
EXHIBIT A – FIRST AMENDED AND RESTATED FUND AGREEMENT

**FIRST AMENDED AND RESTATED
FUND AGREEMENT
OF THE
COINDEX MARKET NEUTRAL SERIES
OF
COINDEX CAPITAL, LLC**

Dated as of January 24, 2022

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This FIRST AMENDED AND RESTATED FUND AGREEMENT (the “**Agreement**”) of Coindex Market Neutral Series (the “**Fund**”) a series of Coindex Capital, LLC, a Delaware series limited liability company (the “**Master LLC**”), is made and entered into as of this 24th day of January, 2022, by and among Coindex Capital Management, LLC (the “**Manager**”), a Delaware limited liability company, as the Manager, and the Members.

WITNESSETH

WHEREAS, the Fund was formed on December 29, 2020, as a series of the Master LLC, a Delaware series limited liability company, and a fund agreement was executed as of even date therewith (the “**Original Agreement**”).

WHEREAS, the Manager and Members desire to amend and restate the Original Agreement in its entirety for the purpose set forth above, and on the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

ARTICLE I – FORMATION AND PURPOSE

1.01 Formation.

(a) The parties hereby formed a series limited liability company under Section 18-215(b) of the Act and agreed to conduct the Master LLC as a limited liability company pursuant to the terms hereof. The Manager has executed the Certificate of Formation and caused it to be filed as required by the Act, and shall from time to time execute and file elsewhere a similar certificate when required by applicable law or permitted by applicable law and advisable for the Master LLC to do so.

(b) By entering into the Original Agreement, the Members hereby created the Fund.

(c) The Manager may, in its sole and absolute discretion and without notice to any investors in the Master LLC, establish a new Fund with such terms as set forth in an operating agreement for such Fund. A Member may be a member of one or more Fund.

(d) Without the need for the consent of any Person or Member, the Manager may establish or terminate one or more additional Fund as it may determine in its sole discretion. The terms of each additional Fund shall be as set forth in a separate agreement establishing such Fund.

(e) No debt, liability or obligation of a Fund shall be a debt, liability or obligation of any other Fund. The debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a Fund shall be enforceable against the assets of such Fund only and not against any other assets of the Master LLC generally or any other Fund and none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the Master LLC generally or any other Fund shall be enforceable against the assets of such Fund. Separate and distinct records shall be maintained for each and every Fund, and assets associated with any such Fund shall be accounted for separately from the other assets of the Master LLC, or any other Fund of the Master LLC. The Certificate of Formation shall contain notice of the limitation of liabilities of a series as to other series in conformity with §18-215 of the Act.

(f) The Manager shall establish and maintain a record of the establishment of additional Fund, the termination of any existing Fund and the admission of additional members to the Master LLC and any Fund.

1.02 Name. The name of the Fund shall be Coindex Market Neutral Series of Coindex Capital, LLC, and the business of the Fund shall be conducted under such name.

1.03 Offices. The registered office of the Fund is at 16192 Coastal Highway, Lewes, DE 19958. The Fund's initial registered agent for service of process at such address shall be Harvard Business Services, Inc. The business office of the Fund is 1700 Northside Drive, Suite 7A, Unit 5040, Atlanta, GA 30318. The Fund may have such additional offices at such other places as the Manager shall deem advisable.

1.04 Term. The Fund shall continue until the earlier of (i) the termination, bankruptcy, insolvency or dissolution of the Manager, (ii) the complete withdrawal of the Manager, unless a successor Manager is appointed

pursuant to *Section 4.02(b)* hereof, (iii) entry of a decree of judicial dissolution under Section 17-802 of the Act, (iv) a determination by the Manager that the Fund should be dissolved.

1.05 Purpose of Fund.

(a) The Fund is organized for the purpose of investing in Assets and engaging in all activities and transactions as the Manager may deem necessary or advisable in connection therewith and doing such other lawful acts as the Manager may deem necessary or advisable in connection with the maintenance and administration of the Fund.

(b) The Fund may engage in other activities and businesses incidental to the purpose of the Fund as may be necessary or desirable, in the opinion of the Manager, to promote and carry out the principal purposes of the Fund, as set forth above; *provided, however*, that, without the written consent of Members holding a majority of the Allocation Percentages of all Members at such time, (i) the purpose of the Fund shall not be changed, and (ii) the Fund shall not engage in any substantial business endeavor other than those consistent with the purpose of the Fund, or incidental thereto.

1.06 Investment Management Techniques Proprietary. The investment management systems, techniques and methods employed by the Manager in the management of the Fund's investments shall be the sole property of the Manager, and neither the Fund nor any Member shall have any interest in or right or claim with respect to such investment management systems, techniques or methods or in any of the research products or recommendations generated through their use.

1.07 Definitions. Capitalized terms used and not defined herein shall have the meaning attributed to such terms in the definitions set forth in Appendix A hereto, or in the relevant section of this Agreement listed on Appendix A.

ARTICLE II – ADMISSION OF MEMBERS; CAPITALIZATION

2.01 Admission of Members. The Manager may admit one or more new Members at such times and on such terms as the Manager deems appropriate, subject only to the conditions that:

(a) Each new Member shall have executed a Subscription Agreement pursuant to which it agrees to be bound by the terms and provisions hereof;

(b) _____ The total number of Members may not at any time exceed 100 (as interpreted under Section 3 of the Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder); and

(c) _____ The Manager reasonably believes that any new Member satisfies the minimum investor suitability standards established by the Manager.

2.02 Capital Contributions of Members. Upon admission to the Fund, each Member shall contribute Cash (or, in the sole discretion of the Manager, Assets), in the amount set forth in such Member's Subscription Agreement. Each Member who has contributed or may contribute Assets to the Fund shall, prior to the date of any such contribution, furnish to the Fund evidence, satisfactory to the Manager, as to his dates of acquisition of such Assets, and his adjusted basis thereof for federal income tax purposes. The minimum initial capital contribution to the Fund by a Member is generally \$1,000,000, subject to the Manager's sole discretion to accept subscriptions for lesser amounts or, upon giving notice to the Members, to require a higher minimum. Members may be admitted on the first calendar day of any calendar month, or at any other time the Manager chooses to accept initial capital contributions. The Manager may, in its sole discretion, reject any initial subscription request.

2.03 Additional Capital Contributions. A Member may make additional contributions in Cash (or, in the sole discretion of the Manager, Assets, as described in *Section 2.02*) to the Fund in amounts of not less than \$50,000, with the consent of the Manager and subject to its sole and absolute discretion to accept lesser amounts. Additional capital contributions may be accepted from existing Members on the first calendar day of any calendar month, or at any other time the Manager chooses to accept such additional capital contributions. The Manager may, in its sole discretion, reject any additional contribution request.

2.04 No Interest on Contributions. No Member shall be entitled to receive interest on its capital contributions.

2.05 No Right to Return of Capital Contribution. No Member shall have the right to withdraw from the Fund or to demand a return of all or any part of his capital contribution during the term of the Fund except as provided in *Article IV* hereof.

2.06 Liability of Members. Notwithstanding any other term or provision of this Agreement to the contrary, in no event shall any Member be liable for (i) any debts, obligations, liabilities or indemnifications of the Fund in an amount that exceeds the capital contribution of such Member or for (ii) any debts, obligations, liabilities or indemnifications of any other Member, nor shall the Members have any personal liability for contributing any capital to the Fund.

ARTICLE III – CAPITAL ACCOUNTS; PROFITS AND LOSSES

3.01 Capital Accounts.

(a) One or more Capital Accounts shall be established and maintained on the books of the Fund for each Member. The amount of each Member's initial capital contribution shall be credited to its Capital Account at the beginning of the Accounting Period in which such capital contribution is accepted. At the end of such Accounting Period (and each Accounting Period thereafter), the Capital Account of each Member shall be increased or decreased by the amount credited or debited to the Capital Account of such Member pursuant to *Section 3.02(a) through (c)*. At the beginning of each Accounting Period thereafter, the Capital Account of each Member shall be increased by the amount of any additional capital contributions made by such Member on the first day of such Accounting Period, and decreased by the amount of any withdrawals made by such Member pursuant to *Article IV* as of the end of the immediately preceding Accounting Period. At the end of each calendar month, each Member's Capital Account shall be decreased by the amount of the Management Fee then due pursuant to *Section 5.06(a)*.

(b) Capital Account balances and the value of any capital contributed to the Fund shall be determined by application of the capital accounting rules in Regulations Section 1.704-1(b)(2)(iv).

3.02 Interests in Profits and Losses; Performance Allocation.

(a) The Net Profit or Net Loss for each Accounting Period shall be tentatively allocated as of the last day of such Accounting Period to each Member's respective Capital Account in proportion to the Member's Allocation Percentage for such Accounting Period, subject only to reduction pursuant to *Section 3.02(b) and (c)*. For purposes of calculating Net Profit or Net Loss, the Fund will include both realized and unrealized gains and losses on its investments. In the case of the Manager, the entire amount initially allocated to its Capital Account pursuant to the first sentence of this *Section 3.02(a)* shall be finally allocated to its Capital Account at the close of the Accounting Period.

(b) Subject to the limitations set forth in *Section 3.03 through 3.08*, at the end of each calendar quarter (the "**Performance Allocation Period**"), the aggregate Net Profit, if any, allocated to each Member for such calendar quarter shall be finally allocated as follows:

- (i) High Water Mark. First, 100% to such Member until such time as the balance, if any, in such Member's Cumulative Loss Account has been eliminated (but in no event more than the balance existing in such account);
- (ii) GP / LP Split. Thereafter, eighty percent (80%) of Net Profits as to such Member's Capital Account to the Member and twenty percent (20%) to the Manager (such amounts allocated to the Manager pursuant to this subsection (ii), the "**Performance Allocation**").

The final allocations set forth in this *Section 3.02(b)* (and *3.02(c)* below) may be computed at the end of an Accounting Period, in the sole discretion of the Manager, for a Member who effects a partial or complete withdrawal from its Capital Account at the end of such Accounting Period as if the applicable Withdrawal Date were the last day of a Performance Allocation Period, by multiplying (i) the portion of the Net Profits allocable to the withdrawing Member pursuant to this *Section 3.02* in excess of the balance, if any, existing in such Member's Cumulative Loss Account, by (ii) the ratio obtained by dividing the amount

being withdrawn by the balance in such Member's Capital Account immediately prior to the withdrawal. If such Member is making a partial withdrawal of its Capital Account, the allocations set forth in this *Section 3.02* for the remainder of the Performance Allocation Period in which such Accounting Period occurs shall be based on such Member's Allocation Percentage and Cumulative Loss Account immediately following such withdrawal. The Manager may, in its sole discretion, enter into arrangements with Members under which the Performance Allocation is reduced, waived or calculated differently with respect to such Members, including, without limitation, Members that are members, affiliates or employees of the Manager, members of the immediate families of such persons and trusts or other entities for their benefit, or Members that make a substantial investment or otherwise are determined by the Manager in its sole discretion to represent a strategic relationship.

