number of outstanding Registrable Securities held by such Shareholder or Shareholders on the date a

Demand is made); provided that for purposes of Section 3.3, a Shareholder shall be deemed to hold at least a Registrable Amount if the Registrable Securities proposed to be registered by such Shareholder constitute “restricted securities” within the meaning of Rule 144 (or any successor provision) promulgated under the Securities Act.

“EXCHANGE ACT” means the Securities Exchange Act of 1934, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

“FIG” means Fortress Investment Group LLC, a Delaware limited liability company, or any successors and assigns.

“FINRA” means the Financial Industry Regulatory Authority, Inc. and any successor thereto.

“FREE WRITING PROSPECTUS” shall have the meaning set forth in Section 3.6(a)(iii).

“GOVERNMENTAL ENTITY” means any court, administrative agency, regulatory body, commission or other governmental authority, board, bureau or instrumentality, domestic or foreign and any subdivision thereof.

“INITIAL OFFERING” has the meaning set forth in the recitals.

“INITIAL SHAREHOLDERS” means Fortress Worldwide Transportation and Infrastructure Master GP LLC and FIG LLC.

“INSPECTORS” shall have the meaning set forth in Section 3.6(a)(viii).

“ISSUER FREE WRITING PROSPECTUS” shall mean an issuer free writing prospectus, as defined in Rule 433 under the Securities Act.

“LOSSES” shall have the meaning set forth in Section 3.8(a).

“MANAGEMENT AGREEMENT” shall mean the Management and Advisory Agreement, dated as of May 20, 2015, among the Company and FIG LLC, as amended from time to time.

“MANAGER” shall mean FIG LLC, a Delaware limited liability company, together with its permitted assignees under the Management Agreement.

“OTHER DEMANDING SELLERS” shall have meaning set forth in Section 3.2(b).

“OTHER PROPOSED SELLERS” shall have the meaning set forth in Section 3.2(b).

“PERMITTED TRANSFEREE” shall mean, with respect to each Shareholder, (i) any other Shareholder, (ii) such Shareholder’s Affiliates, (iii) in the case of any Shareholder, (A) any member or general or limited partner of such Shareholder (including any member of the Initial Shareholders), (B) any corporation, partnership, limited liability company or other entity that is an Affiliate of such Shareholder or any member, general or limited partner of such Shareholder (collectively, “Shareholder Affiliates”), (C) any investment funds managed directly or indirectly by such Shareholder or any Shareholder Affiliate (a “Shareholder Fund”), (D) any general or limited partner of any Shareholder Fund, (E) any managing director, general partner, director, limited partner, officer or employee of any Shareholder Affiliate, or any spouse, lineal descendant, sibling, parent, heir, executor, administrator, testamentary trustee, legatee or beneficiary of any of the foregoing persons described in this clause (E) (collectively, “Shareholder Associates”) or (F) any trust, the beneficiaries of which, or any corporation, limited liability company or partnership, the shareholders, members or general or limited partners of which, consist solely of any one or more of such Shareholder, any general or limited partner of such Shareholder, any Shareholder Affiliates, any Shareholder Fund, any Shareholder Associates, their spouses or their lineal descendants and (iv) any other Person that acquires Common Shares from such Shareholder other than pursuant to a Public Offering and that agrees to become party to or be bound by this Agreement.

“PERSON” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, Governmental Entity or other entity.

“PIGGYBACK NOTICE” shall have the meaning set forth in Section 3.2(a).

“PIGGYBACK REGISTRATION” shall have the meaning set forth in Section 3.2(a).

“PIGGYBACK SELLER” shall have the meaning set forth in Section 3.2(a).

“PIGGYBACK SHAREHOLDER” shall have the meaning set forth in Section 3.2(a).

“PUBLIC OFFERING” shall mean an offering of equity securities of the Company pursuant to an effective registration statement under the Securities Act, including an offering in which Shareholders are entitled to sell Common Shares pursuant to the terms of this Agreement.

“PROCEEDING” shall have the meaning set forth in Section 4.9.

“RECORDS” shall have the meaning set forth in Section 3.6(a)(viii).

“REGISTRABLE AMOUNT” shall mean an amount of Registrable Securities representing at least 1.0% of the Total Voting Power of the Company based on the aggregate amount of Common Shares issued and outstanding immediately after the consummation of the Initial Offering.

“REGISTRABLE SECURITIES” shall mean any Common Shares currently owned or hereafter acquired by any Shareholder. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (x) a registration statement registering such securities under the Securities Act has been declared effective and such securities have been sold or otherwise transferred by the holder thereof pursuant to such effective registration statement, (y) such securities are sold in accordance with Rule 144 (or any successor provision) promulgated under the Securities Act and the restrictive legend and any stop transfer restrictions have been removed or (z) such securities shall have ceased to be outstanding. For purposes of this Agreement, Registrable Securities shall be deemed to be in existence, whenever a Person has the right to acquire, directly or indirectly, such Registrable Securities (upon conversion or exercise in connection with a transfer of securities or otherwise, but disregarding any restrictions or limitations upon the exercise of such right), whether or not such acquisition has actually been effected, and such Person shall be entitled to exercise the rights of a Shareholder hereunder; provided that a Shareholder may only request that Registrable Securities in the form of Common Shares registered or to be registered as a class under Section 12 of the Exchange Act be registered under this Agreement.

“REQUESTING SHAREHOLDER” shall have the meaning set forth in Section 3.1(a).

“RULE 144” means Rule 144 (or any successor provision) promulgated under the Securities Act.

“SEC” means the United States Securities and Exchange Commission or any similar agency then having jurisdiction to enforce the Securities Act.

“SECURITIES ACT” means the Securities Act of 1933, as amended, supplemented or restated from time to time and any successor to such statute, and the rules and regulations promulgated thereunder.

“SELECTED COURTS” shall have the meaning set forth in Section 4.9.

“SELLING SHAREHOLDER” shall have the meaning set forth in Section 3.6(a)(i).

“SHAREHOLDER” shall mean (i) the Initial Shareholders, (ii) each Affiliate Shareholder and (iii) each Permitted Transferee who becomes a party to or bound by the provisions of this Agreement in accordance with the terms hereof or a Permitted Transferee thereof who is entitled to enforce the provisions of this Agreement in accordance with the terms hereof, in each case of clauses (i), (ii) and (iii) to the extent that the Initial Shareholders, Affiliate Shareholders and Permitted Transferees, together, hold of record or Beneficially Own at least a Registrable Amount.

“SHELF NOTICE” shall have the meaning set forth in Section 3.3(a).

“SHELF REGISTRATION EFFECTIVENESS PERIOD” shall have the meaning set forth in Section 3.3(c).

“SHELF REGISTRATION STATEMENT” shall have the meaning set forth in Section 3.3(a).

“SHELF UNDERWRITTEN OFFERING” shall have the meaning set forth in Section 3.3(e).

“SUBSIDIARY” or “SUBSIDIARIES” means, with respect to any Person, as of any date of determination, any other Person as to which such Person owns, directly or indirectly, or otherwise controls, more than 50% of the voting shares or other similar interests or the sole general partner interest or managing member or similar interest of such Person.

“SUSPENSION PERIOD” shall have the meaning set forth in Section 3.3(d).

“TOTAL VOTING POWER OF THE COMPANY” means the total number of votes that may be cast in the election of directors of the Company if all Voting Securities outstanding or treated as outstanding pursuant to the final two sentences of this definition were present and voted at a meeting held for such purpose. The percentage of the Total Voting Power of the Company Beneficially Owned by any Person is the percentage of the Total Voting Power of the Company that is represented by the total number of votes that may be cast in the election of directors of the Company by Voting Securities Beneficially Owned by such Person. In calculating such percentage, the Voting Securities Beneficially Owned by any Person that are not outstanding but are subject to issuance upon exercise or exchange of rights of conversion or any options, warrants or other rights Beneficially Owned by such Person shall be deemed to be outstanding for the purpose of computing the percentage of the Total Voting Power of the Company represented by Voting Securities Beneficially Owned by such Person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the Total Voting Power of the Company represented by Voting Securities Beneficially Owned by any other Person.

“UNDERWRITTEN OFFERING” shall mean a sale of securities of the Company to an underwriter or underwriters for reoffering to the public, including any bought deal, Block Trade Offering or other block sale to a financial institution conducted as an underwritten offering to the public.

“VOTING SECURITIES” means Common Shares any other securities of the Company entitled to vote generally in the election of directors of the Company.

SECTION 1.2 RULES OF CONSTRUCTION. For the purposes of this Agreement, unless the context otherwise requires:

- (a) the words “he,” “his” or “himself” shall be interpreted to include the masculine, feminine and corporate, other entity or trust form;
- (b) “or” is not exclusive;
- (c) words in the singular include the plural, and in the plural include the singular;
- (d) “will” shall be interpreted to express a command;
- (e) the term “including” is not limiting;

(f) references to sections of or rules under the Securities Act and the Exchange Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time; and

(g) references to Articles, Sections or subdivisions refer to Articles, Sections or subdivisions of this Agreement unless otherwise

indicated.

ARTICLE II

TERMINATION

SECTION 2.1 TERM. This Agreement shall become effective on the date hereof and shall automatically terminate on the later of (i) one year from the date of this Agreement, (ii) the date that the Shareholders, in the aggregate, no longer hold Registrable Securities representing at least the Registrable Amount, or otherwise on the date as mutually agreed to by each of the parties hereto and (iii) the termination of the Management Agreement in accordance with its terms.

SECTION 2.2 SURVIVAL. If this Agreement is terminated pursuant to Section 2.1, this Agreement shall become void and of no further force and effect, except for this Section 2.2 and the provisions set forth in Section 3.7, Section 3.8 and Article IV.

ARTICLE III

REGISTRATION RIGHTS

SECTION 3.1 DEMAND REGISTRATION.

(a) At any time following the date that is 180 days after the date of the final prospectus in respect of the Initial Offering, Demand Shareholders (each, a "Requesting Shareholder") shall be entitled to make a written request of the Company (a "Demand") for registration under the Securities Act of an amount of Registrable Securities that, when taken together with the amounts of Registrable Securities requested to be registered under the Securities Act by all such Requesting Shareholders, equals or is greater than the Registrable Amount (a "Demand Registration") and thereupon the Company will, subject to the terms of this Agreement, use its reasonable best efforts to effect the registration as promptly as practicable under the Securities Act of:

- (i) the Registrable Securities which the Company has been so requested to register by the Requesting Shareholders for disposition in accordance with the intended method of disposition stated in such Demand, which may be an Underwritten Offering;
- (ii) all other Registrable Securities which the Company has been requested to register pursuant to Section 3.1(b); and
- (iii) all Common Shares which the Company may elect to register in connection with any offering of Registrable Securities pursuant to this Section 3.1, but subject to Section 3.1(f);

all to the extent necessary to permit the disposition (in accordance with the intended methods thereof) of the Registrable Securities and the additional Shares, if any, to be so registered.

