UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): **September 13, 2019**

SmileDirectClub, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**001-39037**	**83-4505317**
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

414 Union Street **Nashville, Tennessee**	**37219**
(Address of Principal Executive Offices)	(Zip Code)

(800) 848-7566
(Registrant's telephone number, including area code)

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

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

o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425).

o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12).

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b)).

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c)).

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company x

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. o

Securities registered pursuant to Section 12(b) of the Exchange Act:

Title of each class	**Trading symbol**	**Name on each exchange on which registered**
Class A common stock, par value $.0001 per share	SDC	The NASDAQ Stock Market LLC

Item 1.01. Entry into a Material Definitive Agreement.

On September 16, 2019, SmileDirectClub, Inc. (the "Company") closed its initial public offering (the "IPO") of 58,537,000 shares of its Class A common stock, $0.0001 par value per share (the "Class A Common Stock"), at an offering price of $23.00 per share, pursuant to the Company's registration statement on Form S-1 (File No. 333-233315) (as amended, the "Registration Statement"). On September 13, 2019, the Company filed a Prospectus dated September 11, 2019 (the "Prospectus") with the Securities and Exchange Commission pursuant to Rule 424(b) under the Securities Act of 1933, as amended (the "Securities Act"). In connection with the IPO, the Company entered into the following agreements, forms of which were previously filed as exhibits to the Registration Statement:

· a Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial LLC, a Delaware limited liability company and subsidiary of the Company ("SDC Financial"), dated September 13, 2019;

· a Tax Receivable Agreement, dated September 13, 2019, by and among the Company, SDC Financial, and each of the Members (as defined in therein) from time to time party thereto; and

· a Voting Agreement by and among David Katzman and the parties named therein, dated September 13, 2019.

The terms of each of the agreements are substantially the same as the terms set forth in the forms of such agreements that were filed as exhibits to the Registration Statement and as previously described in the Registration Statement and the Prospectus. Copies of each of the agreements are attached to this Current Report on Form 8-K and are incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

Prior to the closing of the IPO, in connection with the Reorganization Transactions described in the Prospectus, the Company issued (i) an aggregate of 41,144,843 shares of Class A common stock to certain Pre-IPO Investors (as defined and described in the Prospectus) in consideration for the Blocker Mergers (as defined and described in the Prospectus); and (ii) an aggregate of 279,474,553 shares of Class B common stock, $0.0001 par value per share (the "Class B Common Stock"), to certain Pre-IPO Investors who are Continuing LLC Members (as defined and described in the Prospectus) in SDC Financial, representing one share of Class B common stock for each LLC unit in SDC Financial.

No underwriters were involved in the issuance and sale of the shares of Class A common stock or Class B common stock. The issuances of the shares of Class A common stock and Class B common stock described in the foregoing paragraph were made in reliance on Section 4(2) of the Securities Act and Rule 506 thereunder.

The description in Item 5.03 below of the Amended and Restated Certificate of Incorporation of the Company is incorporated herein by reference.

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

Amended and Restated Articles of Incorporation

On September 13, 2019, the Company amended and restated its Certificate of Incorporation (the "Amended and Restated Charter"). The Company's board of directors and sole stockholder previously approved the Amended and Restated Charter to be effective prior to the completion of the IPO. A description of the Amended and Restated Charter is set forth in the section of the Prospectus entitled "Description of Capital Stock." The Amended and Restated Charter is the same as previously described in the Registration Statement, and in such form as was previously filed as an exhibit to the Registration Statement. The description of the Amended and Restated Charter is qualified in its entirety by reference to the full text of the Amended and Restated Charter filed herewith as Exhibit 3.1 and incorporated herein by reference.