(c) Subject to the limitations set forth in *Section 3.03 through 3.08*, at the end of each calendar quarter, the aggregate Net Loss, if any, allocated to each Member for such calendar quarter shall be finally allocated to such Member (and such Member's Cumulative Loss Account shall be adjusted accordingly).

3.03 Limitation on Allocations. Any Net Losses or items of loss or deduction allocated to a Member pursuant to this *Article III* shall not exceed the maximum amount of such items that can be allocated without causing the Member to have a negative Capital Account balance, after giving effect to the following adjustments: (a) debit to such Capital Account balance the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6), and (b) credit to such Capital Account balance the sum of (i) the amount that the Member is obligated to restore to the capital of the Fund, and (ii) the amount that the Member is deemed to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(1) and (2). The Fund shall allocate all Net Losses or items of loss or deduction in excess of the limitations set forth in this *Section 3.03* first to any Members to whom the limitation in the preceding sentence does not apply, in proportion to their respective Allocation Percentages. Any Net Losses that the Fund cannot allocate to any Member as a result of the limitation set forth in the first sentence of this *Section 3.03* shall be allocated to the Manager.

3.04 Qualified Income Offset. In the event that any Member unexpectedly receives any adjustments, allocations or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) that cause a deficit balance in such Member's Capital Account, the Fund shall allocate items of Fund income and gain to that Member in an amount and manner sufficient to eliminate the deficit balance as quickly as possible, *provided that* the Fund shall make an allocation pursuant to this *Section 3.04* only if and to the extent that a Member would have a deficit Capital Account balance after the Fund makes all other allocations provided for in this *Article III* as if this *Section 3.04* were not in the Agreement. For purposes of any allocation pursuant to the preceding sentence, in determining any deficit balance in a Member's Capital Account, the Fund shall (a) reduce the Member's Capital Account by expected adjustments, allocations or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), and (b) increase the Member's Capital Account by any amount that the Member must restore to the deficit balance of his Capital Account or that Regulations Section 1.704-1(b)(2)(ii)(c) deems the Member to restore to the deficit balance of his Capital Account.

3.05 Gross Income. In the event that any Member has a deficit balance in its Capital Account as of the end of any Fiscal Year in excess of the sum of the amount such Member is obligated to restore to the capital of the Fund pursuant to any provision of this Agreement, or that such Member is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(1) and (2), then the Fund shall allocate to each such Member items of income and gain for such Fiscal Year and subsequent Fiscal Years, if necessary, in an amount and manner sufficient to eliminate as quickly as possible such Capital Account deficit. The Fund shall make an allocation pursuant to this *Section 3.06* if and only to the extent that such Member would have such an excess deficit balance in its Capital Account after the Fund tentatively has made all other allocations pursuant to this *Article III* as if *Section 3.04* and this *Section 3.05* were not in this Agreement.

3.06 Section 754 Adjustments. To the extent that the Fund makes an election pursuant to Code Section 754 and *Section 7.07* hereof, the amount of any adjustment to the adjusted tax basis of any Fund asset pursuant to Code Section 734(b) or 743(b) that is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining 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 the basis of the asset) and the 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 Regulations section.

3.07 Curative Allocations. The Fund intends that any allocations made pursuant to the last sentence of *Section 3.03* or pursuant to *Section 3.04*, *Section 3.05* or *Section 3.06* (collectively, "**Regulatory Allocations**")

comply with certain requirements of the Regulations. The Fund also intends that, to the extent possible, the Fund offset all Regulatory Allocations either with other Regulatory Allocations or with special allocations pursuant to this *Section 3.07*. Therefore, notwithstanding any other provisions of this *Article III* (other than the Regulatory Allocations), the Fund shall make such offsetting special allocations in whatever manner it determines appropriate so that, after it makes the offsetting allocations, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance the Member would have had if the Regulatory Allocations were not part of the Agreement and the Fund allocated all items pursuant to the remaining Sections of this *Article III*.

3.08 Priority of Allocations. The Fund shall make the allocations pursuant to *Section 3.02* through *Section 3.07* and *Section 3.12* in the following order and priority: (a) first, the Fund shall make the Regulatory Allocations in the order and priority in which they appear in this Agreement; and (b) next, the Fund shall make the allocations pursuant to *Section 3.02*.

3.09 Contributed and Revalued Property. For Federal income tax purposes, any income, gain, loss or deduction with respect to property contributed by a Member to the Fund that has a fair market value different from its adjusted basis for Federal income tax purposes shall be allocated among the Members in accordance with Code Section 704(c) and the Regulations Section 1.704-3, using any method prescribed in Regulations Section 1.704-3 determined by the Manager. With respect to any Fund asset that is revalued pursuant to the terms hereof, subsequent allocations of income, gain, loss and deduction with respect to the asset shall take into account any variation between the adjusted basis of such asset for Federal income tax purposes and its fair market value at the time of revaluation in the same manner as under Code Section 704(c) and Regulations Section 1.704-3, using any method prescribed therein as determined by the Manager.

3.10 Varying Interest. In the event of the transfer of an Interest during a Fiscal Year, or in the event that a Member's percentage interest changes during a Fiscal Year, the Net Profits, Net Losses or items of income, gain, loss or deduction allocated for the Fiscal Year during which the transfer occurs shall (a) be prorated between the transferor and transferee as of the date of the transfer, or (b) be prorated between the portion of the Fiscal Year prior to the change in percentage interest and the portion of the Fiscal Year after the change, using any method that the Fund determines in good faith reasonably and fairly represents the portion of the Net Profits, Net Losses or items of income, gain, loss and deduction properly allocable to the Members.

3.11 Tax Items. Except as otherwise provided herein, any allocation to a Member of a portion of the Net Profits, Net Losses or items of income, gain, loss or deduction for a Fiscal Year shall be deemed to be an allocation to that Member of the same proportionate part of each item of income, gain, loss, deduction or credit that is earned, realized or available by or to the Fund for Federal income tax purposes. In addition, all items of gain or loss recognized from the sale, exchange or other disposition of Assets (including closing a position or determining a security worthless) in any tax period will generally be allocated among the Members, so that to the extent possible, consistent with a fair allocation of such items of gain or loss among all of the Members, each Member's gain or loss for tax purposes is equal to the amount of gain or loss allocated to his Capital Account in respect of such transactions.

3.12 Stuffing Provision. As of the close of each Fiscal Year, the capital gains and capital losses of the Fund shall be allocated to the Member's Capital Account so as to minimize, to the extent possible, any disparity between the "book" Capital Account and the "tax" Capital Account, consistent with the principles set forth in section 704 of the Code. To the extent permitted by the Treasury Regulations (or successor regulations) in effect under Code Sections 704(b) and 704(c), allocations of capital gain that have been realized up to the time a Capital Account was completely withdrawn may be allocated first to each Capital Account that was completely withdrawn during the applicable Fiscal Year to the extent that the "book" Capital Account as of the Withdrawal Date exceeds the "tax" Capital Account at that time, and allocations of capital loss that have been realized up to the time a Capital Account is completely withdrawn may be allocated first to each Capital Account that was completely withdrawn during the applicable Fiscal Year to the extent that the "tax" Capital Account as of the Withdrawal Date exceeded the "book" Capital Account of such Capital Account at that time. Notwithstanding anything herein to the contrary, capital gain or capital loss recognized with respect to Assets contributed to the Fund, if any, shall be specifically allocated to the contributing Member in the amount and manner required by Code Section 704(c) and the regulations thereunder, and, to the extent so allocated, shall be excluded from the computation of the Fund's capital gain or capital loss, as applicable, for the relevant Fiscal Year.

ARTICLE IV – DISTRIBUTIONS OF CASH FLOWS; WITHDRAWALS

4.01 Withdrawals of Members' Capital Account.

(a) Member will be generally permitted to make withdrawals from its Capital Account as of the close of business on the last calendar day of any calendar month, or such other date as the Manager may determine, in its sole discretion (each such date, a "**Withdrawal Date**") subject to the provisions of this *Section 4.01*, by delivering to the Manager a request in writing for withdrawal in the form of *Appendix A* to the Subscription Agreement *provided that* the Fund receives notice of such withdrawal not less than thirty (30) days (unless such notice period is waived in whole or in part by the Manager in its sole discretion with respect to one or more Members).

In the event of a partial withdrawal, a Member must withdraw at least \$20,000 and shall maintain a minimum Capital Account balance, after giving effect to the withdrawal, of not less than \$1,000,000. A Member failing to maintain the minimum Capital Account balance may be required to withdraw the balance of its Capital Account at any time without notice. The Manager, in its sole discretion, may waive this minimum amount.

(b) Payments for withdrawals are generally made within 30 days of the applicable Withdrawal Date; *provided, however*, in the event a Member withdraws 90% or more of the balance of such Member's Capital Account (or if a withdrawal, when combined with all other withdrawals effected by such Member during the preceding 12 months, would result in such Member having withdrawn 90% or more of the sum of (i) the aggregate amount of all prior withdrawals during such 12 month period, and (ii) such Member's Capital Account balance as of the date of the most recent withdrawal request), a portion (generally not to exceed 10%) of the withdrawal payment will be retained in the Manager's discretion pending completion of the audit of the Fund's annual financial statements for the Fiscal Year in which the applicable Withdrawal Date occurs. No interest shall accrue on such retained withdrawal payments. Payment of any amounts in respect of a withdrawal pursuant to this *Section 4.01(b)* shall be net of any accrued but unpaid Management Fee and, if applicable, earned Performance Allocation on the withdrawn portion of the applicable Member's Capital Account.

(c) The Manager may in its sole discretion require or permit any Member, for any reason or no reason and at any time, with or without notice, to effect a complete or partial withdrawal of amounts contained in his Capital Account in accordance with the procedures outlined in this *Section 4.01* except that in such case (i) any dollar limitations may be waived by the Manager and (ii) the Manager may, in its sole and absolute discretion, distribute to such Member up to 100% of his Capital Account at any time prior to the date on which that Member would have been entitled to receive such a distribution had the Member properly requested such a complete withdrawal. As with all withdrawals, any such required or permitted withdrawal may be effectuated via a distribution (or distributions) of Assets in-kind, either in lieu of, or in combination with, Cash. The undistributed remainder, if any, of such a Capital Account shall be distributed pursuant to the provisions of *Section 4.01*. A withdrawing Member may be allocated the entirety of the costs incurred by the Fund in effectuating a withdrawal from such Member's Capital Account.