(b) A Demand shall specify: (i) the aggregate number of Registrable Securities requested to be registered in such Demand Registration, (ii) the intended method of disposition in connection with such Demand Registration, to the extent then known, and (iii) the identity of the Requesting Shareholder (or

Requesting Shareholders). Within five days after receipt of a Demand, the Company shall give written notice of such Demand to all other Shareholders. Subject to Section 3.1(f), the Company shall include in the Demand Registration covered by such Demand all Registrable Securities with respect to which the Company has received a written request for inclusion therein within ten days after the Company's notice required by this paragraph has been given. Such written request shall comply with the requirements of a Demand as set forth in this Section 3.1(b).

(c) Each Shareholder shall be entitled to an unlimited number of Demand Registrations.

(d) Demand Registrations shall be on such appropriate registration form of the SEC for which the Company is eligible, including, to the extent permissible, an automatically effective registration statement or an existing effective registration statement filed by the Company with the SEC, as shall be selected by the Requesting Shareholders and shall be reasonably acceptable to the Company.

(e) The Company shall not be obligated to (i) maintain the effectiveness of a registration statement under the Securities Act, filed pursuant to a Demand Registration, for a period longer than 90 days or (ii) effect any Demand Registration (A) within three months of a "firm commitment" Underwritten Offering (other than a Block Trade Offering that is not marketed) in which all Piggyback Shareholders (as hereinafter defined) were given "piggyback" rights pursuant to Section 3.2 (subject to Section 3.1(f)) and at least 50% of the number of Registrable Securities requested by such Piggyback Shareholders to be included in such Underwritten Offering were included, (B) within three months of any other Demand Registration or (C) if, in the Company's reasonable judgment, it is not feasible for the Company to proceed with the Demand Registration because of the unavailability of audited or other required financial statements, provided that the Company shall use its reasonable best efforts to obtain such financial statements as promptly as practicable. In addition, the Company shall be entitled to postpone (upon written notice to all Demand Shareholders) the filing or the effectiveness of a registration statement for any Demand Registration (but no more than twice, or for more than 90 days in the aggregate, in any period of 12 consecutive months) if the Board determines in good faith and in its reasonable judgment that the filing or effectiveness of the registration statement relating to such Demand Registration would cause the disclosure of material, non-public information that the Company has a bona fide business purpose for preserving as confidential. In the event of a

postponement by the Company of the filing or effectiveness of a registration statement for a Demand Registration, (i) the holders of a majority of Registrable Securities held by the Requesting Shareholder(s) shall have the right to withdraw such Demand in accordance with Section 3.4 and (ii) the Company shall not file or cause the effectiveness of any other registration statement for its own account or on behalf of other Shareholders.

(f) The Company shall not include any securities other than Registrable Securities in a Demand Registration, except with the written consent of Shareholders participating in such Demand Registration that hold a majority of the Registrable Securities included in such Demand Registration. If, in connection with a Demand Registration, any managing underwriter (or, if such Demand Registration is not an Underwritten Offering, a nationally recognized independent investment bank selected by Shareholders holding a majority of the Registrable Securities included in such Demand Registration, reasonably acceptable to the Company, and whose fees and expenses shall be borne solely by the Company), advises the Company, in writing, that, in its opinion, the inclusion of all of the securities, including securities of the Company that are not Registrable Securities, sought to be registered in connection with such Demand Registration would adversely affect the marketability of the Registrable Securities sought to be sold pursuant thereto, then the Company shall include in such registration statement only such securities as the Company is advised by such underwriter or investment bank can be sold without such adverse effect as follows and in the following order of priority: (i) first, up to the number of Registrable Securities requested to be included in such Demand Registration by the Shareholders, which, in the opinion of the underwriter or investment bank can be sold without adversely affecting the marketability of the offering, pro rata among such Shareholders requesting such Demand Registration on the basis of the number of such securities requested to be included by such Shareholders and such Shareholders that are Piggyback Sellers; (ii) second, securities the Company proposes to sell; and (iii) third, all other securities of the Company duly requested to be included in such registration statement, pro rata on the basis of the amount of such other securities requested to be included or such other method determined by the Company.

(g) Any time that a Demand Registration involves an Underwritten Offering, the Requesting Shareholders that hold a majority of the Registrable Securities included in such Underwritten Offering shall select the investment banker or investment bankers and managers (which shall be reasonably acceptable to the Company) that will serve as lead and co-managing underwriters with respect to the offering of such Registrable Securities.

SECTION 3.2 PIGGYBACK REGISTRATION.

(a) Subject to the terms and conditions hereof, whenever the Company (i) proposes to register any of its equity securities under the Securities Act (other than (x) a registration relating solely to an employee stock plan, a dividend reinvestment plan, or a merger or a consolidation or (y) a registration by the Company on a registration statement on Form S-4 or a registration statement on Form S-8 or any successor forms thereto), (ii) proposes to effect an Underwritten Offering of its own securities pursuant to an effective Shelf Registration Statement or (iii) receives a request for a Shelf Underwritten Offering pursuant to Section 3.3(e) (a "Piggyback Registration"), whether for its own account or for the account of others, the Company shall give each Shareholder (each, a "Piggyback Shareholder") prompt written notice thereof (but not less than ten business days prior to the filing by the Company with the SEC of any registration statement with respect thereto). Such notice (a "Piggyback Notice") shall specify, at a minimum, the number of equity securities proposed to be registered, the proposed date of filing of such registration statement with the SEC, the proposed means of distribution, the proposed managing underwriter or underwriters (if any and if known) and a good faith estimate by the Company of the proposed minimum offering price of such equity securities. Upon the written request of any Person that on the date of the Piggyback Notice constitutes a Shareholder (a "Piggyback Seller") (which written request shall specify the number of Registrable Securities then presently intended to be disposed of by such Piggyback Seller) given within ten days after such Piggyback Notice is received by such Piggyback Seller, the Company, subject to the terms and conditions of this Agreement, shall use its reasonable best efforts to cause all such Registrable Securities held by Piggyback Sellers with respect to which the Company has received such written requests for inclusion to be included in such Piggyback Registration on the same terms and conditions as the Company's equity securities being sold in such Piggyback Registration.

(b) If, in connection with a Piggyback Registration, any managing underwriter (or, if such Piggyback Registration is not an Underwritten Offering, a nationally recognized independent investment bank selected by Shareholders holding a majority of the Registrable Securities included in such Piggyback Registration, reasonably acceptable to the Company, and whose fees and expenses shall be borne solely by the Company), advises the Company in writing

that, in its opinion, the inclusion of all the equity securities sought to be included in such Piggyback Registration by (i) the Company, (ii) others who have sought to have equity securities of the Company registered in such Piggyback Registration pursuant to rights to demand (other than pursuant to so-called “piggyback” or other incidental or participation registration rights) such registration (such Persons being “Other Demanding Sellers”), (iii) the Piggyback Sellers and (iv) any other proposed sellers of equity securities of the Company (such Persons being “Other Proposed Sellers”), as the case may be, would adversely affect the marketability of the equity securities sought to be sold pursuant thereto, then the Company shall include in the registration statement applicable to such Piggyback Registration only such equity securities as the Company is so advised by such underwriter can be sold without such an effect, as follows and in the following order of priority:

(i) if the Piggyback Registration relates to an offering for the Company’s own account, then (A) first, such number of equity securities to be sold by the Company as the Company, in its reasonable judgment and acting in good faith and in accordance with sound financial practice, shall have determined, (B) second, Registrable Securities of Piggyback Sellers and securities sought to be registered by Other Demanding Sellers, pro rata on the basis of the number of Common Shares proposed to be sold by such Piggyback Sellers and Other Demanding Sellers, and (C) third, other equity securities proposed to be sold by any Other Proposed Sellers; or

(ii) if the Piggyback Registration relates to an offering other than for the Company’s own account, then (A) first, such number of equity securities sought to be registered by each Other Demanding Seller and the Piggyback Sellers, pro rata in proportion to the number of securities sought to be registered by all such Other Demanding Sellers and Piggyback Sellers, and (B) second, other equity securities proposed to be sold by any Other Proposed Sellers or to be sold by the Company as determined by the Company.

(c) In connection with any Underwritten Offering under this Section 3.2 for the Company’s account, the Company shall not be required to include the Registrable Securities of a Shareholder in the Underwritten Offering unless such Shareholder accepts the terms of the underwriting as agreed upon between the Company and the underwriters selected by the Company.

(d) If, at any time after giving written notice of its intention to register any of its equity securities as set forth in this Section 3.2 and prior to the time the registration statement filed in connection with such Piggyback Registration is declared effective, the Company shall determine for any reason not to register such equity securities, the Company may, at its election, give written notice of such determination to each Piggyback Shareholder within five days thereof and thereupon shall be relieved of its obligation to register any Registrable Securities in connection with such particular withdrawn or abandoned Piggyback Registration (but not from its obligation to pay the Registration Expenses in connection therewith as provided herein); provided, that Demand Shareholders may continue the registration as a Demand Registration pursuant to the terms of Section 3.1.

SECTION 3.3 SHELF REGISTRATION.

(a) Subject to Section 3.3(d), any of the Demand Shareholders may by written notice delivered to the Company (the "Shelf Notice") require the Company to (i) file as soon as practicable (but no later than 60 days after the date the Shelf Notice is delivered), and to use reasonable best efforts to cause to be declared effective by the SEC within 90 days after such filing date, a registration statement on Form S-1, Form S-3 or any other appropriate form or (ii) use an existing Form S-3 filed with the SEC, in each case, providing for an offering to be made on a continuous basis pursuant to Rule 415 under the Securities Act relating to the offer and sale, from time to time, of the Registrable Securities owned by such Demand Shareholders, as the case may be, and any other Shareholders that at the time of the Shelf Notice meet the definition of a Demand Shareholder who elect to participate therein as provided in Section 3.3(b) in accordance with the plan and method of distribution set forth in the prospectus included in such Form S-1, Form S-3 or other appropriate form (the "Shelf Registration Statement").

(b) Within five business days after receipt of a Shelf Notice pursuant to Section 3.3(a), the Company will deliver written notice thereof to each Piggyback Shareholder. Each Piggyback Shareholder may elect to participate in the Shelf Registration Statement by delivering to the Company a written request to so participate within ten days after the Shelf Notice is received by any such Piggyback Shareholder.