Amended and Restated Bylaws

Effective as of September 13, 2019, the Company adopted amended and restated bylaws (the "Amended and Restated Bylaws"). The Company's board of directors and sole stockholder previously approved the Amended and Restated Bylaws to be effective prior to the completion of the IPO. A description of the Amended and Restated Bylaws is set forth in the section of the Prospectus entitled "Description of Capital Stock." The Amended and Restated Bylaws are the same as those previously described in the Registration Statement, and in such form as was previously filed as an exhibit to the Registration Statement. The description of the Amended and Restated Bylaws is qualified in its entirety by reference to the full text of the Amended and Restated Bylaws filed herewith as Exhibit 3.2 and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
3.1*	Amended and Restated Certificate of Incorporation of SmileDirectClub, Inc.
3.2*	Amended and Restated Bylaws of SmileDirectClub, Inc.
10.1*	Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial LLC, dated as of September 13, 2019
10.2*	Tax Receivable Agreement, dated as of September 13, 2019
10.3*	Voting Agreement, dated as of September 13, 2019, by and among David Katzman and the parties named therein

* Filed herewith.

SIGNATURE

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

SMILEDIRECTCLUB, INC.

By: /s/ Susan Greenspon Rammelt
Name: Susan Greenspon Rammelt
Title: Secretary & General Counsel

Date: September 17, 2019

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF SMILEDIRECTCLUB, INC.

Pursuant to Sections 228, 242 and 245 of the
Delaware General Corporation Law

SmileDirectClub, Inc. (the "**Corporation**"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "**DGCL**"), does hereby certify as follows:

1. The name of the Corporation is SmileDirectClub, Inc. The original Certificate of Incorporation of the Corporation was filed with the office of the Secretary of State of the State of Delaware on April 11, 2019.

2. This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors (the "**Board of Directors**") and the sole stockholder of the Corporation in accordance with Sections 228, 242 and 245 of the DGCL.

3. This Amended and Restated Certificate of Incorporation restates and integrates and further amends the Certificate of Incorporation of the Corporation, as heretofore amended or supplemented.

4. Effective as of the date of its filing with the Secretary of State of the State of Delaware, the text of the Certificate of Incorporation of the Corporation is hereby amended and restated in its entirety as follows:

ARTICLE I

Section 1.1. **Name**. The name of the Corporation is SmileDirectClub, Inc.

ARTICLE II

Section 2.1. **Address**. The address of the registered office of the Corporation in the State of Delaware is 251 Little Falls Drive, Wilmington, County of New Castle, 19808. The name of its registered agent at that address is Corporation Service Company.

ARTICLE III

Section 3.1. **Purpose**. The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the DGCL.

ARTICLE IV

Section 4.1. **Term**. The Corporation shall have perpetual existence.

ARTICLE V

Section 5.1. **Authorized Capital Stock**. The total number of shares of all classes of stock that the Corporation shall have authority to issue is 2,600,000,000, consisting of (i) 2,000,000,000 shares of Class A Common Stock, par value $0.0001 per share (the "**Class A Common Stock**"); (ii) 500,000,000 shares of Class B Common Stock, par value $0.0001 per share (the "**Class B Common Stock**" and, together with the Class A Common Stock, the "**Common Stock**"); and (iii) 100,000,000 shares of Preferred Stock, par value $0.0001 per share (the "**Preferred Stock**"). The number of authorized shares of any of the Class A Common Stock, Class B Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the shares entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL (or any successor provision thereto), and no vote of the holders of any of the Class A Common Stock, Class B Common Stock or Preferred Stock voting separately as a class shall be required therefor, unless a vote of any such holder is required pursuant to this Amended and Restated Certificate of Incorporation (including any certificate of designation relating to any series of Preferred Stock).

Section 5.2. **Common Stock**. The powers, preferences and rights and the qualifications, limitations and restrictions of the Class A Common Stock and the Class B Common Stock are as follows:

(A) **Voting Rights**. Except as otherwise required by the DGCL or as provided by or pursuant to the provisions of this Amended and Restated Certificate of Incorporation:

(1) Each holder of Class A Common Stock shall be entitled to one (1) vote for each share of Class A Common Stock held of record by such holder. The holders of shares of Class A Common Stock shall not have cumulative voting rights.