(d) Any Member who effects a withdrawal during a Fiscal Year shall be obligated upon notice by the Manager to reimburse the Fund in Cash or immediately available funds for any overpayment made pursuant to such withdrawal, as determined after completion of the annual accounting of the Fund's books for that Fiscal Year and after any adjustments to the Capital Accounts of the Members as are necessary in light of accounting; *provided, however*, that such reimbursement shall be required only to the extent that the overpayment exceeded the aggregate of any amount retained by the Fund and any balance remaining in such Member's Capital Account at the time of such determination. Any obligation of a Member arising under the provisions of this section to reimburse the Fund for an overpayment shall terminate unless notice of the amount of the overpayment and a reasonable explanation of the calculation of such overpayment amount has been given on or before the 30th day following completion of the audit of the Fund's annual financial statements for the Fiscal Year in which the subject withdrawal was made. In the event that proper reimbursement has not been received by the Fund within 30 days after proper notice, the amount of an overpayment shall begin to bear interest payable to the Fund beginning as of the date that proper notice of the overpayment has been given, with the rate of interest equal to 10% per annum compounded monthly.

(e) At the discretion of the Manager, any withdrawal by a Member may be subject to a charge, as the Manager may reasonably require, in order to defray the costs and expenses of the Fund in connection with such withdrawal including, without limitation, any charges or fees imposed by any Fund

investment in connection with a corresponding withdrawal or redemption by the Fund from such investment or any other costs associated with the sale of any of the Fund's portfolio investments.

(f) Subject to the Manager retaining a portion of the withdrawal payment (as described in 4.01(b)), in the event of a full withdrawal request, the following gating provisions (the "**Gate**") will apply to a Member requesting such complete withdrawal from the Fund: (i) on the first applicable Withdrawal Date, thirty-three and one-third of a percent (33 1/3%) of the Capital Account balance of such Member as of such Withdrawal Date will be withdrawn, (ii) on the second applicable Withdrawal Date, fifty percent (50%) of the Capital Account balance of such Member as of such Withdrawal Date will be withdrawn, and (iii) on the third applicable Withdrawal Date, one hundred percent (100%) of the Capital Account balance of such Member as of such Withdrawal Date will be withdrawn.

Any unsatisfied portion of any such withdrawal request shall continue to be at risk in the Fund's business until the effective date of the withdrawal. The Manager, in its sole discretion, may waive any of the Gate percentages above.

Notwithstanding the above, if at any time while the Member's full withdrawal request is outstanding, such Member gives a thirty (30) days written notice prior to the applicable Withdrawal Date that it wishes to discontinue its withdrawal sequence or that such Member wishes to withdraw less than the maximum Gate percentage of the balance in its Capital Account applicable on such Withdrawal Date, the Gate for the next full withdrawal request from such Member will be reset back down to thirty-three and one-third of a percent (33 1/3%).

4.02 Withdrawals of Manager's Capital Account.

(a) As of the last business day of any Accounting Period, the Manager may effect a withdrawal of some or all of the Performance Allocation allocated to its Capital Account.

(b) If the Manager provides not less than 90 days prior notice to each Member of its intent to resign as manager of the Fund or is disqualified pursuant to *Section 4.06* hereof, the Fund shall dissolve and thereafter conduct only those activities necessary to wind up its affairs in accordance with the provisions of *Article IX* hereof, unless within 90 days after receipt of notice of such resignation or disqualification Members representing a majority of the Allocation Percentages of all Members vote to continue the Fund and in connection therewith appoint a successor manager. For the avoidance of doubt, if no successor manager is appointed and the Fund dissolves, all unsatisfied withdrawal requests and pending distributions shall be postponed until the completion of the winding up of the Fund and a final accounting pursuant to *Article IX*.

(c) If the Members appoint a successor manager in accordance with paragraph (b) above, the Fund shall pay to the Manager or its legal representatives the Manager's ending Capital Account balance (after computation of any applicable Performance Allocation) within 30 days of the appointment of such successor manager (and the date of such appointment shall be deemed the end of an Accounting Period for all purposes under this Agreement); *provided however*, that a portion (generally not to exceed 10%) of the withdrawal payment will be retained pending completion of a potential audit of the Fund's annual financial statements for the Fiscal Year in which the appointment of such successor manager occurs.

(d) The Principals and Manager have developed and will utilize certain intellectual property in connection with the Fund's investment activities. In the event the Principals die, depart or otherwise separate from the Manager, or in the event the Manager withdraws or otherwise separates from the Fund, the Fund may not be able to utilize such intellectual property, nor be able to find equivalent tools in furtherance of its investment activities, which may have a material adverse effect upon the Fund.

4.03 Limitations on Withdrawals. The Manager may suspend the right of withdrawal or postpone the date of payment for any period during which (i) any stock exchange or over-the-counter market on which a substantial part of the Assets owned by the Fund are traded is closed, (other than weekend or holiday closings) or trading on any such exchange or market is restricted or suspended, (ii) there exists a state of affairs that constitutes a state of emergency, as a result of which disposal of the Assets owned by the Fund is not reasonably practicable or it is not reasonably practicable to determine fairly the value of its assets, (iii) a breakdown occurs in any of the means normally employed in ascertaining the value of a substantial part of the assets of the Fund or when for any other reason the value of such assets cannot reasonably be ascertained, or (iv) a delay is reasonably necessary, as determined in the reasonable discretion of the Manager, in order to effectuate an orderly liquidation of the Fund's Assets in a manner that does not have a material adverse impact on the Fund or the non-withdrawing Members. The

Manager shall provide notice of such suspension of the right of withdrawal to each Member within 5 days of the occurrence of such suspension. At the conclusion of such period, the Manager shall resume permitting withdrawals otherwise permitted pursuant to this *Article IV* and shall resume any payments pursuant to such withdrawals as soon as reasonably practicable.

4.04 Distributions. Except as otherwise set forth in this *Article IV*, a Member who has satisfied the applicable notice requirements set forth herein with respect to withdrawal requests shall receive a distribution (or distributions) in Cash or, in the sole discretion of the Manager, a distribution (or distributions) of Assets in-kind, either in lieu of, or in combination with, Cash, in accordance with the provisions of *Section 4.01(b)*.

4.05 Withholding from Distributions. The Manager may establish reserves for expenses, liabilities or contingencies (including those not addressed by GAAP) arising from events occurring during the period of time during which a withdrawing Member was a Member of the Fund including, without limitation, contingent liabilities relating to pending or anticipated litigation, IRS audits or other governmental proceedings, which could reduce the amount of a distribution upon withdrawal (a "**Reserve Withholding**"). All such Reserve Withholding or other amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment, distribution or allocation to the Fund or to the Members shall be treated as amounts distributed to the Members pursuant to this *Article IV* for all purposes of this Agreement. Any such Reserve Withholding or other amounts withheld, if and when released, shall be allocated among the Capital Accounts of the Members who are Members at the time of such release in the manner provided in *Article III*, unless the Manager determines that it would be more equitable to allocate such release among the Capital Accounts of those persons who were Members at the time such Reserve Withholding was established. The Fund is hereby authorized at all times to make payments with respect to each Member in amounts required to discharge any obligation of the Fund (pursuant to the Code or any provision of United States federal, state or local or non-United States tax law or otherwise) to withhold or make payments to any Taxing Authority with respect to any distribution or allocation by the Fund of income or gain to such Member and to withhold the same from distributions to such Member (including payments made pursuant to Section 6225 of the Code and allocable to a Member as determined by the Fund Representative in its sole discretion). Any funds withheld from a distribution by reason of this Section 4.05 shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement and, at the option of the Manager, shall be charged against the Member's Capital Account. If there are any assets that, in the judgment of the Manager, cannot be valued properly until sold or realized or cannot be sold without sacrificing a substantial portion of the value thereof, such assets may be excluded from the valuation of assets for purposes of computing the amount available for distribution to a Member upon withdrawal of any portion of its Capital Account pursuant to this *Article IV*. Any Member's *pro rata* interest in such assets shall not be paid until such time as the Manager, in its sole and absolute discretion, determines that circumstances no longer require such assets to be so excluded (in whole or in part). If there is any contingent liability of the Fund or any pending transaction or claim by the Fund as to which the withdrawing Member's share of such liability or claim cannot, in the judgment of the Manager, then be determined, the probable loss or liability, or value of the claim, as the case may be, may be excluded from the valuation of assets or liabilities for purposes of computing the amount owing to any Member upon its withdrawal pursuant to this *Article IV*. No amount shall be paid or charged to any such Member's Capital Account on account of any such contingency, transaction or claim until its final settlement or such earlier time as the Manager shall determine. The Fund may retain from sums otherwise due such Member an amount that the Manager estimates to be sufficient to cover the share of such Member of any probable loss or liability on account of such contingency, or the probable value of the transaction or claim. Any amount so withheld from a Member shall be held in a segregated interest-bearing account (which may be commingled with similar accounts of other Members). Any unused portion of such reserve shall be distributed with interest accrued thereon once the Manager has determined that the need therefor has ceased. Upon determination by the Manager that circumstances no longer require the exclusion of assets or retention of sums as provided in this *Section 4.05*, the Manager shall, at the earliest practicable time, pay such sums or the proceeds realized from the sale of such assets to each Member from whom such sums or assets have been withheld.

4.06 Disqualification.

(a) For the purposes of this Agreement, a Member shall be deemed to be "disqualified" upon the occurrence of any of the following events:

- (i) If the Member is a natural person, upon his death, his adjudication as an incompetent, his becoming bankrupt or adjudicated insolvent, or his making an assignment for the benefit of creditors; or
- (ii) If the Member is not a natural person, upon its voluntary dissolution or liquidation, its bankruptcy or adjudication of insolvency, its making an assignment for the

benefit of creditors, or its becoming subject to involuntary reorganization or liquidation proceedings and such proceedings not being dismissed within 90 days after filing.

(b) Neither the withdrawal nor the disqualification of a Member shall dissolve the Fund. Upon the disqualification of a Member, the successor-in-interest of the Member shall become a transferee of the Member and be credited or paid, or charged with, as the case may be, all further allocations and distributions on account of the Interest of the disqualified Member; *provided*, no such successor-in-interest shall become a substituted Member without first obtaining the written consent of the Manager, whose consent may be withheld for any or no reason, and without complying with the provisions of *Section 8.02* hereof.

(c) The disqualification of the Manager shall cause the dissolution of the Fund unless a successor manager is appointed in accordance with the terms of *Section 4.02* hereof.