(c) Subject to Section 3.3(d), the Company will use reasonable best efforts to keep the Shelf Registration Statement continuously effective until the earlier of (i) three years after the Shelf Registration Statement has

been declared effective; and (ii) the date on which all Registrable Securities covered by the Shelf Registration Statement have been sold thereunder in accordance with the plan and method of distribution disclosed in the prospectus included in the Shelf Registration Statement, or otherwise (the “Shelf Registration Effectiveness Period”).

(d) Notwithstanding anything to the contrary contained in this Agreement, the Company shall be entitled, from time to time, by providing written notice to the Demand Shareholders who elected to participate in the Shelf Registration Statement, to require such Demand Shareholders to suspend the use of the prospectus for sales of Registrable Securities under the Shelf Registration Statement for a reasonable period of time not to exceed 60 days in succession or 90 days in the aggregate in any 12-month period (a “Suspension Period”) if the Board shall determine in good faith and in its reasonable judgment that it is required to disclose in the Shelf Registration Statement a financing, acquisition, corporate reorganization or other similar transaction or other material event or circumstance affecting the Company or its securities, and that the disclosure of such information at such time would be detrimental to the Company or the holders of its equity interests. Immediately upon receipt of such notice, the Demand Shareholders covered by the Shelf Registration Statement shall suspend the use of the prospectus until the requisite changes to the prospectus have been made as required below. Any Suspension Period shall terminate at such time as the public disclosure of such information is made. After the expiration of any Suspension Period and without any further request from a Shareholder, the Company shall as promptly as reasonably practicable prepare a post-effective amendment or supplement to the Shelf Registration Statement or the prospectus, or any document incorporated therein by reference, or file any other required document so that, as thereafter delivered to purchasers of the Registrable Securities included therein, the prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(e) At any time and from time-to-time during the Shelf Registration Effectiveness Period (except during a Suspension Period), any of the Demand Shareholders may notify the Company of their intent to sell Registrable Securities covered by the Shelf Registration Statement (in whole or in part) in an Underwritten Offering (a “Shelf Underwritten Offering”). Such notice shall specify (i) the aggregate amount of Registrable Securities requested to be registered in such Shelf Underwritten Offering and (ii) the identity of such Demand Shareholder(s).

Upon receipt by the Company of such notice, the Company shall promptly comply with the applicable provisions of this Agreement, including those provisions of Section 3.6 relating to the Company's obligation to make filings with the SEC, assist in the preparation and filing with the SEC of prospectus supplements and amendments to the Shelf Registration Statement, participate in "road shows," agree to customary "lock-up" agreements with respect to the Company's securities and obtain "comfort" letters, and the Company shall take such other actions as necessary or appropriate to permit the consummation of such Shelf Underwritten Offering as promptly as practicable. Each Shelf Underwritten Offering shall be for the sale of a number of Registrable Securities equal to or greater than the Registrable Amount in the aggregate for all Demand Shareholders. In any Shelf Underwritten Offering, the Demand Shareholders that hold a majority of the Registrable Securities included in such Shelf Underwritten Offering shall select the investment banker or investment bankers and managers (which shall be reasonably acceptable to the Company) that will serve as lead and co-managing underwriters with respect to the offering of such Registrable Securities.

(f) Each Initial Shareholder shall be entitled to demand such number of Shelf Registrations as shall be necessary to sell all of his Registrable Securities pursuant to this Section 3.3.

SECTION 3.4 WITHDRAWAL RIGHTS.

Any Shareholder having notified or directed the Company to include any or all of its Registrable Securities in a registration statement under the Securities Act shall, except in connection with a Block Trade Offering, have the right to withdraw any such notice or direction with respect to any or all of the Registrable Securities designated by it for registration by giving written notice to such effect to the Company prior to the effective date of such registration statement. In the event of any such withdrawal, the Company shall not include such Registrable Securities in the applicable registration and such Registrable Securities shall continue to be Registrable Securities for all purposes of this Agreement. No such withdrawal shall affect the obligations of the Company with respect to the Registrable Securities not so withdrawn; provided, however, that in the case of a Demand Registration, if such withdrawal shall reduce the number of Registrable Securities sought to be included in such registration below the Registrable Amount, then the Company shall as promptly as practicable give each Shareholder seeking to register Registrable Securities notice to such effect and, within ten days following the mailing of such notice, such Shareholders still seeking registration shall, by written notice to the

Company, elect to register additional Registrable Securities, when taken together with elections to register Registrable Securities by each such other Shareholder seeking to register Registrable Securities, to satisfy the Registrable Amount or elect that such registration statement not be filed or, if theretofore filed, be withdrawn. During such ten day period, the Company shall not file such registration statement if not theretofore filed or, if such registration statement has been theretofore filed, the Company shall not seek, and shall use commercially reasonable efforts to prevent, the effectiveness thereof. Any registration statement withdrawn or not filed (a) in accordance with an election by the Company, (b) in accordance with an election by the Requesting Shareholders in the case of a Demand Registration or by the requesting Demand Shareholders with respect to a Shelf Registration Statement or (c) in accordance with an election by the Company subsequent to the effectiveness of the applicable Demand Registration statement because any post-effective amendment or supplement to the applicable Demand Registration statement contains information regarding the Company which the Company deems adverse to the Company, shall not be counted as a Demand. If a Shareholder withdraws its notification or direction to the Company to include Registrable Securities in a registration statement in accordance with this Section 3.4, such Shareholder shall be required to promptly reimburse the Company for all expenses incurred by the Company in connection with preparing for the registration of such Registrable Securities.

SECTION 3.5 HOLDBACK AGREEMENTS.

Each Piggyback Shareholder agrees not to effect any public sale or distribution (including sales pursuant to Rule 144) of equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such equity securities, during any time period reasonably requested by the Company (which shall not exceed 90 days) with respect to any Demand Registration, Piggyback Registration or Underwritten Offering (in each case, except as part of such registration), or, in each case, during any time period (which shall not exceed 180 days) required by any underwriting agreement with respect thereto.

SECTION 3.6 REGISTRATION PROCEDURES.

(a) If and whenever the Company is required to use reasonable best efforts to effect the registration of any Registrable Securities under the Securities Act as provided in Sections 3.1, 3.2 and 3.3, the Company shall as expeditiously as reasonably possible:

(i) prepare and file with the SEC a registration statement to effect such registration and thereafter use reasonable best efforts to cause such registration statement to become and remain effective pursuant to the terms of this Agreement; provided, however, that the Company may discontinue any registration of its securities which are not Registrable Securities at any time prior to the effective date of the registration statement relating thereto; provided, further that before filing such registration statement or any amendments thereto, the Company will furnish upon request to the counsel selected by the Shareholders which are including Registrable Securities in such registration (“Selling Shareholders”) copies of all such documents proposed to be filed, which documents will be subject to the review of such counsel, and such review to be conducted with reasonable promptness;

(ii) prepare and file with the SEC such amendments (including post effective amendments), supplements (including prospectus supplements on a quarterly basis to update financial statements) and “stickers” to such registration statement and the prospectus used in connection therewith and any Exchange Act reports incorporated by reference therein as may be necessary to keep such registration statement effective and to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement until the earlier of such time as all of such securities have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof set forth in such registration statement or (i) in the case of a Demand Registration pursuant to Section 3.1, the expiration of 90 days after such registration statement becomes effective or (ii) in the case of a Piggyback Registration pursuant to Section 3.2, the expiration of 90 days after such registration statement becomes effective or (iii) in the case of a shelf registration pursuant to Section 3.3, the Shelf Registration Effectiveness Period;

(iii) furnish to each Selling Shareholder and each underwriter, if any, of the securities being sold by such Selling Shareholder such number of conformed copies of such registration statement and of each amendment and supplement thereto (in each

case including all exhibits or documents incorporated by reference therein), such number of copies of the prospectus contained in such registration statement (including each preliminary prospectus and any summary prospectus) and each free writing prospectus (as defined in Rule 405 of the Securities Act) (a "Free Writing Prospectus") utilized in connection therewith and any other prospectus filed under Rule 424 under the Securities Act, in conformity with the requirements of the Securities Act, and such other documents as such Selling Shareholder and underwriter, if any, may reasonably request in order to facilitate the public sale or other disposition of the Registrable Securities owned by such Selling Shareholder;

(iv) use reasonable best efforts to register or qualify such Registrable Securities covered by such registration statement under such other securities laws or blue sky laws of such jurisdictions as any Selling Shareholder and any underwriter of the securities being sold by such Selling Shareholder shall reasonably request, and take any other action which may be reasonably necessary or advisable to enable such Selling Shareholder and underwriter to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Selling Shareholder, except that the Company shall not for any such purpose be required to (A) qualify generally to do business as a foreign corporation in any jurisdiction wherein it would not but for the requirements of this clause (iv) be obligated to be so qualified, (B) subject itself to taxation in any such jurisdiction or (C) file a general consent to service of process in any such jurisdiction;

(v) use reasonable best efforts to cause such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Company are then listed and, if no such securities are so listed, use commercially reasonable efforts to cause such Registrable Securities to be listed on the New York Stock Exchange, the NASDAQ Stock Market or any other nationally recognized securities exchange;

(vi) use reasonable best efforts to cause such Registrable Securities covered by such registration statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the Selling Shareholder(s) thereof to consummate the disposition of such Registrable Securities;

(vii) in connection with an Underwritten Offering, obtain for each Selling Shareholder and underwriter:

(A) an opinion of counsel for the Company, covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such Selling Shareholder and underwriters, and

(B) a “comfort” letter (or, in the case of any such Person which does not satisfy the conditions for receipt of a “comfort” letter specified in AU Section 634 of the AICPA Professional Standards, an “agreed upon procedures” letter) signed by the independent public accountants who have certified the Company’s financial statements included in such registration statement (and, if necessary, any other independent public accountants of any Subsidiary of or business acquired by the Company for which financial statements and financial data are, or are required to be, included in the registration statement);