(2) Until 5:00 p.m. in New York City, New York on the earlier of (i) the ten (10)-year anniversary of the closing of a sale of shares of Class A Common Stock to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "**IPO Date**"), or (ii) the date on which the shares of Class B Common Stock beneficially held by the persons and entities defined as "Stockholders" under that certain Voting Agreement, dated as of September 13, 2019, by and among the Corporation and the Stockholders identified therein (the "**Voting Group**"), represent less than fifteen percent (15%) of the Class B Common Stock held by the Voting Group as of the IPO Date, each holder of Class B Common Stock shall be entitled to ten (10) votes for each share of Class B Common Stock held of record by such holder; thereafter, each holder of Class B Common Stock shall be entitled to one (1) vote for each share of Class B Common Stock held of record by such holder. The holders of shares of Class B Common Stock shall not have cumulative voting rights.

(3) Except as otherwise required in this Amended and Restated Certificate of Incorporation or by applicable law, the holders of Class A Common Stock and Class B Common Stock shall vote together as a single class on all matters on which stockholders are generally entitled to vote (or, if any holders of Preferred Stock are entitled to

vote together with the holders of Common Stock, as a single class with such holders of Preferred Stock).

(4) In addition to any other vote required in this Amended and Restated Certificate of Incorporation or by applicable law, the holders of Class A Common Stock and Class B Common Stock shall each be entitled to vote separately as a class only with respect to amendments to this Amended and Restated Certificate of Incorporation that increase or decrease the par value of the shares of such class or alter or change the powers, preferences or special rights of the shares of such class so as to affect them adversely.

(5) Notwithstanding the foregoing, to the fullest extent permitted by law, holders of Common Stock, as such, shall have no voting power with respect to, and shall not be entitled to vote on, any amendment to this Amended and Restated Certificate of Incorporation (including any certificate of designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation (including any certificate of designation relating to any series of Preferred Stock) or pursuant to the DGCL.

(B) **Dividends and Distributions**. Subject to any other provisions of this Amended and Restated Certificate of Incorporation, holders of shares of Class A Common Stock shall be entitled to receive ratably, in proportion to the number of shares of Class A Common Stock held by them, such dividends and other distributions in cash, stock or property of the Corporation when, as and if declared thereon by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor. Except as provided in Section 5.2(D), dividends and other distributions shall not be declared or paid on the Class B Common Stock.

(C) **Liquidation, Dissolution or Winding Up**. In the event of any liquidation, dissolution or winding up (either voluntary or involuntary) of the Corporation, after payments to creditors of the Corporation that may at the time be outstanding, and subject to the rights of any holders of Preferred Stock that may then be outstanding, holders of shares of Class A Common Stock shall be entitled to receive ratably, in proportion to the number of shares of Class A Common Stock held by them, all remaining assets and funds of the Corporation available for distribution. The holders of shares of Class B Common Stock, as such, shall not be entitled to receive any assets of the Corporation in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

(D) **Reclassification**. Except as set forth in Section 5.2(G), neither the Class A Common Stock nor the Class B Common Stock may be subdivided, consolidated, reclassified or otherwise changed unless contemporaneously therewith the other class of Common Stock and the LLC Units (as defined below) are subdivided, consolidated, reclassified or otherwise changed in the same proportion and in the same manner.

(E) **Exchange**. The holder of each membership interest unit ("**LLC Unit**") of SDC Financial LLC, a Delaware limited liability company ("**SDC Financial**"), designated as a

"Common Unit" (such unit a "**Common Unit**" and such holder a "**Member**"), other than Common Units held by the Corporation or its subsidiaries, shall, pursuant to terms and subject to the conditions of the limited liability company operating agreement of SDC Financial (the "**LLC Agreement**"), has the right (the "**Redemption Right**") to redeem such Common Unit for the applicable Cash Amount or Share Offering Funding Amount (each as defined in the LLC Agreement), subject to the Corporation's right, in its sole and absolute discretion, to elect to acquire some or all of such Common Units that such Member has tendered for redemption for a number of shares of Class A Common Stock, an amount of cash or a combination of both (the "**Exchange Option**"), in the case of each of the Redemption Right and the Exchange Option, on and subject to the terms and conditions set forth in this Amended and Restated Certificate of Incorporation and in the LLC Agreement.