4.07 Distributions to Non-U.S. Members. The U.S. Foreign Account Tax Compliance Act (FATCA) imposes a 30% withholding tax on U.S. persons holding offshore accounts on certain “withholdable payments” to “foreign financial institutions” which do not provide information about their U.S. accounts to the IRS. A “withholdable payment” is generally any U.S. source income, such as interest, dividends, rents, royalties and other fixed or determinable income. A Member that is not a “United States person” (as defined in Code Section 7701(a)(30)) will generally be required to provide the Fund information which identifies its direct and indirect U.S. ownership. Any such information provided to the Fund will be shared with the IRS. A non-U.S. Member that is a “foreign financial institution” within the meaning of Section 1471(d)(4) of the Code will generally be required to enter into an agreement with the IRS identifying certain direct and indirect U.S. account holders or equity holders. A non-U.S. Member who fails to provide such information to the Fund or enter into such an agreement with the IRS, as applicable, would be subject to a 30% withholding tax with respect to its share of any such payments attributable to actual and deemed U.S. investments in the Fund and the Manager may take any action in relation to a Member’s interests or redemption proceeds to ensure that such withholding is economically borne by the relevant Member whose failure to provide the necessary information gave rise to the withholding.

4.08 Status of Withdrawn Member. From and after the effective Withdrawal Date applicable to a Member who has withdrawn all or any portion of its Capital Account, such Member shall be deemed a creditor of the Fund with respect to the withdrawn portion after all adjustments to such Capital Account pursuant to *Article III* and any applicable limitations set forth in this *Article IV* to the extent that such withdrawn portion has not been distributed to such Member pursuant to *Section 4.04* hereof. Such Member shall thereafter be deemed a Member only to the extent that such Member withdraws less than all of its Capital Account.

ARTICLE V – POWERS, DUTIES AND RIGHTS OF MANAGER

5.01 Management of the Fund. The assets, affairs and operations of the Fund shall be managed by the Manager. The Members shall take no part in the management or control of the Fund’s business and shall have no authority to act for or bind the Fund. The Manager shall have sole discretion and authority to select investments, shall invest the funds of the Fund from time to time as it deems appropriate in accordance with the purposes set forth in *Section 1.05*, as limited by *Section 5.03* below, and shall have the powers set forth in *Section 5.02* below.

5.02 Powers of Manager. All references herein to any action to be taken by the Fund shall mean action taken in the name of the Fund and on its behalf by the Manager. Except as otherwise provided in this Agreement, the Manager will have exclusive management and control of the business of the Fund and will (except as otherwise provided in any other agreements) make all decisions affecting the Fund and the Fund’s assets. Notwithstanding any other provision of this Agreement, the Manager will not materially change the investment strategy of the Fund from that described in the Fund’s confidential private placement memorandum accompanying this Agreement without the consent of Members holding a majority of the Allocation Percentages of all Members at such time. In addition to the rights, powers, and authority granted elsewhere in this Agreement and by law, the Manager will have the right, power, and authority to obligate and bind the Fund and, on behalf of and in the name of the Fund, to take any action of any kind and to do anything it deems necessary or advisable in pursuit of the Fund’s purposes, including, without limitation, the following:

(a) To purchase, hold, sell, lend, store, transfer or otherwise deal in Assets, whether directly or through SPVs, on margin or otherwise;

(b) To borrow funds on behalf of the Fund and to pledge and hypothecate Assets and other assets of the Fund for such loans, and to lend (with or without security) any Assets of the Fund;

(c) To open, maintain, conduct, and close accounts, including margin accounts with digital asset exchanges, broker-dealers, futures commission merchants, exchanges and with banks or other custodians for Fund assets, each as selected by the Manager, and to draw checks or other orders for the payment of money by the Fund;

(d) To engage broker-dealer(s) or finders introducing Members to the Fund and to pay such persons selling commissions and/or referral fees from (i) a portion of the Manager's Management Fee and/or Performance Allocation or (ii) a deduct such commissions or referral fee from the capital contributions of the Member being introduced to the Fund by such broker dealer or finder.

(e) To establish one or more SPVs, whether domiciled in the United States or offshore, to hold and trade Assets;

(f) To employ at the expense of the Fund, persons required for the Fund's business, including portfolio managers or other managers to manage any asset of the Fund, accountants, attorneys, investment advisers, financial consultants, and others (who may be affiliated with the Manager) on such terms and for such compensation as the Manager determines to be reasonable; and to give receipts, releases, indemnities, and discharges with respect to all of the foregoing and any matter incident thereto as the Manager may deem advisable or appropriate;

(g) To engage in any transaction with the manager's affiliates to the extent permitted by applicable securities laws (including, without limitation, the ability to effect on behalf of the Fund any "agency cross transaction" (as contemplated in Rule 206(3)-2 under the Investment Advisers Act of 1940, as amended) through the Manager or any affiliate of the Manager that is registered as a broker or dealer);

(h) To purchase, from or through others, contracts of liability, casualty and other insurance which the Manager deems advisable, appropriate or convenient for the protection of the Assets acquired by the Fund or other assets or affairs of the Fund or for any purpose convenient or beneficial to the Fund, including policies of insurance insuring the Manager and/or the Fund against liabilities that may arise out of the Manager's management of the Fund;

(i) To make all tax elections required or permitted to be made by the Fund, including elections under Section 754 of the Code;

(j) To file, conduct and defend legal proceedings of any form, including proceedings against Members, and to compromise and settle any such proceedings, or any claims against any person, including claims against Members, on whatever terms deemed appropriate by the Manager;

(k) To admit Members or additional or successor Managers to the Fund and to remove Members;

(l) To maintain for the conduct of the Fund's affairs one or more offices and in connection therewith rent or acquire office space, and do such other acts as the Manager may deem necessary or advisable in connection with the maintenance and administration of the Fund;

(m) To waive or reduce, in whole or in part, any notice period, minimum amount requirement, or other limitation or restriction imposed on capital contributions or withdrawals of capital; waive, reduce or, by agreement with any Member, otherwise vary any fee or special allocation to the Manager, and/or any requirement imposed on that Member by this Agreement. The Manager will have such right, power and authority regardless of whether such notice period, minimum amount, limitation, restriction, fee, or special allocation, or the waiver or reduction thereof, operates for the benefit of the Fund, the Manager or fewer than all the Members;

(n) To employ an investment manager affiliated with the Manager or other persons, firms or third-party entities selected by the Manager, provide certain investment management and trading services, in accordance with the terms of investment management agreements pursuant to which such affiliated or third-party investment manager (each a "**Third Party Manager**") will have discretionary investment authority

over the Fund's assets. While the Manager may share the Performance Allocation or Management Fee with such Third-Party Manager, the Fund shall not pay or further compensate such Third-Party Manager;

- (o) To amend this Agreement in accordance with *Section 11.05*;
- (p) To authorize any member, officer, employee or other agent of the Manager to act for and on behalf of the Fund in all matters incidental to the foregoing;
- (q) To force the immediate withdrawal of any Member involved in or subject to a "Bad Actor Event";
- (r) establish or act as investment manager to additional affiliated investment vehicles including, but not limited to, offshore entities offering their interests primarily to non-U.S. individuals and U.S. tax-exempt entities for subsequent investment into the Fund in a "mini-master-feeder" arrangement or subsequent investment, with the Fund, into an affiliated offshore entity in a "master-feeder" arrangement; and
- (s) To do any and all acts on behalf of the Fund as it may deem necessary or advisable in connection with, or incidental to the accomplishment of, the purposes of the Fund or the maintenance and administration thereof.

5.03 Consent of the Members. Notwithstanding *Section 5.02* to the contrary, without the consent of Members holding a majority of the Allocation Percentages of all Members at such time, in no event shall the Manager take any action outside the scope of the purposes of the Fund.

5.04 Duties of Manager. Subject to the limitations in *Section 5.03*, the Manager shall be charged with managing and promoting the Fund's purpose and business. The Manager shall devote its diligent efforts to the business and affairs of the Fund, including such time as shall be required, in the reasonable opinion of the Manager, for the proper conduct of the business of the Fund. The Manager shall not assign its duties under this Agreement except pursuant to the terms of *Section 8.05* hereof. The Manager shall have authority in its sole discretion to delegate any responsibilities hereunder to third parties with whom it contracts to provide services on behalf of the Fund. No such delegation shall relieve the Manager from its duties or obligations hereunder.

5.05 Other Activities of the Manager. The Manager and its respective affiliates, shareholders, members, Principals, partners, managers, directors, officers and employees (collectively, the "**Affiliated Persons**") will only devote so much time to the affairs of the Fund as is reasonably required in the judgment of the Manager. The Affiliated Persons will not be precluded from engaging directly or indirectly in any other business or other activity, including exercising investment advisory, research related advice, management responsibility and buying, selling or otherwise dealing with Assets and other investments for their own accounts, for the accounts of family members, for the accounts of other funds and for the accounts of individual and institutional clients and for other businesses owned by the Principals and associates (collectively, "**Other Accounts**"). Such Other Accounts may have investment objectives or may implement investment strategies similar to those of the Fund. The Affiliated Persons may also have investments in certain of the Other Accounts. Each of the Affiliated Persons may give advice and take action in the performance of their duties to their Other Accounts that could differ from the timing and nature of action taken with respect to the Fund. The Affiliated Persons will have no obligation to purchase or sell for the Fund any investment that the Affiliated Persons purchase or sell, or recommend for purchase or sale, for their own accounts or for any of the Other Accounts. The Fund will not have any rights of first refusal, co-investment or other rights in respect of the investments made by Affiliated Persons for the Other Accounts, or in any fees, profits or other income earned or otherwise derived from them. If a determination is made that the Fund and one or more Other Accounts should purchase or sell the same investments at the same time, the Affiliated Persons will allocate these purchases and sales as is considered equitable to each. No Member will, by reason of being a Member of the Fund, have any right to participate in any manner in any profits or income earned or derived by or accruing to the Affiliated Persons from the conduct of any business or from any transaction in investments effected by the Affiliated Persons for any account other than that of the Fund.

5.06 Management Fee and Expenses.

- (a) In consideration for its services, the Manager receives a management fee (the "**Management Fee**") paid monthly in arrears equal to 0.1667% (2% *per annum*) of the ending Capital Account balance of each Member for such calendar month. The Capital Account of a Member making a withdrawal other than the last day of a month (whether pursuant to ordinary withdrawal rights or where the

special consent of the Manager is required and, in its discretion, granted, in either case under *Article IV* of this Agreement) will be charged a *pro rata* portion of the Management Fee immediately prior to such withdrawal based on the number of days elapsed during such month and the portion withdrawn from such Capital Account. The Manager may, in its sole discretion, enter into arrangements with Members under which the Management Fee is reduced, waived or calculated differently with respect to such Members, including, without limitation, Members that are members, affiliates or employees of the Manager, members of the immediate families of such persons and trusts or other entities for their benefit, or Members that make a substantial investment or otherwise are determined by the Manager in its sole discretion to represent a strategic relationship.

(b) All expenses of the Offering and organization of the Fund (including legal and other expenses) ("**Organizational Expenses**") will be paid by the Manager.