(viii) promptly make available for inspection by any Selling Shareholder, any underwriter participating in any disposition pursuant to any registration statement, and any attorney, accountant or other agent or representative retained by any such Selling Shareholder or underwriter (collectively, the “Inspectors”), all financial and other records, pertinent corporate documents and properties of the Company (collectively, the “Records”), as shall be reasonably necessary to enable them to exercise their due diligence responsibility, and cause the Company’s officers, directors and employees to supply all information requested by any such Inspector in connection with such registration statement; provided, however, that, unless the disclosure of such Records is necessary to avoid or correct a misstatement or omission in the registration statement or the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, the Company shall not be required to provide any information under this subparagraph (viii)

if (i) the Company believes, after consultation with counsel for the Company, that to do so would cause the Company to forfeit an attorney-client privilege that was applicable to such information or (ii) if either (A) the Company has requested and been granted from the SEC confidential treatment of such information contained in any filing with the SEC or documents provided supplementally or otherwise or (B) the Company reasonably determines in good faith that such Records are confidential and so notifies the Inspectors in writing unless prior to furnishing any such information with respect to (i) or (ii) such Selling Shareholder requesting such information agrees, and causes each of its Inspectors, to enter into a confidentiality agreement on terms reasonably acceptable to the Company; and provided, further, that each Selling Shareholder agrees that it will, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Company and allow the Company, at its expense, to undertake appropriate action and to prevent disclosure of the Records deemed confidential;

(ix) promptly notify in writing each Selling Shareholder and the underwriters, if any, of the following events:

(A) the filing of the registration statement, the prospectus or any prospectus supplement related thereto or post-effective amendment to the registration statement or any Issuer Free Writing Prospectus utilized in connection therewith, and, with respect to the registration statement or any post-effective amendment thereto, when the same has become effective;

(B) any request by the SEC or any other Governmental Entity for amendments or supplements to the registration statement or the prospectus or for additional information;

(C) the issuance by the SEC or any other Governmental Entity of any stop order suspending the effectiveness of the registration statement or the initiation of any proceedings by any Person for that purpose;

(D) the receipt by the Company of any notification with respect to the suspension of the qualification of

any Registrable Securities for sale under the securities or blue sky laws of any jurisdiction or the initiation or threat of any proceeding for such purpose; and

(E) when any Issuer Free Writing Prospectus includes information that may conflict with the information contained in the registration statement;

(x) notify each Selling Shareholder, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, upon discovery that, or upon the happening of any event as a result of which, the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and, at the request of any Selling Shareholder, promptly prepare and furnish to such seller a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;

(xi) use reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of such registration statement;

(xii) otherwise use reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make available to Selling Shareholders, as soon as reasonably practicable, an earnings statement of the Company covering the period of at least 12 months, but not more than 18 months, beginning with the first day of the Company's first full quarter after the effective date of such registration statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xiii) use its reasonable best efforts to assist Selling Shareholders who made a request to the Company to provide for a third party “market maker” for the Common Shares; provided, however, that the Company shall not be required to serve as such “market maker”;

(xiv) cooperate with the Selling Shareholders and the managing underwriter to facilitate the timely preparation and delivery of certificates (which shall not bear any restrictive legends unless required under applicable law), if necessary or appropriate, representing securities sold under any registration statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter or such Selling Shareholders may request and keep available and make available to the Company’s transfer agent prior to the effectiveness of such registration statement a supply of such certificates as necessary or appropriate;

(xv) have appropriate officers of the Company prepare and make presentations at any “road shows” and before analysts and rating agencies, as the case may be, and other information meetings organized by the underwriters, take other actions to obtain ratings for any Registrable Securities (if they are eligible to be rated) and otherwise use its reasonable best efforts to cooperate as reasonably requested by the Selling Shareholders and the underwriters in the offering, marketing or selling of the Registrable Securities;

(xvi) have appropriate officers of the Company, and cause representatives of the Company’s independent public accountants, to participate in any due diligence discussions reasonably requested by any Selling Shareholder or any underwriter;

(xvii) if requested by any underwriter, agree, and cause the Company and any directors or officers of the Company to agree, to be bound by customary “lock-up” agreements restricting the ability to dispose of the Company’s securities;

(xviii) if requested by any Selling Shareholders or any underwriter, promptly incorporate in the registration statement

or any prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as such Selling Shareholders may reasonably request to have included therein, including information relating to the “Plan of Distribution” of the Registrable Securities;

(xix) cooperate and assist in any filings required to be made with FINRA and in the performance of any due diligence investigation by any underwriter that is required to be undertaken in accordance with the rules and regulations of FINRA;

(xx) otherwise use reasonable best efforts to cooperate as reasonably requested by the Selling Shareholders and the underwriters in the offering, marketing or selling of the Registrable Securities;

(xxi) otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the SEC and all reporting requirements under the rules and regulations of the Exchange Act; and

(xxii) use reasonable best efforts to take any action requested by the Selling Shareholders, including any action described in clauses (i) through (xxi) above to prepare for and facilitate any “over-night deal” or other proposed sale of Registrable Securities over a limited timeframe.

The Company may require each Selling Shareholder and each underwriter, if any, to furnish the Company in writing such information regarding each Selling Shareholder or underwriter and the distribution of such Registrable Securities as the Company may from time to time reasonably request to complete or amend the information required by such registration statement.

(b) Underwriting. Without limiting any of the foregoing, in the event that the offering of Registrable Securities is to be made by or through an underwriter, the Company, if requested by the underwriter, shall enter into an underwriting agreement with a managing underwriter or underwriters in connection with such offering containing representations, warranties, indemnities and

agreements customarily included (but not inconsistent with the covenants and agreements of the Company contained herein) by an issuer of common stock in underwriting agreements with respect to offerings of common stock for the account of, or on behalf of, such issuers.

(c) Each Selling Shareholder agrees that upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3.6(a)(ix), such Selling Shareholder shall forthwith discontinue such Selling Shareholder's disposition of Registrable Securities pursuant to the applicable registration statement and prospectus relating thereto until such Selling Shareholder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3.6(a)(ix) and, if so directed by the Company, deliver to the Company, at the Company's expense, all copies, other than permanent file copies, then in such Selling Shareholder's possession of the prospectus current at the time of receipt of such notice relating to such Registrable Securities. In the event the Company shall give such notice, any applicable period during which such registration statement must remain effective pursuant to this Agreement shall be extended by the number of days during the period from the date of giving of a notice regarding the happening of an event of the kind described in Section 3.6(a)(ix) to the date when all such Selling Shareholders shall receive such a supplemented or amended prospectus and such prospectus shall have been filed with the SEC.

SECTION 3.7 REGISTRATION EXPENSES.

All expenses incident to the Company's performance of, or compliance with, its obligations under this Agreement including all registration and filing fees, all fees and expenses of compliance with securities and "blue sky" laws, all fees and expenses associated with filings required to be made with FINRA (including, if applicable, the fees and expenses of any "qualified independent underwriter" as such term is defined in FINRA Rule 5121(f)(12)), all fees and expenses of compliance with securities and "blue sky" laws, all printing (including, without limitation, expenses of printing certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing prospectuses and Issuer Free Writing Prospectuses if the printing of such prospectuses is requested by a holder of Registrable Securities) and copying expenses, all messenger and delivery expenses, all fees and expenses of the Company's independent certified public accountants (including, without limitation, with respect to "comfort" letters) and counsel (including, without limitation, with respect to opinions) and fees and expenses of one firm of counsel to the Shareholders

selling in such registration (which firm shall be selected by the Shareholders selling in such registration that hold a majority of the Registrable Securities included in such registration) (collectively, the "Registration Expenses") shall be borne by the Company, regardless of whether a registration is effected. The Company will pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties, the expense of any annual audit and the expense of any liability insurance) and the expenses and fees for listing the securities to be registered on each securities exchange and included in each established over-the-counter market on which similar securities issued by the Company are then listed or traded. Each Selling Shareholder shall pay its portion of all underwriting discounts and commissions and transfer taxes, if any, relating to the sale of such Selling Shareholder's Registrable Securities pursuant to any registration.

SECTION 3.8 REGISTRATION INDEMNIFICATION.

(a) By the Company. The Company agrees to indemnify and hold harmless, to the fullest extent permitted by law, each Selling Shareholder and its Affiliates and their respective officers, directors, employees, managers, partners and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) such Selling Shareholder or such other indemnified Person from and against all losses, claims, damages, liabilities and expenses (including reasonable expenses of investigation and reasonable attorneys' fees and expenses) (collectively, "Losses") caused by, resulting from or relating to any untrue statement (or alleged untrue statement) of a material fact contained in any registration statement, prospectus or preliminary prospectus or any Issuer Free Writing Prospectus or any amendment or supplement thereto or any omission (or alleged omission) of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except insofar as the same are caused by any information furnished in writing to the Company by such Selling Shareholder expressly for use therein. In connection with an Underwritten Offering and without limiting any of the Company's other obligations under this Agreement, the Company shall also indemnify such underwriters, their officers, directors, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) such underwriters or such other indemnified Person to the same extent as provided above with respect to the indemnification (and exceptions thereto) of Selling Shareholders. Reimbursements payable pursuant to the indemnification contemplated by this Section 3.8(a) will be made by periodic payments during the course of any investigation or defense, as and when bills are received or expenses incurred.

(b) By the Selling Shareholders. In connection with any registration statement in which a Shareholder is participating, each such Selling Shareholder will furnish to the Company in writing information regarding such Selling Shareholder's ownership of Registrable Securities and its intended method of distribution thereof and, to the extent permitted by law, shall, severally and not jointly, indemnify the Company, its Affiliates and their respective directors, officers, employees and agents and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) the Company or such other indemnified Person against all Losses caused by any untrue statement of material fact contained in the registration statement, prospectus or preliminary prospectus or any Issuer Free Writing Prospectus or any amendment or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, but only to the extent that such untrue statement or omission is caused by and contained in such information so furnished in writing by such Selling Shareholder expressly for use therein; provided, however, that each Selling Shareholder's obligation to indemnify the Company hereunder shall, to the extent more than one Selling Shareholder is subject to the same indemnification obligation, be apportioned between each Selling Shareholder based upon the net amount received by each Selling Shareholder from the sale of Registrable Securities, as compared to the total net amount received by all of the Selling Shareholders of Registrable Securities sold pursuant to such registration statement. Notwithstanding the foregoing, no Selling Shareholder shall be liable to the Company for amounts in excess of the lesser of (i) such apportionment and (ii) the amount received by such holder in the offering giving rise to such liability.

(c) Notice. Any Person entitled to indemnification hereunder shall give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification; provided, however, the failure to give such notice shall not release the indemnifying party from its obligation, except to the extent that the indemnifying party has been materially prejudiced by such failure to provide such notice on a timely basis.