(1) In connection with the Corporation's exercise of the Exchange Option under the LLC Agreement, the Corporation shall issue to such Member a number of shares of Class A Common Stock as determined by the terms and provisions of the LLC Agreement in exchange for the Common Units that have been tendered by such Member in its exercise of the Redemption Right and that the Corporation has elected to acquire pursuant to the Exchange Option, subject, at all times, to the Corporation's right, in accordance with the terms and provisions of LLC Agreement, to elect to deliver cash in lieu of issuing shares of Class A Common Stock, or to elect to deliver a combination of shares of Class A Common Stock and cash, with the form and allocation of consideration determined by the Corporation in its sole discretion. No fractional shares of Class A Common Stock shall be issued upon the Corporation's exercise of the Exchange Option. In lieu of any fractional shares to which the Member would otherwise be entitled, the Corporation shall pay to the Member cash equal to the Value of the fractional shares of Class A Common Stock.

(2) Concurrently with any redemption of Common Units pursuant to the Redemption Right or exchange of Common Units pursuant to the Exchange Option, a number of shares of Class B Common Stock held by such Member equal to the number of Common Units redeemed or exchanged shall be automatically, without further action by such Member or the Corporation, transferred to the Corporation for no consideration and shall be retired and resume the status of authorized and unissued shares of Class B Common Stock, and all rights of such Member with respect to such shares, including the rights, if any, to receive notices and to vote, shall thereupon cease and terminate.

(3) The following terms shall have the following meanings:

(i) "**Value**" means, on any Valuation Date with respect to a share of Class A Common Stock, the average of the daily Market Prices for ten (10) consecutive trading days immediately preceding the Valuation Date.

(ii) "**Market Price**" on any date means, with respect to any outstanding shares of Class A Common Stock, the last sale price for such shares of Class A Common Stock, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such shares of Class A Common Stock, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or

admitted to trading on the NASDAQ Global Select Market or, if such shares of Class A Common Stock are not listed or admitted to trading on the NASDAQ Global Select Market, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such shares of Class A Common Stock are listed or admitted to trading or, if such shares of Class A Common Stock are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the principal automated quotation system that may then be in use or, if such shares of Class A Common Stock are not quoted by any such system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such shares of Class A Common Stock selected by the Board of Directors or, in the event that no trading price is available for such shares of Class A Common Stock, the fair market value of the shares of Class A Common Stock, as determined in good faith by the Board of Directors.

(iii) "**Valuation Date**" means, the date of receipt by the Manager of SDC Financial of a Notice of Redemption (as defined in the LLC Agreement), subject to the terms and conditions set forth in the LLC Agreement, or such other date as specified herein, or, if such date is not a business day, the immediately preceding business day.

(4) Such number of shares of Class A Common Stock as may from time to time be required for exchange pursuant to the terms of Section 5.2(E)(1) shall be reserved for issuance upon exchange of outstanding Common Units.

(F) Transfers.

(1) Without limiting any Member's ability to effect an exchange of Common Units in compliance with Section 5.2, no holder of Class B Common Stock shall be permitted to consummate a sale, pledge, conveyance, hypothecation, assignment or other transfer ("**Transfer**") of Class B Common Stock other than as part of a concurrent Transfer of an equal number of Common Units made to the same transferee in compliance with the restrictions on transfer contained in the LLC Agreement (for the avoidance of doubt, whether pursuant to a Permitted Transfer (as defined in the LLC Agreement) or with the consent of the Manager of SDC Financial). Any purported Transfer of Class B Common Stock not in accordance with the terms of this Section 5.2(F)(1) shall be void *ab initio*.