(c) The Fund shall pay (or reimburse the Manager) for all reasonable ordinary operating and other expenses, including, but not limited to, investment-related expenses (e.g., exchange and brokerage commissions, exchange deposit and withdrawal fees, clearing and settlement charges, custodial fees, network, cold storage, and third party transfer fees, including fees incurred in connection with institutional Digital Asset custody, settlement and transfer solutions engaged on behalf of the Fund by the Manager interest expenses, and expenses relating to consultants, brokers or other professionals or advisors who provide research, advice or due diligence services with regard to Assets); research costs and expenses (including fees for news, quotation and similar information and pricing services); registered agent fees; legal expenses (including, without limitation, the costs of on-going legal advice and services, blue sky filings and all costs and expenses related to or incurred in connection with the Manager's compliance obligations under applicable federal and/or state securities and investment adviser laws arising out of its relationship to the Fund, as well as extraordinary legal expenses, such as those related to litigation or regulatory investigations or proceedings); the Management Fee; accounting fees and audit expenses; administrative fees; tax preparation expenses and any applicable tax liabilities (including transfer taxes and withholding taxes), errors and omissions and directors and officers insurance for the Principals and employees and officers of the Manager (if obtained), other governmental charges or fees payable by the Fund; costs of printing and mailing reports and notices; and other similar expenses related to the Fund, as the Manager determines in its sole discretion.

(d) The Manager will pay for its own administrative and overhead expenses incurred in connection with providing services to the Fund. These expenses include all expenses incurred by the Manager in providing for its normal operating overhead, including, but not limited to, the cost of providing relevant support and administrative services (e.g., employee compensation and benefits, rent, office equipment, insurance, utilities, telephone, secretarial and bookkeeping services, etc.), but not including any Fund operating expenses described above.

5.07 Reliance on Authority of Manager. No Person dealing with the Manager or the Fund shall be required to determine the authority of the Manager to make any undertaking on behalf of the Fund or to determine any fact or circumstance bearing upon the existence of such authority. No purchaser of any property or interest owned by the Fund shall be required to determine the sole and exclusive authority of the Manager to execute and deliver, on behalf of the Fund, any and all documents and instruments in connection therewith or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith.

5.08 Limitation of Liability: Indemnification.

(a) The Manager and each Affiliated Person and the legal representatives of any of them (each, an "**Indemnified Party**"), shall not be liable, responsible nor accountable in damages or otherwise to the Fund or any Member, or to any successor, assignee or transferee of the Fund or of any Member, for (i) any acts performed or the omission to perform any acts, within the scope of the authority conferred on such Indemnified Party by this Agreement, except by reason of acts or omissions found by a court of competent jurisdiction upon entry of a final non-appealable judgment to have been made in bad faith or to constitute fraud, willful misconduct or gross negligence; (ii) performance by such Indemnified Party of, or the omission to perform, any acts on advice of legal counsel, accountants, or other professional advisors to the Fund; (iii) the negligence, dishonesty, bad faith, or other misconduct of any consultant, employee, or agent of the Fund, including, without limitation, an Affiliated Person of the Manager, selected or engaged by such Indemnified Party with reasonable care and in good faith (nor shall such Indemnified Party be required to investigate, supervise or otherwise monitor the acts or omissions of any such other party); or (iv) the negligence, dishonesty, bad faith, or other misconduct of any Person in which the Fund invests or with which

the Fund participates as a partner, joint venturer, or in another capacity, which was selected by such Indemnified Party with reasonable care and in good faith. No Indemnified Party shall be liable to the Fund or to any Member, or any successors, assignees, or transferees of the Fund or any Member, for any loss, damage, expense, or other liability due to any cause beyond its reasonable control, including, but not limited to, strikes, labor troubles, riots, fires, blowouts, tornadoes, floods, bank moratoria, trading suspensions on any exchange, acts of a public enemy, insurrections, acts of God, acts of terrorism, failures to carry out the provisions hereof due to prohibitions imposed by law, rules, or regulations promulgated by any governmental agency, or any demand or requisition by any government authority.

(b) To the fullest extent permitted by law, the Fund, in the Manager's sole discretion, shall indemnify and hold harmless each Indemnified Party from and against any loss, liability, damage, cost or expense suffered or sustained by an Indemnified Party by reason of (i) any acts, omissions or alleged acts or omissions arising out of or in connection with the Fund, this Agreement or any investment made or held by the Fund (including, without limitation, any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding, or claim), *provided that* such acts, omissions or alleged acts or omission upon which such actual or threatened action, proceeding or claim are based are not found by a court of competent jurisdiction upon entry of a final non-appealable judgment to have been made in bad faith or to constitute fraud, willful misconduct or gross negligence by such Indemnified Party, or (ii) any acts or omissions, or alleged acts or omissions, of any broker or agent of any Indemnified Party, *provided that* such broker or agent was selected, engaged or retained by the Indemnified Party in accordance with reasonable care.

(c) The Fund shall, in the sole discretion of the Manager, advance to any Indemnified Party reasonable attorneys' fees and other costs and expenses incurred in connection with the defense of any action or proceeding that arises out of such conduct. In the event that such an advance is made by the Fund, the Indemnified Party shall agree to reimburse the Fund for such fees, costs and expenses to the extent that it shall be determined that it was not entitled to indemnification under this *Section 5.08*.

(d) Notwithstanding any of the foregoing to the contrary, the provisions of this *Section 5.08* shall not be construed so as to provide for the indemnification of any Indemnified Party for any liability (including liability under federal or state securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this *Section 5.08* to the fullest extent permitted by law.

ARTICLE VI – POWERS, RIGHTS AND OBLIGATIONS OF MEMBERS

6.01 Powers and Rights. Except as expressly set forth herein, the Members shall not take part in, or interfere in any manner with, the conduct or control of the Fund business, or have any right or authority to act or sign for, or to obligate the Fund. The Members shall not at any time be entitled to withdraw all or any part of their contribution to the capital of the Fund except to the extent they are entitled to withdrawals pursuant to the provisions of *Article IV* hereof. Except as expressly set forth herein, the Members shall have no right to amend or terminate the Fund, or to appoint, select, vote for or remove the Manager or its agents, or to otherwise participate in the business decisions of the Fund. The Members shall have no right to demand and receive any property other than Cash in return for their contributions, and, prior to the dissolution and liquidation of the Fund pursuant to *Article IX* hereof, their right to Cash shall be limited to the rights set forth in *Article IV* hereof.

6.02 BHCA Subject Persons. Notwithstanding any other provision of this Agreement to the contrary, solely for purposes of any provision of this Agreement that confers voting rights on the Members and any other provisions hereof regarding consents of or action by the Members, any BHCA Subject Person that shall have given the Fund a written notice to the Manager of its election not to be treated as a BHCA Subject Person, and shall not thereafter have given the Fund a notice of revocation of such election, and that at any time has an Allocation Percentage in excess of 4.9% of the aggregate Allocation Percentages of the Members entitled to participate in such voting or the giving of any consent or the taking of any action, shall be deemed to hold an Allocation Percentage of only four and nine-tenths percent of the aggregate Allocation Percentages of the Members (after giving effect to the limitations imposed by this *Article VI* on all such Members), and such Allocation Percentage in excess of said four and nine-tenths percent shall be deemed held by the Members who are not BHCA Subject Persons, *pro rata* in proportion to their respective Allocation Percentages; *provided that* this limitation shall not prohibit a Member from voting or participating in giving or withholding consent or taking any action under any provision of the Agreement up to the full amount of its Allocation Percentage in situations where such Member's vote or consent or action is of the type customarily provided by statute or stock exchange rules with regard to matters that would significantly and

adversely affect the rights or preference of the affected Interest. The foregoing voting restriction shall continue to apply with respect to any assignee or other transferee of such BHCA Subject Person's Interest; *provided, however*, that the foregoing voting restriction shall not continue to apply if the Interest is transferred: (i) to the Fund; (ii) to the public in an offering registered under the Securities Act of 1933, as amended (the "**Securities Act**"); (iii) in a transaction pursuant to Rule 144 or Rule 144A under the Investments Act in which no person acquires more than 2% of the aggregate Capital Account balances of the Members; or (iv) in a single transaction to a third party who acquires at least a majority of the aggregate Capital Account balances of the Members without regard to the transfer of Interests to which such Capital Accounts relate.

ARTICLE VII – ACCOUNTING, BOOKS AND RECORDS; REPORTS TO MEMBERS

7.01 Accounting Methods. The Manager shall prepare the accounting statements for the Fund on an accrual basis in accordance with GAAP and shall be empowered to make any changes of accounting method that it shall deem advisable.

7.02 Books and Records. The Manager shall keep or cause to be kept, at the Fund's expense, full, complete and accurate books of account and other records showing the assets, liabilities, costs, expenditures, receipts, Net Profits and Net Losses of the Fund, the respective Capital Accounts of the Members and such other matters required by the Act. Such books of account shall be the property of the Fund, shall be kept in accordance with sound accounting principles and procedures consistently applied, and shall be open to the reasonable inspection and examination of the Members or their duly authorized representatives upon notice to the Manager. The books of account shall be maintained at the principal office of the Manager or at the office of the Fund's accounting or administrative firm, as determined by the Manager in its sole discretion. Notwithstanding the foregoing, however, the Manager is not obligated to show any Members records detailing the actual Assets trades placed by the Fund. Information regarding the Fund's trading and specific investments is proprietary.

7.03 Fund Representative. The Manager is hereby designated as the Fund's "partnership representative" in accordance with Code Section 6223 ("**Fund Representative**"), in all cases to exercise all authority permitted of a Fund Representative, as applicable, under the Code. The Manager is hereby authorized to make any and all elections for U.S. federal, state, local and non-U.S. tax matters relating to the Fund. The Manager shall also be entitled to appoint and replace from time to time the Fund's "designated individual" within the meaning of Proposed Treasury Regulation § 301.6223-1(b)(3), and any successor provision thereto. The Manager shall exercise its authority as Fund Representative in such manner as it determines to be in the best interests of the Members.

7.04 Reports to Members. The Manager will furnish audited financial statements, prepared by a firm of independent public accountants, to all Members within one hundred twenty (120) days, or as soon thereafter as is reasonably practicable, following the conclusion of each Fiscal Year. At the Manager's sole discretion, financial statements will include a balance sheet or statement of financial condition, an income statement or statement of operations, and a cash flow statement, if required. In addition, all Members will receive the information necessary to prepare federal and state income tax returns following the conclusion of such Fiscal Year as soon thereafter as is reasonably practical.

All Members will also receive unaudited performance reports on a monthly basis (including all gains and losses in each Member's Capital Account and the Net Asset Value of such Capital Account) and such other information as the Manager determines. With regard to these reports, the Manager is not required to provide information about specific investment transactions of the Fund.