(d) Defense of Actions. In any case in which any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate

therein, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not (so long as it shall continue to have the right to defend, contest, litigate and settle the matter in question in accordance with this paragraph) be liable to such indemnified party hereunder for any legal or other expense subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, supervision and monitoring (unless (i) such indemnified party reasonably objects to such assumption on the grounds that there may be defenses available to it which are different from or in addition to the defenses available to such indemnifying party or (ii) the indemnifying party shall have failed within a reasonable period of time to assume such defense and the indemnified party is or is reasonably likely to be prejudiced by such delay, in either event the indemnified party shall be promptly reimbursed by the indemnifying party for the expenses incurred in connection with retaining separate legal counsel). An indemnifying party shall not be liable for any settlement of an action or claim effected without its consent (such consent not to be unreasonably withheld). The indemnifying party shall lose its right to defend, contest, litigate and settle a matter if it shall fail to diligently contest such matter (except to the extent settled in accordance with the next following sentence). No matter shall be settled by an indemnifying party without the consent of the indemnified party (which consent shall not be unreasonably withheld, it being understood that the indemnified party shall not be deemed to be unreasonable in withholding its consent if the proposed settlement imposes any obligation on the indemnified party).

(e) Survival. The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified Person and will survive the transfer of the Registrable Securities and the termination of this Agreement.

(f) Contribution. If recovery is not available under the foregoing indemnification provisions for any reason or reasons other than as specified therein, any Person who would otherwise be entitled to indemnification by the terms thereof shall nevertheless be entitled to contribution with respect to any Losses with respect to which such Person would be entitled to such indemnification but for such reason or reasons. In determining the amount of contribution to which the respective Persons are entitled, there shall be considered the Persons' relative

knowledge and access to information concerning the matter with respect to which the claim was asserted, the opportunity to correct and prevent any statement or omission, and other equitable considerations appropriate under the circumstances. It is hereby agreed that it would not necessarily be equitable if the amount of such contribution were determined by pro rata or per capita allocation. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not found guilty of such fraudulent misrepresentation. Notwithstanding the foregoing, no Selling Shareholder or transferee thereof shall be required to make a contribution in excess of the net amount received by such holder from its sale of Registrable Securities in connection with the offering that gave rise to the contribution obligation.

(g) Request for Information. Not less than ten days before the expected filing date of each registration statement pursuant to this Agreement, the Company shall notify each Shareholder who has timely provided the requisite notice hereunder entitling the Shareholder to register Registrable Securities in such registration statement of the information, documents and instruments from such Shareholder that the Company or any underwriter reasonably requests in connection with such registration statement, including, but not limited to a questionnaire, custody agreement, power of attorney, lock-up letter and underwriting agreement (the "Requested Information"). If the Company has not received, on or before the second day before the expected filing date, the Requested Information from such Shareholder, the Company may file the registration statement without including Registrable Securities of such Shareholder. The failure to so include in any registration statement the Registrable Securities of a Shareholder (with regard to that registration statement) shall not in and of itself result in any liability on the part of the Company to such Shareholder.

(h) No Grant of Future Registration Rights. The Company shall not grant any shelf, demand, piggyback or incidental registration rights that are senior to the rights granted to the Shareholders hereunder to any other Person without the prior written consent of Piggyback Shareholders holding a majority of the Registrable Securities held by all Piggyback Shareholders.

ARTICLE IV

MISCELLANEOUS

SECTION 4.1 NOTICES. All notices, requests, consents and other communications hereunder to any party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by facsimile or other electronic transmission (provided a copy is thereafter promptly delivered as provided in this Section 4.1) or nationally recognized overnight courier, addressed to such party at the address or facsimile number set forth below or such other address, email address or facsimile number as may hereafter be designated in writing by such party to the other parties:

(a) if to the Company, to:

Fortress Transportation and Infrastructure Investors LLC
1345 Avenue of the Americas
New York, NY 10105
(T) (212) 798-6100
(F) (917) 591-8312
Attention: General Counsel

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
(T) (212) 735-3000
(F) (212) 735-2000
Attention: Joseph A. Coco, Esq.

(b) if to any of the Shareholders, to:

the address and facsimile number set forth in the records of the Company

Any requirement to provide notice to Shareholders under this Agreement shall exclude any Shareholders that have not executed a joinder to this Agreement.

SECTION 4.2 HEADINGS. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 4.3 SEVERABILITY. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person or entity or any circumstance, is found to be invalid or unenforceable in any jurisdiction, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

SECTION 4.4 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall, taken together, be considered one and the same agreement, it being understood that all parties need not sign the same counterpart.

SECTION 4.5 ADJUSTMENTS UPON CHANGE OF CAPITALIZATION. In the event of any change in the outstanding Common Shares by reason of dividends, splits, reverse splits, spin-offs, split-ups, recapitalizations, combinations, exchanges of shares and the like, the term "Common Shares" shall refer to and include the securities received or resulting therefrom, but only to the extent such securities are received in exchange for or in respect of Common Shares.

SECTION 4.6 ENTIRE AGREEMENT. This Agreement (a) constitutes the entire agreement and supersedes all other prior agreements, both written and oral, among the parties with respect to the subject matter hereof.

SECTION 4.7 FURTHER ASSURANCES. Each party shall execute, deliver, acknowledge and file such other documents and take such further actions as may be reasonably requested from time to time by the other party hereto to give effect to and carry out the transactions contemplated herein.

SECTION 4.8 GOVERNING LAW; EQUITABLE REMEDIES. **THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES THEREOF).** The parties hereto agree that irreparable damage would occur in the

event that any of the provisions of this Agreement were not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the parties hereto shall be entitled to an injunction or injunctions and other equitable remedies to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any of the Selected Courts (as defined below), this being in addition to any other remedy to which they are entitled at law or in equity. Any requirements for the securing or posting of any bond with respect to such remedy are hereby waived by each of the parties hereto. Each party further agrees that, in the event of any action for an injunction or other equitable remedy in respect of such breach or enforcement of specific performance, it will not assert the defense that a remedy at law would be adequate.

SECTION 4.9 CONSENT TO JURISDICTION. With respect to any suit, action or proceeding (“Proceeding”) arising out of or relating to this Agreement or any transaction contemplated hereby each of the parties hereto hereby irrevocably (i) submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York or the Court of Chancery located in the State of Delaware, County of Newcastle (the “Selected Courts”) and waives any objection to venue being laid in the Selected Courts whether based on the grounds of forum non conveniens or otherwise and hereby agrees not to commence any such Proceeding other than before one of the Selected Courts; provided, however, that a party may commence any Proceeding in a court other than a Selected Court solely for the purpose of enforcing an order or judgment issued by one of the Selected Courts; (ii) consents to service of process in any Proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, or by recognized international express carrier or delivery service, to the Company or the Initial Shareholders at their respective addresses referred to in Section 4.1 hereof; provided, however, that nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law; and (iii) **TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, AND AGREES THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN**

EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY IN ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

SECTION 4.10 AMENDMENTS; WAIVERS.

(a) No provision of this Agreement may be amended or waived unless such amendment or waiver is in writing and signed, in the case of an amendment, by the parties hereto, or in the case of a waiver, by the party against whom the waiver is to be effective.

(b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 4.11 ASSIGNMENT. Neither this Agreement nor any of the rights or obligations hereunder shall be assigned or transferred by any of the parties hereto without the prior written consent of the other parties hereto, except that each of the Initial Shareholders may assign or transfer without such consent to its Permitted Transferees (provided, that any such Permitted Transferee is a Shareholder hereunder or, in connection with any such assignment or transfer, such Permitted Transferee executes a joinder to this Agreement, in form and substance reasonably acceptable to the Company, pursuant to which such Permitted Transferee agrees to be a "Shareholder" for all purposes of this Agreement) or to any other Shareholder (including any Affiliate Shareholder). Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective executors, estates, heirs, successors and assigns. For the avoidance of doubt, the Affiliate Shareholders shall be deemed to be Shareholders without any further action.

SECTION 4.12 THIRD PARTY BENEFICIARY. Each of the Affiliate Shareholders shall be a third party beneficiary to the agreements made

hereunder between the Company and the Initial Shareholders and shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights hereunder.

(Remainder of page intentionally left blank)

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

COMPANY:

FORTRESS TRANSPORTATION AND INFRASTRUCTURE
INVESTORS LLC

By: /s/ Cameron D. MacDougall

Name: Cameron D. MacDougall

Title: Secretary

INITIAL SHAREHOLDERS:

FIG LLC

By: /s/ David N. Brooks

Name: David N. Brooks

Title: Secretary

FORTRESS TRANSPORTATION AND INFRASTRUCTURE
MASTER GP LLC

By: /s/ Demetrios Tserpelis

Name: Demetrios Tserpelis

Title: Authorized Signatory

**FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC
NONQUALIFIED STOCK OPTION AND
INCENTIVE AWARD PLAN**

Adopted as of May 11, 2015

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**FORTRESS TRANSPORTATION AND INFRASTRUCTURE INVESTORS LLC
NONQUALIFIED STOCK OPTION AND INCENTIVE AWARD PLAN**

SECTION 1

PURPOSE OF PLAN; DEFINITIONS

1.1 Purpose. The purpose of the Plan is (a) to reinforce the long-term commitment to the Company's success of those Non-Officer Directors, officers, directors, employees, advisors, service providers, consultants and other personnel who are or will be responsible for such success; to facilitate the ownership of the Company's stock by such individuals, thereby reinforcing the identity of their interests with those of the Company's stockholders; to assist the Company in attracting and retaining individuals with experience and ability, (b) to compensate the Manager for its successful efforts in raising capital for the Company and to provide performance-based compensation in order to provide incentive to the Manager to enhance the value of the Company's Stock and (c) to benefit the Company's stockholders by encouraging high levels of performance by individuals whose performance is a key element in achieving the Company's continued success.

1.2 Definitions. For purposes of the Plan, the following terms shall be defined as set forth below:

(a) "Award" or "Awards" means an award described in Section 5 hereof.

(b) "Award Agreement" means an agreement described in Section 6 hereof entered into between the Company and a Participant, setting forth the terms, conditions and any limitations applicable to the Award granted to the Participant.

(c) "Beneficial Owner" shall have the meaning set forth in Rule 13d-3 under the Exchange Act.

(d) "Board" means the Board of Directors of the Company.

(e) "Change in Control" of the Company shall be deemed to have occurred if an event set forth in any one of the following paragraphs (i)-(iii) shall have occurred unless prior to the occurrence of such event, the Board determines that such event shall not constitute a Change in Control:

- (i) any Person is or becomes a Beneficial Owner, directly or indirectly, of securities of the Company representing thirty percent (30%) or more of the combined voting power of the then outstanding securities of the Company, excluding (A) any Person who becomes such a Beneficial Owner in connection with a transaction described in clause (x) of paragraph (ii) below, and (B) any Person who becomes such a Beneficial Owner through the issuance of such securities with respect to purchases made directly from the Company; or

- (ii) there is consummated a merger or consolidation of the Company or any direct or indirect subsidiary of the Company with any other corporation, other than (x) a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) fifty percent (50%) or more of the combined voting power of the securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (y) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing thirty percent (30%) or more of the combined voting power of the then outstanding securities of the Company; or
- (iii) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or there is consummated an agreement for the sale or disposition by the Company of all or substantially all of the assets of the Company.