7.05 Preparation of Reports. In the preparation of any reports required to be delivered pursuant to *Section 7.04*, Assets shall be valued at their Fair Market Value, and any change in such Fair Market Value shall be treated as an item of Net Profit or Net Loss.

7.06 Adjustment of Tax Basis. In the event of a transfer of an Interest in accordance with the terms of this Agreement, upon the request of any Member, the Manager may, at its sole discretion, cause the Fund to elect, pursuant to Section 754 of the Code ("**Section 754 Election**"), to adjust the basis of the Fund property if (a) the effect of such adjustment is to increase the adjusted basis of Fund property and (b) such requesting Member agrees to bear any additional expense attributable to accounting and recordkeeping required as a result of the Fund's Section 754 Election.

7.07 Confidentiality. Every Member shall keep confidential and shall not disclose to any other Person without the prior written consent of the Manager, and shall not use for any purpose other than monitoring such Member's investment in the Fund, any and all information with respect to the Fund or its portfolio; provided, however,

that a Member may disclose any such information (1) as has become generally available to the public other than as a result of a breach of this *Section 7.07* by such Member or any agent or affiliate of such Member, (2) as may be required to be included in any report, statement or testimony required to be submitted to any municipal, state or national regulatory body having jurisdiction over such Member, (3) as may be required in response to any summons or subpoena or in connection with any litigation, (4) to the extent necessary in order to comply with any law, order, regulation or ruling applicable to such Member, (5) to its employees and professional advisors (including such Member's auditors and counsel), so long as such persons are advised of the confidentiality obligations contained herein, and (6) as may be required in connection with an audit by any taxing authority. In the event any Member is sought to be compelled by law, regulation or legal process, including in litigation or by way of any request pursuant to any public-records laws of any jurisdiction, to disclose any such information, such Member shall notify the Manager in writing of such potential disclosure as promptly as possible.

ARTICLE VIII –TRANSFER AND ASSIGNMENT OF MEMBERSHIP INTERESTS

8.01 General Prohibition. No Member shall assign, convey, sell, transfer, pledge, encumber or in any way alienate all or any part of his Interest without the prior written consent of the Manager, which consent may be withheld in the Manager's sole and absolute discretion.

8.02 Requirements upon Transfer. Any transfer of an Interest permitted under *Section 8.01* hereof or any other provision of this Agreement shall be subject to the following:

(a) The permitted transferee shall have executed a written agreement, in form and substance reasonably satisfactory to the Manager, to assume all of the duties and obligations of the transferor Member under this Agreement and to be bound by and subject to all of the terms and conditions of this Agreement;

(b) The transferor Member and the transferee shall have executed a written agreement, in form and substance reasonably satisfactory to the Manager, to indemnify and hold the Fund and the Members harmless from and against any liabilities, losses, costs and expenses arising out of the transfer, including, without limitation, any liability arising by reason of the violation of any securities laws of the United States, any State of the United States, or any foreign country;

(c) The transferor Member has delivered to the Manager an opinion of counsel reasonably acceptable to the Manager that such transfer would not violate the Securities Act, as amended, or any blue sky laws (including any investor suitability standards);

(d) The transferor Member has demonstrated that such transfer will not cause the assets of the Fund to be "plan assets" for purposes of ERISA;

(e) The transferee shall have executed a power of attorney substantially identical to that contained in *Article X* hereof, and shall execute and swear to such other documents and instruments as the Manager may deem necessary to effect the admission of the transferee as a Member;

(f) The transferee shall have executed, in favor of the Fund and the Manager, an instrument containing representations by such transferee substantially identical to the representations and investment qualifications of the Member set forth in the Subscription Agreement;

(g) The transferee shall have paid the reasonable expenses incurred by the Fund in connection with the admission of the transferee to the Fund; and

(h) The transferee shall only effect a transfer on the first calendar day of any calendar month.

8.03 Unauthorized Transfer. Any purported transfer of an Interest not expressly permitted by this *Article VIII* or consented to by the Manager shall be null and void and of no effect whatsoever.

8.04 Interest of the Transferee. In the event that a Member shall have obtained the consent of the Manager to a transfer of all or a portion of its Interest in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that the Capital Account relates to the transferred Interest.

8.05 Manager Transfers. Without the approval of Members holding a majority of the Allocation Percentages of all Members on the relevant date of determination, the Manager may not transfer its Interest as

Manager in the Fund; *provided however*, that the Manager may transfer its Interest as Manager without the consent of any Member (i) to any entity controlled by, controlling or under common control with it or any of its Principals, or (ii) pursuant to a transaction not deemed to involve an “assignment” of this Agreement within the meaning of the Investment Advisers Act of 1940, as amended. In the case of any transfer pursuant to the preceding clauses (i) and (ii), the transferee shall be admitted to the Fund as a substitute Manager, all references herein to the Manager shall thereafter be deemed references to the transferee Manager, and the Manager will promptly notify the Members of any such transfer of its Interest.

ARTICLE IX – DISSOLUTION OF FUND

9.01 Dissolution. The Fund shall be dissolved upon the expiration of the term of the Fund as set forth in *Section 1.04* hereof. In the event that the Fund is dissolved on a date other than the last day of a Fiscal Year, the date of such dissolution shall be deemed to be the last day of an Accounting Period and a Fiscal Year for purposes of adjusting the Capital Accounts of the Members. For purposes of distributing the assets of the Fund upon dissolution, the Manager shall be entitled to a return, on a *pari passu* basis with the Members, of the amount standing to its credit in its Capital Account and, with respect to its share of profits, based upon its Allocation Percentage.

9.02 Winding Up and Distribution of Assets.

(a) Upon the dissolution of the Fund, the Fund shall continue in existence for a reasonable period of time for the purpose of winding up its affairs, and the Manager (or any Liquidating Agent appointed pursuant to *Section 9.02(c)* below) shall wind up the Fund's affairs and cause the sale of the Fund's assets (except those to be distributed in-kind or retained pursuant to *Section 9.03* below) as expediently as is practicable and prudent and in such manner as the Manager or Liquidating Agent, in its sole discretion, determines appropriate to obtain the best prices. Nothing herein shall preclude a sale of any asset of the Fund to any Member or affiliate of a Member. Any property distributed in-kind in the liquidation shall be valued at Fair Market Value in determining the amount distributed to Members. Whether any assets of the Fund shall be liquidated through sale or shall be distributed to the Members in-kind shall be a matter left to the sole discretion of the Manager or Liquidating Agent. The Manager or Liquidating Agent shall conduct (or cause to be conducted) a full accounting of the assets and liabilities of the Fund and cause a balance sheet of the Fund to be prepared as of the date of dissolution and a profit and loss statement for the period commencing after the end of the preceding Accounting Period and ending on the date of dissolution, and such financial statements shall be furnished to all of the Members.

(b) The proceeds of the sale of the Fund's property and assets, plus any unsold assets to be distributed in-kind, shall be distributed in the following order of priority:

- (i) Payment of the debts and liabilities of the Fund incurred in accordance with the terms of this Agreement, and payment of the expenses of liquidation;
- (ii) Setting up of reserves as set forth in *Section 9.03* below, as the Manager or Liquidating Agent may deem reasonably necessary, for any contingent or unforeseen liabilities or obligations of the Fund or any obligation or liability not then due and payable; *provided*, any unspent balance of the reserves shall be distributed in the manner hereinafter provided when deemed reasonably prudent by the Manager or Liquidating Agent;
- (iii) Payment, on a *pro rata* basis, of any loans from or debts incurred in accordance with the terms of this Agreement owed to Members; and
- (iv) Payment to the Members, on a *pro rata* basis, of the remaining positive balances of their Capital Accounts, adjusted to the date of payment as set forth in *Article III*.

(c) The Fund may, from time to time, enter into (and modify and terminate) agreements with a liquidating agent or trustee selected by the Manager if the Manager is unwilling to manage the winding up process or, in the event the Manager is disqualified pursuant to *Section 4.05* or otherwise is unable to manage the winding up process, such person as may be designated by Members holding a majority of the Allocation Percentages of all Members at such time (in either such case, a “**Liquidating Agent**”), authorizing the Liquidating Agent to wind up the Fund's affairs; *provided that* the total compensation the Fund may become obligated to pay to such Liquidating Agent(s) during such winding up period will not

exceed the aggregate amount of the Management Fee the Fund would otherwise pay the Manager during such winding up period.

(d) In the event that the Fund is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), the distributions made pursuant to this *Section 9.02* shall be made in compliance with 1.704-1(b)(2)(ii)(b)(2). In the event that the Fund is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but the Fund has not dissolved pursuant to *Section 9.01* above, the Fund shall be deemed to distribute the Fund's property to the Members, who shall be deemed to assume and take such property subject to the Fund's liabilities, all in accordance with the balances of their respective Capital Accounts. Immediately thereafter, the Members shall be deemed to recontribute such property in-kind to the Fund, who shall be deemed to assume and take such property subject to all such liabilities. Notwithstanding anything in this Agreement to the contrary, no Member shall have any obligation to restore any negative or deficit balance in its Capital Account upon dissolution or liquidation of the Fund, or otherwise.

9.03 Reserves

(a) If there are any assets that, in the judgment of the Manager or Liquidating Agent, cannot be valued properly until sold or realized or cannot be distributed properly in-kind or cannot be sold without sacrificing a substantial portion of the value thereof, such assets may be excluded from the valuation of assets for purposes of computing the amount available for distribution upon dissolution and termination of the Fund pursuant to this *Article IX*. Any Member's *pro rata* interest in such assets shall not be paid or distributed in-kind to it until such time as the Manager or Liquidating Agent, in its sole and absolute discretion, determines that circumstances no longer require such assets to be so excluded (in whole or in part).

(b) If there is any contingent liability of the Fund or any pending transaction or claim by the Fund the remaining value of which cannot, in the judgment of the Manager or Liquidating Agent, then be determined, the probable loss or liability, or value of the claim, as the case may be, may be excluded from the valuation of assets or liabilities for purposes of computing the amount available for distribution upon dissolution and termination of the Fund pursuant to this *Article IX*. No amount shall be paid or charged to any such Member's Capital Account on account of any such contingency, transaction or claim until its final settlement or such earlier time as the Manager or Liquidating Agent shall determine. The Fund may retain from sums otherwise due each Member an amount that the Manager or Liquidating Agent estimates to be sufficient to cover the share of such Member of any probable loss or liability on account of such contingency, or the probable value of the transaction or claim. Any amount so withheld from a Member shall be held in a segregated interest-bearing account (which may be commingled with similar accounts of other Members). Any unused portion of such reserve shall be distributed with interest accrued thereon once the Manager or Liquidating Agent has determined that the need therefor has ceased.

(c) Upon determination by the Manager or Liquidating Agent that circumstances no longer require the exclusion of assets or retention of sums as provided in subsections (a) and (b) hereof, the Manager or Liquidating Agent shall, at the earliest practicable time, pay such sums or distribute such assets or the proceeds realized from the sale of such assets to each Member from whom such sums or assets have been withheld.

9.04 No Action for Dissolution. The Members acknowledge that irreparable damage will be done to the Fund (on account of a premature liquidation of the Fund's assets, loss of goodwill and reputation, and other factors) if any Member seeks to dissolve, terminate or liquidate the Fund by litigation or otherwise. The Members further acknowledge that this Agreement has been drawn carefully to provide fair treatment of all parties and equitable payments in liquidation of the Interests of all Members, and that the Members entered into this Agreement with the intention that the Fund continue until dissolved and liquidated in accordance with the terms of this Agreement. Accordingly, each Member hereby waives and renounces any right to dissolve, terminate or liquidate the Fund, or to obtain the appointment of a receiver or trustee to liquidate the Fund, except as specifically set forth in this Agreement.

9.05 No Further Claim. Each Member shall look solely to the assets of the Fund for the return of its investment in the Fund (including capital contributions and loans from a Member to the Fund), and no Member shall have any liability or obligation to the Fund or to any other Member to repay any unreturned capital contributions or loans made by any Member to the Fund.

ARTICLE X – POWER OF ATTORNEY

10.01 Grant and Scope of Power. Each Member hereby irrevocably constitutes and appoints the Manager as its true and lawful agent and attorney-in-fact, with full power of substitution, in its name, place and stead, to make, execute and acknowledge, swear to, record, publish and file:

(a) Any agreement, document or instrument pertaining to the sale, transfer, conveyance or encumbrance of all or any portion of the property of the Fund in accordance with the terms of this Agreement;

(b) Any document or instrument with respect to the Fund that may be required or permitted to be filed under the laws of any state or of the United States, or which the Manager shall deem necessary, desirable or advisable to file;

(c) Any document that might be required to effectuate the dissolution, termination and liquidation of the Fund;

(d) Any documents or acts deemed advisable by the Manager in connection with the withdrawal of a Member; and

(e) Any amendment to this Agreement made in conformation with *Section 11.05* below.

The foregoing power of attorney is coupled with an interest, shall be irrevocable and shall survive the death, incompetency, dissolution, merger, consolidation, bankruptcy or insolvency of each of the Members. The Members shall execute and deliver to the Manager, within five days after receipt of the Manager's request therefor, such further designations, powers of attorney and other instruments as the Manager reasonably deems necessary to carry out the purposes of this Agreement.

ARTICLE XI – MISCELLANEOUS

11.01 Additional Documents. At any time and from time to time after the date of this Agreement, upon the request of the Manager, the Members shall do and perform, or cause to be done and performed, all such additional acts and deeds, and shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, all such additional instruments and documents, as may be required to best effectuate the purposes and intent of this Agreement.

11.02 Applicable Law. This Agreement shall be governed by, construed under, and enforced and interpreted in accordance with, the laws of the State of Delaware.

11.03 Jurisdiction. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought against any of the parties in the courts of the State of Delaware, and each of the parties' consents to the jurisdiction of such courts in any such action or proceeding and waives any objection to venue laid therein.

11.04 Notices. Any notices required by this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered in person, (ii) if mailed postage prepaid, by certified or registered mail with return receipt requested, (iii) if transmitted by electronic mail or facsimile, (iv) if sent by second day service by Federal Express or any other nationally recognized courier service, postage prepaid or (v) if sent by Federal Express or any other nationally recognized overnight courier service or overnight express U.S. Mail, postage prepaid, to the Member at the address set forth in the Subscription Agreement, or to such other address of which the Manager subsequently shall have been notified in writing by such Member. Notices personally delivered or transmitted by electronic mail or facsimile shall be deemed to have been given on the date so delivered or transmitted. Notices mailed shall be deemed to have been given on the date three business days after the date posted, notices sent in accordance with (iv) above shall be deemed to have been given on the date two business days after the date posted, and notices sent in accordance with (v) above shall be deemed to have been given the next business day after delivery to the courier service or U.S. Mail (in time for next day delivery).

11.05 Agreement; Amendments. This Agreement constitutes the entire agreement among the parties and supersedes any prior understanding or agreement among them respecting the subject matter hereof. There are no representations, arrangements, understandings or agreements, oral or written, among the parties hereto relating to the subject matter of this agreement, except those fully expressed herein. No change or modification of this Agreement or waiver of any provision hereof shall be valid or binding on the parties hereto, unless such change, modification or waiver shall be in writing and signed by or on behalf of the parties hereto, and no waiver on one

occasion shall be deemed to be a waiver of the same or any other provision hereof in the future. Notwithstanding the foregoing sentence, amendments can be effected pursuant to the following conditions:

(a) Except as set forth elsewhere in this *Section 11.05*, this Agreement may be amended from time to time, in whole or in part, with the written consent of Members holding a majority of the Allocation Percentages of all Members at such time and the affirmative vote of the Manager. Notwithstanding the foregoing or anything to the contrary in *Section 11.05(b)*, below, or elsewhere in this Agreement, the Manager may amend this Agreement to conform to applicable laws and regulations without the consent of the Members. The Manager shall provide Members with at least 15 days' notice of any amendments to this Agreement to comply with applicable law.

(b) The Manager may, without the consent of the other Members, issue side letters to investors providing a materially different fee schedule, liquidity structure, and certain information regarding the Fund, including its portfolio, not shared with other Members and may also amend this Agreement (i) to change the Fund's name, registered office or business office, (ii) to make a change that is necessary or, in the Manager's opinion advisable, to qualify the Fund as a partnership (or other entity in which the Members have limited liability) under the laws of any state and/or to preserve the Fund's classification for federal tax purposes as a partnership that is not a "publicly traded partnership" treated as a corporation under Code Section 7704, (iii) to make any amendment hereof as long as such amendment does not adversely affect the Members in any material respect (although an amendment made to conform with applicable laws and regulations, as referenced in *Section 11.05(a)*, may adversely affect the Members and the consent of the Members is not required for such an amendment), (iv) to make any change that is necessary or desirable to satisfy any requirements, conditions, or guidelines contained in any opinion, directive, order, statute, ruling, or regulation of any federal or state entity applicable to the Fund or the Manager, so long as such change is made in a manner that minimizes any adverse effect on the Members, (v) to prevent the Fund from, in any manner, being deemed an investment company subject to registration under the Investment Company Act, (vi) if the Fund is advised that any allocations of income, gain, loss or deduction provided herein are unlikely to be respected for Federal income tax purposes, to amend the allocation provisions hereof, on advice of legal counsel, to the minimum extent necessary to effect the plan of allocations and distributions provided herein, (vii) to create a new class or series of Interests, which shall have such rights (including voting rights), powers, duties and obligations, including the payment of fees and performance allocations, as the Manager may specify, (viii) to cure any ambiguity or to correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions contained herein, or (ix) to take such actions as may be necessary or appropriate to avoid the assets of the Fund being treated for any purpose of ERISA or Code Section 4975 as assets of any "employee benefit plan" as defined in and subject to ERISA or of any plan or account subject to Code Section 4975 (or any corresponding provisions of succeeding law) or to avoid the Manager's engaging in a "prohibited transaction" as defined in Section 406 of ERISA or Code Section 4975(c).

(c) Nothing contained herein shall permit the amendment of this Agreement to reduce a Member's Capital Account or Allocation Percentage, permit assessments on the Members or to increase the Management Fee or Performance Allocations chargeable with respect to a Member without the prior consent of the affected Member(s); nor shall the following provisions hereof be amended without the consent of each of the Members adversely affected thereby and the Manager: *Sections 2.06, 4.01, 5.08, 9.01* and this *Section 11.05*.

(d) Copies of each amendment of this Agreement (other than an amendment pursuant to paragraph (b)) shall be delivered to each Member at least ten days prior to the effective date thereof; *provided that* any amendment that the Manager determines is necessary or appropriate to prevent the Fund from being a publicly traded partnership treated as a corporation under Code Section 7704 shall be effective on the date provided in the instrument containing such amendment. Amendments approved in accordance with this *Section 11.05* shall be binding on all Members, including any that did not vote to approve the same, except as set forth in *Section 11.05(c)*.

(e) Members shall have no right (i) to amend (except to the extent provided in *Section 11.05(a)*) or terminate this Agreement, (ii) to appoint, select, vote for, or remove the Manager or its agents, or (iii) to exercise voting rights or otherwise participate in the Fund's management or business decisions or otherwise in connection with the Fund property.

(f) For purposes of obtaining a written consent to any matter or action, including any amendment to this Agreement, the Manager may require a response within a specified reasonable time

period (which shall not be less than fifteen (15) days), and failure by a Member to respond within such time period shall constitute a vote in favor of and consent to such matter or action. The Manager may, in its sole discretion, choose to deliver any request for written consent and materials relating thereto via email, password-protected website posting or other electronic reporting medium in lieu of providing the Members with paper copies of such request.

11.06 Severability. If any portion of this Agreement is held illegal or unenforceable, the Members hereby covenant and agree that such portion or portions are absolutely and completely severable from all other provisions of this Agreement and such other provisions shall constitute the agreement of the Members with respect to the subject matter hereof.

11.07 Successors. Subject to the provisions hereof imposing limitations and conditions upon the transfer, sale or other disposition of the Interests of the Members in the Fund, all the provisions hereof shall inure to the benefit of and be binding upon the heirs, successors, legal representatives and assigns of the parties hereto.

11.08 Counterparts. This Agreement may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts shall together constitute one and the same agreement.

11.09 Section Headings. Section and other headings contained in this Agreement are for reference purposes only and are in no way intended to define, interpret, describe or limit the scope, extent or intent of this Agreement or any provision hereof.

11.10 Pronouns. All pronouns used in this Agreement in reference to any Member shall include the neuter, masculine and feminine genders and the singular and the plural, as the context requires.

[Remainder of Page Intentionally Left Blank]

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

MANAGER:

Coindex Capital Management, LLC

By: _____
Ryan DeMattia
Manager

By: _____
Shareef Abdou
Manager

By: _____
Mustafa Rahman
Manager

MEMBERS:

Each person who shall sign an Investor Signature Page in the form attached in the Subscription Agreement and accepted to the Fund as a Member

APPENDIX A – DEFINITIONS

“Accounting Period” shall initially mean the period beginning on the effective date of the first capital contribution to the Fund and ending on the first to occur of the events set forth in (a) through (e) of this definition. Each subsequent Accounting Period shall commence immediately after the close of the preceding Accounting Period and will continue until the close of business on the earlier to occur of (a) the last calendar day of each calendar month, (b) the first calendar day immediately preceding the effective date of a capital contribution by a new or existing Member, (c) a date on which one or more Members effects a withdrawal from their Capital Accounts, (d) the date of the dissolution of the Fund, or (e) such other dates as the Manager determines, in its sole discretion.