For each Award that constitutes deferred compensation under Section 409A of the Code, to the extent required to avoid additional tax or other penalty, a Change in Control shall be deemed to have occurred under the Plan with respect to such Award only if a change in the ownership or effective control of the Company or a change in ownership of a substantial portion of the assets of the Company shall also be deemed to have occurred under Section 409A of the Code.

(f) "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute thereto.

(g) "Commission" means Securities and Exchange Commission.

(h) "Committee" means any committee the Board may appoint to administer the Plan. To the extent necessary and desirable, the Committee shall be composed entirely of individuals who meet the qualifications referred to in Rule 16b-3 under the Exchange Act. If at any time or to any extent the Board shall not administer the Plan, then the functions of the Board specified in the Plan shall be exercised by the Committee.

(i) “Company” means Fortress Transportation and Infrastructure Investors LLC, a Delaware limited liability company.

(j) “Disability” means, with respect to any Participant, that such Participant (i) as determined by the Participant’s employer or service recipient (such determination to be approved by the Committee) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, or (ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering such Participant.

(k) “Effective Date” means the date provided pursuant to Section 11.

(l) “Equity Security Factor” means a number of shares of Stock (rounded down to the nearest whole share) equal to (i) the gross capital raised in an equity issuance of equity securities other than shares of Stock during the term of the Plan (as determined by the Committee), divided by (ii) the Fair Market Value of a share of Stock as of the date of such equity issuance.

(m) “Exchange Act” means the Securities Exchange Act of 1934, as amended.

(n) “Fair Market Value” means, as of any given date, (i) the closing price of a share of the Company’s Stock on the principal exchange on which shares of the Company’s Stock are then trading, if any, on the trading day previous to such date, or, if stock was not traded on the trading day previous to such date, then on the next preceding trading day during which a sale occurred; or (ii) if such Stock is not traded on an exchange but is quoted on NASDAQ or a successor quotation system, (x) the last sales price (if the Stock is then listed as a National Market Issue under the NASDAQ National Market System) or (y) the mean between the closing representative bid and asked prices (in all other cases) for the Stock on the trading day previous to such date as reported by NASDAQ or such successor quotation system; or (iii) if such Stock is not publicly traded on an exchange and not quoted on NASDAQ or a successor quotation system, the mean between the closing bid and asked prices for the Stock, on the day previous to such date, as determined in good faith by the Committee; or (iv) if the Stock is not publicly traded, the fair market value established by the Committee using any reasonable method and acting in good faith.

(o) “Manager” means FIG LLC, a Delaware limited liability company, or any Person who shall succeed as manager as permitted by that certain Management and Advisory Agreement, dated on or about May 19, 2015 by and among the Company and FIG LLC as amended from time to time.

(p) “Manager Awards” means the Awards granted to the Manager as described in Section 5.5 hereof.

(q) “Non-Officer Director” means a director of the Company who is not an officer or employee of the Company.

(r) “Non-Officer Director Stock Option” shall have the meaning set forth in Section 5.6(a).

(s) “Participant” means any Person selected by the Committee, pursuant to the Committee’s authority in Section 2 below, to receive Awards, including but not limited to (i) any Non-Officer Director, (ii) the Manager and its affiliates and (iii) any director, officer or employee of the Company, any parent, affiliate or subsidiary of the Company, or the Manager or any of its affiliates and (iv) any consultant, service provider or advisor to the Company, any parent, affiliate or subsidiary of the Company, or the Manager or any of its affiliates.

(t) “Person” shall have the meaning set forth in Section 3(a)(9) of the Exchange Act, as modified and used in Sections 13(d) and 14(d) thereof.

(u) “Plan” means this Fortress Transportation and Infrastructure Investors LLC Nonqualified Stock Option and Incentive Award Plan.

(v) “Restricted Stock” means Stock as described in Section 5.3 hereof.

(w) “Securities Act” shall have the meaning set forth in Section 5.5(h).

(x) “Stock” means the common stock, par value \$0.01 per share, of the Company.

(y) “Stock Appreciation Right” shall have the meaning set forth in Section 5.2 hereof.

(z) “Stock Option” means any option to purchase shares of Stock granted pursuant to the Plan. The Stock Options granted hereunder are not intended to qualify as “incentive stock options” within the meaning of Section 422 of the Code.

(aa) “Tandem Awards” shall have the meaning set forth in Section 5.5 herein.

SECTION 2

ADMINISTRATION

2.1 Administration. The Plan shall, to the extent applicable, be administered in accordance with the requirements of Rule 16b-3 under the Exchange Act (“Rule 16b-3”), by the Board or, at the Board’s sole discretion, by the Committee, which shall be appointed by the Board, and which shall serve at the pleasure of the Board. The Plan is intended to be exempt from, or to comply with, and shall be administered in a manner that is intended to be exempt from, or comply with, Section 409A of the Code and shall be construed and interpreted in accordance with such intent, to the extent subject thereto. To the extent that an Award and/or

issuance and/or payment of an Award is subject to Section 409A of the Code, it shall be awarded and/or issued or paid in a manner that will comply with Section 409A of the Code, including any applicable regulations or guidance issued by the Secretary of the United States Treasury Department and the Internal Revenue Service with respect thereto.

2.2 Duties and Powers of Committee. The Committee shall have the power and authority to grant Awards to Participants pursuant to the terms of the Plan, and, in its discretion, to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable; to interpret the terms and provisions of the Plan and any Award issued under the Plan (and any agreements relating thereto); and to otherwise supervise the administration of the Plan. All decisions made by the Committee pursuant to the provisions of the Plan shall be final, conclusive and binding on all Persons.

In particular, the Committee shall have the authority to determine, in a manner consistent with the terms of the Plan:

- (a) in addition to the Manager and the Non-Officer Directors, those Participants who shall receive Awards under the Plan;
- (b) subject to Section 3, the number of shares of Stock to be covered by each Stock Option granted hereunder;
- (c) the terms and conditions of any Award granted hereunder, including, subject to the requirements of Section 409A, the waiver or modification of any such terms or conditions, consistent with the provisions of the Plan (including, but not limited to, Section 8 of the Plan); and
- (d) the terms and conditions which shall govern all the Award Agreements, including the waiver or modification of any such terms or conditions.

2.3 Majority Rule. The Committee shall act by a majority of its members in attendance at a meeting at which a quorum is present or by a memorandum or other written instrument signed by all members of the Committee.

2.4 Delegation of Authority. To the extent permitted by applicable law, the Committee or the Board may from time to time delegate to one or more Persons the authority to take administrative actions pursuant to this Section 2. Any delegation hereunder shall be subject to the restrictions and limitations that the Committee specifies at the time of such delegation, and the Committee may at any time rescind the authority so delegated or appoint a new delegatee.

2.5 Compensation; Professional Assistance; Good Faith Actions. Members of the Committee may receive such compensation for their services as members as may be determined by the Board. All expenses and liabilities that members of the Committee or Board may incur in connection with the administration of this Plan shall be borne by the Company. The Committee may, with the approval of the Board, employ attorneys, consultants, accountants, appraisers, brokers or other Persons. The Committee, the Board, the Company and any officers and directors of the Company shall be entitled to rely upon the advice, opinions or valuations of

any such Persons. All actions taken and all interpretations and determinations made by the Committee or Board in good faith shall be final and binding upon all Participants, the Company and all other interested Persons. No member of the Committee or Board shall be personally liable for any action, determination or interpretation made in good faith with respect to this Plan or any Award, and all members of the Committee and Board shall be fully protected and indemnified to the fullest extent permitted by law, by the Company, in respect of any such action, determination or interpretation.

SECTION 3

STOCK SUBJECT TO PLAN

3.1 **Number of and Source of Shares.** The maximum number of shares of Stock reserved and available for issuance under the Plan shall be 30,000,000, as increased on the date of any equity issuance by the Company during the term of the Plan by a number of shares of Stock equal to 10% of (i) the number of shares of Stock issued by the Company in such equity issuance or (ii) if such equity issuance relates to equity securities other than shares of Stock, the number of shares of Stock equal to the Equity Security Factor. The Stock which may be issued pursuant to an Award under the Plan may be treasury Stock, authorized but unissued Stock, or Stock acquired, subsequently or in anticipation of the transaction, in the open market to satisfy the requirements of the Plan. Awards may consist of any combination of such Stock, or, at the election of the Company, cash.

3.2 **Unrealized and Tandem Awards.** If any shares of Stock subject to an Award are forfeited, cancelled, exchanged or surrendered or if an Award otherwise terminates or expires without a distribution of shares to the Participant, the shares of Stock with respect to such Award shall, to the extent of any such forfeiture, cancellation, exchange, surrender, termination or expiration, again be available for grants under the Plan. The grant of a Tandem Award (as defined herein) shall not reduce the number of shares of Stock reserved and available for issuance under the Plan. The Company reserves the right to cancel any Stock Option which has a per-share exercise price that is equal to or greater than the Fair Market Value of an underlying share of Stock as of the date of such cancellation, and any shares of Stock which were subject to such cancelled Stock Option shall again be available for the issuance of Stock Options, including issuance to the Person that held the cancelled Stock Option, irrespective of whether such issuance would be deemed a repricing of such Stock Option.

3.3 **Adjustment of Awards.** Upon the occurrence of any event which affects the shares of Stock in such a way that an adjustment of outstanding Awards is appropriate in order to prevent the dilution or enlargement of rights under the Awards (including, without limitation, any extraordinary dividend or other distribution (whether in cash or in kind), recapitalization, stock split, reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, or share exchange, or other similar corporate transaction or event), the Committee shall make appropriate equitable adjustments, which may include, without limitation, adjustments to any or all of the number and kind of shares of Stock (or other securities) which may thereafter be issued in connection with such outstanding Awards and adjustments to any exercise price specified in the outstanding Awards and shall also make appropriate equitable adjustments to the number and kind of shares of Stock (or other securities) authorized by or to be

granted under the Plan. Such other substitutions or adjustments shall be made respecting Awards hereunder as may be determined by the Committee, in its sole discretion. In connection with any event described in this paragraph, the Committee may provide, in its discretion, for the cancellation of any outstanding Award and payment in cash or other property in exchange therefor, equal to the difference, if any, between the fair market value of the Stock or other property subject to the Award, and the exercise price, if any.