“Act” shall mean the Delaware Limited Liability Company Act, including amendments from time to time.

“Affiliated Persons” shall have the meaning set forth in *Section 5.05*.

“Allocation Percentage” shall mean with respect to any Member for any Accounting Period the quotient obtained by dividing (i) the Capital Account balance for such Member as of the beginning of such Accounting Period (as determined pursuant to *Section 3.01*) by (ii) the Capital Account balance for all Members as of the beginning of such Accounting Period (as determined pursuant to *Section 3.01*).

“Assets” shall refer to investments of the Fund, whether on a long or short basis, on exchanges or over the counter, on margin or otherwise, will generally consist of cryptocurrencies and digital assets as determined by the Manager (bitcoin, “altcoins,” stablecoins, smart contracts, other present and future cryptocurrencies, tokens, tethers, other present and future instruments related to cryptocurrencies and blockchain technology generally, derivatives on such instruments, including swaps and futures (together, **“Digital Assets”**) and the Fund may engage in lending and borrowing activities unsecured or collateralized by Digital Assets and/or fiat currencies. The Fund may periodically maintain all or a portion of its assets in money market instruments and other United States dollar cash equivalents and may not be fully invested at all times.

“Bad Actor Event” means any sanction, suspension, order, disciplinary proceeding or conviction delineated in Rule 506(c)(1)(i) – (vii) of Regulation D of the Securities Act of 1933.

“BHCA” means the Bank Holding Company Act of 1956, as amended.

“BHCA Subject Person” shall mean any Member that is subject, directly or indirectly, to the provisions of Section 4 of the BHCA and the regulations of the Board of Governors of the Federal Reserve System promulgated thereunder.

“Capital Account” shall mean, with respect to any Member, the account established and maintained on the books of the Fund for such Member, which shall be credited with the amount of such Member’s capital contributions, and increased, or decreased, from time to time as provided in this Agreement.

“Cash” shall mean, with reference to the payment in cash of all or any part of a capital contribution or distribution, payment by electronic fund transfer or by wire transfer of funds between banks or other financial institutions.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Cumulative Loss Account” refers to a memorandum account to be recorded on the books and records of the Fund for each Member that shall have an initial balance of zero and that shall be adjusted at the end of each Performance Allocation Period, after all tentative allocations of Net Profits or Net Losses have been made for the period, as follows: the balance of the Cumulative Loss Account shall be increased by the amount if any by which (A) the sum of Net Losses allocated to the Capital Account of a Member during the Performance Allocation Period exceeds (B) the sum of Net Profits allocated to the Capital Account of the Member for the same period, and shall be reduced by the amount if any by which (X) the sum of Net Profits allocated to the Capital Account of the Member during the Performance Allocation Period exceed (Y) the sum of Net Losses allocated to the Capital Account of the Member for the same period, *provided that* the cumulative amount of such adjustment for any period shall not reduce the balance of the Cumulative Loss Account below zero. In the event that there is a positive balance in the Member’s Cumulative Loss Account at the time the Member makes a withdrawal from its Capital Account, such positive balance shall be reduced (effective as of the date of such withdrawal) in the proportion which the amount of the withdrawal bears to the balance of the Member’s Capital Account immediately prior to giving effect to such withdrawal.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"Fair Market Value" shall be determined by using the following method:

- Digital Assets listed on one or more United States or foreign digital exchanges on over-the-counter or on a decentralized exchange for which market quotations are available, shall be valued at the value at which they can be converted into U.S. dollars as of midnight UTS (Coordinated Universal Time) on the relevant day as reported by relevant exchange for the particular Digital Asset in question.
- Digital Assets accepted as In-Kind Assets and paid as in-kind distributions may be valued in the Manager's discretion by the price listed on the Digital Asset exchange data aggregators. In any event, such In-Kind Assets may also be valued in a manner agreed upon by the Manager and Member at the time of subscription and withdrawal.
- All assets not described in categories above shall be valued in any fair and reasonable manner the Manager may determine. Absent bad faith or manifest error, the Manager's valuation determinations are conclusive and binding.
- If on the relevant valuation date the exchange or market herein designated for the valuation of any given asset is not open for business on the relevant valuation date, the valuation of such asset shall be determined as of the last preceding date on which such exchange or market was open for business; if an instrument could not be liquidated on the relevant valuation date due to the operation of daily limits or other rules of the exchange or market designated for the valuation thereof or similar factors, the settlement price on the first subsequent day on which the instrument could be liquidated shall be the basis for determining the value thereof for that valuation date, or such other value as the Manager may determine to be fair and reasonable.

Net Asset Value will include any unrealized profit or loss on open positions and any other credit or debit accruing to the Fund but unpaid or not received by the Fund. Interest earned on the Fund's brokerage account, if any, will be accrued at least monthly. The amount of any distribution declared by the Fund, and of any withdrawal proceeds due but not yet paid, will be treated as a liability from the day when the distribution is declared, or the related withdrawal is effective, as applicable, until it is paid.

The Manager may make adjustments to the value of Assets to best reflect their fair market value. All matters concerning the valuation of Assets, the allocation of profits, gains, and losses among the Members and accounting procedures not specifically and expressly provided for by the terms of the First Amended and Restated Fund Agreement, shall be determined by the Manager and shall be final and conclusive as to all of the Members.

"Fiscal Year" of the Fund shall be the calendar year.

"GAAP" means generally accepted accounting principles, consistently applied.

"Interest" shall mean, for each Member, all rights and interests of that Member in the Fund in its capacity as a Member together with any and all obligations imposed on it hereunder or under the Act.

"Manager" shall mean Coindex Capital Management, LLC, a Delaware limited liability company, and shall also mean any Person who becomes Manager pursuant to the provisions of *Section 4.02* and any Person who succeeds to all or a portion of the Manager's Interest pursuant to *Section 8.05* of this Agreement.

"Members" shall mean those persons whose Subscription Agreements to become a member shall have been accepted by the Manager on behalf of the Fund, or anyone subsequently admitted as a Member, but excluding any Member who has withdrawn from the Fund or been removed from the Fund under *Article IV* hereof. Reference to a "Member" shall mean any one of the Members.

"Management Fee" shall have the meaning set forth in *Section 5.06(a)*.

"Net Asset Value" means the net asset value of the assets of the Fund determined on the last day of an Accounting Period by:

- (a) Adding:

- (i) the aggregate Fair Market Value of the Fund's investments;
 - (ii) the aggregate uninvested cash balances of the Fund (such cash balances being adjusted as required under the definition of "*Fair Market Value*");
 - (iii) the aggregate Fair Market Value of such assets as would generally be considered pre-payments of expenses to be amortized over future periods;
 - (iv) the aggregate Fair Market Value of all dividends and distributions payable in cash, stock or other property received by the Fund and the face value of all notes and other receivables; and
 - (v) the aggregate Fair Market Value of such other assets of the Fund as should be considered assets in accordance with GAAP (*provided that* the name and goodwill of the Fund shall not be included in calculating the Net Asset Value of the Fund).
- (b) Deducting from the total sum obtained pursuant to sub-Section (a) above any liabilities and expenses due in accordance with GAAP.

All amounts under sub-sections (a) and (b) above shall be stated in United States Dollars, with assets and liabilities denominated in currencies other than United States Dollars to be converted to United States Dollars at published exchange rates in effect on the last day of such Accounting Period. The resulting Net Asset Value at the end of such Accounting Period shall constitute the initial Net Asset Value for the subsequent Accounting Period after adjustment to reflect withdrawals pursuant to *Article IV* and additional capital contributions by Members and the admission of new Members pursuant to *Article II*. Whenever ratios or percentages are to be calculated based upon or relating to Members' Capital Accounts, they shall be calculated to four decimal places with any adjustments resulting from rounding charged or credited to all of the Members' Capital Accounts proportionally.

"Net Capital Appreciation" or **"Net Capital Depreciation"** shall mean, with regard to any Accounting Period, the difference between the Net Asset Value of the Fund at the beginning of the Accounting Period (after giving effect to withdrawals for the preceding Accounting Period and capital contributions for the current Accounting Period) and the Net Asset Value of the Fund at the close of the same Accounting Period (before giving effect to withdrawals for such Accounting Period). Any increase in the Net Asset Value shall be deemed Net Capital Appreciation and any decrease in Net Asset Value shall be deemed Net Capital Depreciation.

"Net Profit" or **"Net Loss"** shall mean, with respect to any Member for any Accounting Period, the difference between (i) the sum of the Net Capital Appreciation, if any, allocated to a Member's Capital Account for such Accounting Period pursuant to *Section 3.02(a)*, and (ii) the Net Capital Depreciation, if any, allocated to a Member's Capital Account for such Accounting Period pursuant to *Section 3.02(a)*. Any positive difference between the sums set forth in clause (i) and clause (ii) above shall be deemed Net Profit, and any negative difference between such sums shall be deemed Net Loss.

"Organizational Expenses" shall have the meaning set forth in *Section 5.06(b)*.

"Other Accounts" shall have the meaning set forth in *Section 5.05*.

"Members" shall mean, collectively, the Manager and the Members, and reference to a **"Member"** shall mean any one of the Members.

"Performance Allocation" shall have the meaning set forth in *Section 3.02(b)*.

"Performance Allocation Period" shall mean each performance period over which the allocations provided for in *Section 3.02(b) and (c)* are measured.

"Person" shall mean an individual, partnership, joint venture, association, corporation, trust or any other legal entity.

"Principals" shall mean Ryan DeMattia, Shareef Abdou, and Mustafa Rahman who hold their interests in the Manager through limited liability companies or other entities which they wholly control.

“Regulations” shall mean Treasury Regulations promulgated under the Code as such Regulations may be amended from time to time (including corresponding provisions of succeeding Regulations).

“Reserve Withholding” shall have the meaning set forth in *Section 4.04*.

“Special Purpose Investment Vehicle” or **“SPV”** shall mean equity investments by the Fund in one or more onshore or offshore domiciled special purpose investment vehicles organized by the Manager to own Fund assets.

“Subscription Agreement” means any subscription booklet, including a subscription agreement containing appropriate representations, warranties, acknowledgments, agreements, indemnifications, confirmations and reciting and evidencing such qualifications as are deemed necessary or appropriate in the Manager’s discretion, prescribed by the Manager as a condition precedent to becoming a Member.

“Taxing Authority” means any federal, state, local or foreign taxing authority.

“Withdrawal Date” shall have the meaning set forth in *Section 4.01(a)*.