SECTION 4

ELIGIBILITY

Each Participant shall be eligible to receive Awards under the Plan. Additional Participants under the Plan may be selected from time to time by the Committee, in its sole discretion, and the Committee shall determine, in its sole discretion, the number of shares covered by each Award.

SECTION 5

AWARDS

Awards may include, but are not limited to, those described in this Section 5. The Committee may grant Awards singly, in tandem or in combination with other Awards, as the Committee may in its sole discretion determine.

5.1 Stock Options. A Stock Option is a right to purchase a specified number of shares of Stock, at a specified price during such specified time as the Committee shall determine.

(a) A Stock Option may be exercised, in whole or in part, by giving written notice of exercise to the Company, specifying the number of shares of Stock to be purchased.

(b) The exercise price of the Stock Option may be paid in cash or its equivalent, as determined by the Committee. As determined by the Committee, in its sole discretion, or as otherwise set forth in Sections 5.5(b) and 5.5(c) below, payment in whole or in part may also be made (i) by means of any cashless exercise procedure approved by the Committee (including the withholding of Stock otherwise issuable on exercise), or (ii) in the form of unrestricted Stock already owned by the Participant which has a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Stock Option shall be exercised. No fractional shares of Stock will be issued or accepted.

5.2 Stock Appreciation Rights. A Stock Appreciation Right is a right to receive, upon surrender of the right, an amount payable in cash and/or shares of Stock under such terms and conditions as the Committee shall determine.

(a) A Stock Appreciation Right may be granted in tandem with part or all of (or in addition to, or completely independent of) a Stock Option or any other Award under this Plan. A Stock Appreciation Right issued in tandem with a Stock Option may be granted at the time of grant of the related Stock Option or at any time thereafter during the term of the Stock Option.

(b) The amount payable in cash and/or shares of Stock with respect to each right shall be equal in value to a percentage (including up to 100%) of the amount by which the Fair Market Value per share of Stock on the exercise date exceeds the Fair Market Value per share of Stock on the date of grant of the Stock Appreciation Right. The applicable percentage shall be established by the Committee. The Award Agreement may state whether the amount payable is to be paid wholly in cash, wholly in shares of Stock, or in any combination of the foregoing; if the Award Agreement does not so state the manner of payment, the Committee shall determine such manner of payment at the time of payment. The amount payable in shares of Stock, if any, is determined with reference to the Fair Market Value per share of Stock on the date of exercise.

(c) Stock Appreciation Rights issued in tandem with Stock Options shall be exercisable only to the extent that the Stock Options to which they relate are exercisable. Upon exercise of the tandem Stock Appreciation Right, and to the extent of such exercise, the Participant's underlying Stock Option shall automatically terminate. Similarly, upon the exercise of the tandem Stock Option, and to the extent of such exercise, the Participant's related Stock Appreciation Right shall automatically terminate.

5.3 Restricted Stock. Restricted Stock is Stock that is issued to a Participant and is subject to such terms, conditions and restrictions as the Committee deems appropriate, which may include, but are not limited to, restrictions upon the sale, assignment, transfer or other disposition of the Restricted Stock and the requirement of forfeiture of the Restricted Stock upon termination of employment or service under certain specified conditions. The Committee may provide for the lapse of any such term or condition or waive any term or condition based on such factors or criteria as the Committee may determine. Subject to the restrictions stated in this Section 5.3 and in the applicable Award Agreement, the Participant shall have, with respect to Awards of Restricted Stock, all of the rights of a stockholder of the Company, including the right to vote the Restricted Stock and the right to receive any cash or stock dividends on such Stock. The Company may require that the stock certificates evidencing Restricted Stock granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that, as a condition of any award of Restricted Stock, the Participant shall have delivered a stock power, endorsed in blank, relating to the Stock covered by such award.

5.4 Performance Awards. Performance Awards may be granted under this Plan from time to time based on such terms and conditions as the Committee deems appropriate provided that such Awards shall not be inconsistent with the terms and purposes of this Plan. Performance Awards are Awards which are contingent upon the performance of all or a portion of the Company and/or its subsidiaries and/or which are contingent upon the individual performance of a Participant. Performance Awards may be in the form of performance units, performance shares and such other forms of Performance Awards as the Committee shall determine. The Committee shall determine the performance measurements and criteria for such Performance Awards. The Company may require that the stock certificates evidencing Performance Awards granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that, as a condition of any award of Performance Awards, the Participant shall have delivered a stock power, endorsed in blank, relating to the Stock covered by such award.

5.5 Manager Awards and Tandem Awards.

(a) Grant of Compensatory Stock Options. As consideration for the Manager's role in raising capital for the Company, the Manager may be awarded Stock Options in connection with any equity issuance by the Company, to acquire that number of shares of Stock up to ten percent (10%) of (i) the number of shares of Stock issued by the Company in such equity issuance or (ii) if such equity issuance relates to equity securities other than shares of Stock, a number of shares of Stock equal to the Equity Security Factor, in each case subject to the proviso contained in Section 5.5(f) below.

(b) Terms of Manager Awards. The Stock Options referred to in clause (a) above shall be 100% vested as of the date of grant and become exercisable as to 1/30th of the Stock subject to the Stock Options on the first day of each of the following 30 calendar months following the date of grant. Such Stock Options shall expire on the tenth anniversary of the date of grant. Such Stock Options shall have a per share price equal to the offering price of the equity issuance in connection with which such Stock Options are awarded (as determined by the Committee), or in the event that such equity issuance relates to equity securities other than Stock, the Fair Market Value of a share of Stock as of the date of the equity issuance, in each case subject to adjustment as set forth in Section 3.3 hereof. The exercise price of such Stock Options may be paid in cash or its equivalent, as determined by the Committee. Payment in whole or in part may also be made by the following cashless exercise procedures: (i) by withholding from shares of Stock otherwise issuable upon exercise of such Stock Option, (ii) in the form of unrestricted Stock already owned by the Manager which has a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Stock Option shall be exercised or (iii) by means of any other cashless exercise procedure approved by the Committee. No fractional shares of Stock will be issued or accepted. The Award Agreement with respect to such Stock Options shall also set forth the vesting and exercise schedule of such Stock Options and such other terms and conditions with respect to such Stock Options and the delivery of shares of Company Stock subject to such Stock Options as the Committee may determine.

(c) Each of the Committee and/or the Manager shall have the authority to direct awards of Stock Options to such employees of the Manager who act as officers of or perform other services for the Company, which options shall be tandem to the Stock Options that are the subject of outstanding Manager Awards designated by the Manager—i.e., shares of Stock issuable pursuant to the exercise of the Stock Options that are subject to certain designated Manager Awards would alternatively be issuable pursuant to the exercise of Stock Options that are the subject of the tandem awards granted to Persons who perform services for or on behalf of the Company, provided that such shares of Stock may be issued pursuant to the exercise of either the designated Manager Awards or the tandem awards but not both (the "Tandem Awards"). As determined by the Manager, in its sole discretion, payment of the exercise price of such Tandem Award in whole or in part may be made by the following cashless exercise procedures: (i) by withholding from shares of Stock otherwise issuable upon exercise of such Tandem Award, (ii) in the form of unrestricted Stock already owned by the holder of such Tandem Award which has

a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Tandem Award shall be exercised or (iii) by means of any other cashless exercise procedure approved by the Committee.

(d) As a condition to the grant of Tandem Awards, the Manager shall be required to agree that so long as such Tandem Awards remain outstanding, it will not exercise any Stock Options under any designated Manager Award that are related to the options under such outstanding Tandem Awards. If Stock Options under a Tandem Award are forfeited, expire or are cancelled without being exercised, the related Stock Options under the designated Manager Award shall again become exercisable in accordance with its terms. Upon the exercise of Stock Options under a Tandem Award, the related Stock Options under the designated Manager Award shall terminate.

(e) The terms and conditions of each such Tandem Awards (e.g., the per share exercise price, the schedule of vesting, exercisability and delivery, etc.) shall be determined by the Committee or the Manager, as the case may be, in its sole discretion and shall be included in an Award Agreement, provided, that the term of such award may not be greater than the term of its related Manager Award.

(f) Other Awards. The Committee may, from time to time, grant such Awards to the Manager as the Committee deems advisable in order to provide additional incentive to the Manager to enhance the value of the Company's Stock; provided, however, that no Award shall be awarded to the Manager (or its designee) in connection with any equity issuance by the Company which provides for the acquisition of a number of shares of Stock in excess of ten percent (10%) of (i) the maximum number of shares of Stock being proposed to be issued by the Company in such equity issuance or (ii) if such equity issuance relates to equity securities other than shares of Stock, the maximum number of shares of Stock determined in accordance with the Equity Security Factor.

(g) Change in Control and Termination Provisions. Notwithstanding anything herein, unless otherwise provided in any Award Agreement to the contrary, upon a Change in Control or a termination of the Manager's services to the Company for any reason, all Awards granted to the Manager pursuant to this Plan shall become immediately and fully exercisable, and all Tandem Awards shall be governed by the terms and conditions of the applicable Award Agreements.

(h) Registration Rights Agreement. The Company shall, upon the Manager's reasonable request, (i) use commercially reasonable efforts to register under the Securities Act of 1933, as amended (the "Securities Act") the securities that may be issued and sold under the Plan or the resale of such securities issued and sold pursuant to the Plan or (ii) enter into a registration rights agreement with the Manager on terms to be mutually agreed upon between the parties.

5.6 Automatic Non-Officer Director Awards.

(a) Initial Grant of Non-Officer Director Stock Options. Each Non-Officer Director shall be granted a Stock Option, which shall be fully vested as of the date of the

grant, relating to 5,000 shares of Stock (each, a “Non-Officer Director Stock Option”), upon the date of the first Board of Director’s meeting attended by such Non-Officer Director after effectiveness of the Plan. The option price per share of Stock under the Non-Officer Director Stock Option shall be one hundred percent (100%) of the Fair Market Value of the Stock on the date of grant.

(b) Stock Availability. In the event that the number of shares of Stock available for grant under the Plan is not sufficient to accommodate the Awards of Non-Officer Director Stock Options, then the remaining shares of Stock available for such automatic awards shall be granted to each Non-Officer Director who is to receive such an award on a pro-rata basis. No further grants shall be made until such time, if any, as additional shares of Stock become available for grant under the Plan through action of the Board or the stockholders of the Company to increase the number of shares of Stock that may be issued under the Plan or through cancellation or expiration of Awards previously granted hereunder.

(c) Term; Method of Exercise of Non-Officer Director Stock Option. Each Non-Officer Director Stock Option shall cease to be exercisable no later than the date that is ten (10) years following the date of grant. If settled in shares of Stock, the exercise price of such Stock Options may be paid in cash or its equivalent, as determined by the Committee. As determined by the Committee, in its sole discretion, payment in whole or in part may also be made (i) by means of any cashless exercise procedure approved by the Committee (including the withholding of shares of Stock otherwise issuable on exercise), or (ii) in the form of unrestricted Stock already owned by the Non-Officer Director which has a Fair Market Value on the date of surrender equal to the aggregate option price of the Stock as to which such Stock Option shall be exercised. No fractional shares of Stock will be issued or accepted.

(d) Award Agreements. Each recipient of a Non-Officer Director Stock Option shall enter into an Award Agreement with the Company, which agreement shall set forth, among other things, the exercise price, the term and provisions regarding exercisability and form of settlement of the Non-Officer Director Stock Option, which provisions shall not be inconsistent with the terms of this Section 5.6 and Section 6.1. The Award Agreement with respect to such Non-Officer Director Stock Option shall also set forth such other terms and conditions with respect to Awards to the Non-Officer Director as the Committee may determine.

5.7 Other Awards.

The Committee may from time to time grant to its Non-Officer Directors Stock, other Stock-based and non-Stock-based Awards under the Plan, including without limitation those Awards pursuant to which shares of Stock are or may in the future be acquired, Awards denominated in Stock, securities convertible into Stock, phantom securities, dividend equivalents and cash. The Committee shall determine the terms and conditions of such other Stock, Stock-based and non-Stock-based Awards provided that such Awards shall not be inconsistent with the terms and purposes of this Plan.

SECTION 6

AWARD AGREEMENTS

Each Award under this Plan shall be evidenced by an Award Agreement setting forth the number of shares of Stock or other securities, and such other terms and conditions applicable to the Award (and not inconsistent with this Plan) as are determined by the Committee.

6.1 Terms of Award Agreements. Award Agreements may include the following terms:

(a) Term. The term of each Award (as determined by the Committee); provided that, no Award shall be exercisable more than ten years after the date such Award is granted.

(b) Exercise Price. The exercise price per share of Stock purchasable under an Award (as determined by the Committee in its sole discretion at the time of grant); provided that, the exercise price shall not be less than the par value of the Stock and, for Awards intended to be exempt from application of Section 409A of the Code under Section 1.409A-1(b)(5)(A), shall not be less than 100% of the Fair Market Value of the Stock on such date.

(c) Exercisability. Provisions regarding the exercisability of Awards (which shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Committee at or after grant).

(d) Method of Exercise. Provisions describing the method of exercising Awards.

(e) Delivery. Provisions regarding the timing of the delivery of Stock subject to Awards. The Award Agreements may provide that such delivery will be delayed to the extent required to avoid the imposition of a tax under Section 409A of the Code.

(f) Termination of Employment or Service. Provisions describing the treatment of an Award in the event of Disability, death or other termination of a Participant's employment or service with the Company, including but not limited to, terms relating to the vesting, time for exercise, forfeiture and cancellation of an Award in such circumstances.

(g) Rights as Stockholder. A provision that a Participant shall have no rights as a stockholder with respect to any securities covered by an Award until the date the Participant becomes the holder of record. Except as provided in Section 3.3 hereof, no adjustment shall be made for dividends or other rights, unless the Award Agreement specifically requires such adjustment, in which case, grants of dividend equivalents or similar rights shall not be considered to be a grant of any other stockholder right.

(h) Nontransferability. A provision that except under the laws of descent and distribution or as otherwise permitted by the Committee, in its sole discretion, or, in respect of Manager Awards, grants of Tandem Awards, the Participant shall not be permitted to

sell, transfer, pledge or assign any Award, and all Awards shall be exercisable, during the Participant's lifetime, only by the Participant; provided, however, that the Participant shall be permitted to transfer one or more Stock Options to a trust controlled by the Participant during the Participant's lifetime for estate planning purposes.

(i) Other Terms. Such other terms as are necessary and appropriate to effectuate an Award to the Participant, including but not limited to, (1) vesting provisions, (2) deferral elections, (3) any requirements for continued employment or service with the Company, (4) any requirement to execute a general release of claims in a form acceptable to the Company prior to the lapse of any restrictions or conditions on such Award or such Award becoming exercisable, (5) any other restrictions or conditions (including performance requirements) on the Award and the method by which restrictions or conditions lapse, (6) effect on the Award of a Change in Control, (7) the right of the Company and such other Persons as the Committee shall designate ("Designees") to repurchase from a Participant, and such Participant's permitted transferees, all shares of Stock issued or issuable to such Participant in connection with an Award in the event of such Participant's termination of employment or service, (8) rights of first refusal granted to the Company and Designees, if any, (9) holdback and other registration right restrictions in the event of a public registration of any equity securities of the Company and (10) any other terms and conditions which the Committee shall deem necessary and desirable.

SECTION 7

LOANS

To the extent permitted by applicable law, including the Sarbanes-Oxley Act of 2002, the Company or any parent or subsidiary of the Company may make loans available to Stock Option holders in connection with the exercise of outstanding Stock Options granted under the Plan, as the Committee, in its discretion, may determine. Such loans shall (i) be evidenced by promissory notes entered into by the Stock Option holders in favor of the Company or any parent or subsidiary of the Company, (ii) be subject to the terms and conditions set forth in this Section 7 and such other terms and conditions, not inconsistent with the Plan, as the Committee shall determine, (iii) bear interest, if any, at such rate as the Committee shall determine, and (iv) be subject to Board approval (or to approval by the Committee to the extent the Board may delegate such authority). In no event may the principal amount of any such loan exceed the sum of (x) the exercise price less the par value of the shares of Stock covered by the Stock Option, or portion thereof, exercised by the holder, and (y) any federal, state, and local income tax attributable to such exercise. The initial term of the loan, the schedule of payments of principal and interest under the loan, the extent to which the loan is to be with or without recourse against the holder with respect to principal or interest and the conditions upon which the loan will become payable in the event of the holder's termination of employment or service shall be determined by the Committee. Unless the Committee determines otherwise, when a loan is made, shares of Stock having a Fair Market Value at least equal to the principal amount of the loan shall be pledged by the holder to the Company as security for payment of the unpaid balance of the loan, and such pledge shall be evidenced by a pledge agreement, the terms of which shall be determined by the Committee, in its discretion; provided that, each loan shall comply with all applicable laws, and all regulations and rules of the Board of Governors of the Federal Reserve System and of the U.S. Securities and Exchange Commission and any other governmental agency having jurisdiction.

SECTION 8

AMENDMENT AND TERMINATION

The Board may at any time and from time-to-time alter, amend, suspend, or terminate the Plan in whole or in part; provided that, no amendment which requires stockholder approval in order for the Plan to comply with a rule or regulation deemed applicable by the Committee, shall be effective unless the same shall be approved by the requisite vote of the stockholders of the Company entitled to vote thereon. Notwithstanding the foregoing, no amendment shall affect adversely any of the rights of any Participant, without such Participant's consent, under any Award or Loan theretofore granted under the Plan.

SECTION 9

UNFUNDED STATUS OF PLAN

The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant by the Company, nothing contained herein shall give any such Participant any rights that are greater than those of a general creditor of the Company.

SECTION 10

GENERAL PROVISIONS

10.1 Securities Laws Compliance. Shares of Stock shall not be issued pursuant to the exercise of any Award granted hereunder unless the exercise of such Award and the issuance and delivery of such shares of Stock pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act, the Exchange Act and the requirements of any stock exchange upon which the Stock may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

10.2 Certificate Legends. The Committee may require each Person purchasing shares pursuant to a Stock Option to represent to and agree with the Company in writing that such Person is acquiring the Stock subject thereto without a view to distribution thereof. The certificates for such Stock may include any legend which the Committee deems appropriate to reflect any restrictions on transfer.

10.3 Transfer Restrictions. All certificates for shares of Stock delivered under the Plan shall be subject to such stock-transfer orders and other restrictions as the Committee may deem advisable under the rules, regulations, and other requirements of the Commission, any stock exchange upon which the Stock is then listed, and any applicable federal or state securities law, and the Committee may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

10.4 Company Actions; No Right to Employment. Nothing contained in the Plan shall prevent the Board from adopting other or additional compensation arrangements, subject to stockholder approval if such approval is necessary and desirable; and such arrangements may be either generally applicable or applicable only in specific cases. The adoption of the Plan shall not confer upon any employee, consultant, service provider or advisor of the Company any right to continued employment or service with the Company, as the case may be, nor shall it interfere in any way with the right of the Company to terminate the employment or service of any of its employees, consultants or advisors at any time.

10.5 Section 409A of the Code. The intent of the parties is that payments and benefits under the Plan be exempt from, or comply with Section 409A of the Code to the extent subject thereto, and, accordingly, to the maximum extent permitted, the Plan shall be interpreted and be administered to be in compliance therewith. Any payments described in the Plan that are due within the "short-term deferral period" as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable law requires otherwise. Notwithstanding anything to the contrary in the Plan, to the extent required in order to avoid accelerated taxation and/or tax penalties under Section 409A of the Code, amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to the Plan during the six (6) month period immediately following the Participant's termination of employment shall instead be paid on the first business day after the date that is six (6) months following the Participant's separation from service (or upon the Participant's death, if earlier). In addition, for purposes of the Plan, each amount to be paid or benefit to be provided to the Participant pursuant to the Plan, which constitute deferred compensation subject to Section 409A of the Code, shall be construed as a separate identified payment for purposes of Section 409A of the Code.

10.6 Payment of Taxes. Each Participant shall, no later than the date as of which the value of an Award first becomes includible in the gross income of the Participant for federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Committee regarding payment of, any federal, state, or local taxes of any kind required by law to be withheld with respect to the Award. The obligations of the Company under the Plan shall be conditional on the making of such payments or arrangements, and the Company shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the Participant.

10.7 Governing Law. The Plan shall be governed by the and construed in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law of such state.

SECTION 11

EFFECTIVE DATE OF PLAN

The Plan was adopted by the Board on May 11, 2015, and shall become effective without further action as of the later of (a) the effectiveness of the Company's registration statement on Form S-1 filed with the U.S. Securities and Exchange Commission on May 14, 2015, as amended, and (b) the Common Stock being listed or approved for listing upon notice of issuance on the New York Stock Exchange (the date of such effectiveness, the "Effective Date").

SECTION 12

TERM OF PLAN

No Award shall be granted pursuant to the Plan on or after the tenth anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.