(2) The Corporation may, as a condition to the Transfer or the registration of Transfer of shares of Class B Common Stock, require the furnishing of such affidavits or other proof as it deems necessary to establish whether such Transfer is permitted pursuant to the terms of Section 5.2(F)(1).

(G) Adjustments to Relevant Securities. In the event of any split or reverse split of any of the Relevant Securities (as defined below), or a distribution of any Relevant Securities to the holders of such Relevant Securities, unless a similar transaction is effected with

respect to the other types of Relevant Securities, references herein to a number of shares or units of any type of Relevant Securities, or a ratio of one type of Relevant Securities to another, shall be deemed adjusted as appropriate to reflect such split, reverse split or distribution. For example, if there is a one-for-two reverse split of Common Units, but no similar reverse split of shares of Class B Common Stock, and a holder of Common Units and shares of Class B Common Stock subsequently tenders such units for redemption pursuant to the Redemption Right or the Exchange Option, then the number of such holder's shares of Class B Common Stock that will be automatically converted to shares of Class A Common Stock will be equal to twice the number of Common Units tendered for redemption. "**Relevant Securities**" means Class A Common Stock, Class B Common Stock, and Common Units.

(H) **Retirement of Class B Common Stock**. In the event that (i) any LLC Unit is consolidated or otherwise cancelled or retired or (ii) any outstanding share of Class B Common Stock otherwise shall cease to be held by a holder of a corresponding LLC Unit, in each case, whether as a result of exchange, reclassification, redemption or otherwise, then the corresponding share of Class B Common Stock (in the case of (i)) or such share of Class B Common Stock (in the case of (ii)) shall automatically and without further action on the part of the Corporation or any holder of Class B Common Stock be transferred to the Corporation for no consideration and thereupon shall be retired and restored to the status of authorized but unissued shares of Class B Common Stock.

(I) **No Preemptive or Subscription Rights**. No holder of shares of Common Stock shall be entitled to preemptive or subscription rights.

Section 5.3. **Preferred Stock**.

(A) The Board of Directors is expressly authorized to provide, out of the unissued shares of Preferred Stock, for the issuance of all or any shares of the Preferred Stock in one or more classes or series, and to fix for each such class or series such voting powers, full or limited, or no voting powers, and such distinctive designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such class or series and as may be permitted by the DGCL, including, without limitation, the authority to provide that any such class or series may be (i) subject to redemption at such time or times and at such price or prices; (ii) entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series; (iii) entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Corporation; or (iv) convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock, of the Corporation at such price or prices or at such rates of exchange and with such adjustments; all as may be stated in such resolution or resolutions.

(B) Except as otherwise required by this Amended and Restated Certificate of Incorporation or by applicable law, holders of a series of Preferred Stock shall be entitled only to

such voting rights, if any, as shall expressly be granted thereto by this Amended and Restated Certificate of Incorporation (including any certificate of designation relating to such series).

ARTICLE VI

Section 6.1. **Amendment of Certificate of Incorporation**. The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation; provided, however, that the following provisions of this Amended and Restated Certificate of Incorporation may be amended, altered, repealed or rescinded, in whole or in part, or any provision inconsistent therewith or herewith may be adopted, only by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 $^{2}/_{3}$%) of the total voting power of all the then-outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class: this Article VI, Article VII, Article VIII, Article IX and Article X.

Section 6.2. **Amendment of Bylaws**. In furtherance and not in limitation of the powers conferred upon it by the laws of the State of Delaware, the Board of Directors shall have the power to adopt, amend, alter or repeal the Corporation's By-Laws (as in effect from time to time, the "**Bylaws**"). The affirmative vote of at least a majority of the entire Board shall be required to adopt, amend, alter or repeal the Bylaws. The Bylaws also may be adopted, amended, altered or repealed by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 $^{2}/_{3}$%) of the voting power of the shares entitled to vote in connection with the election of directors of the Corporation.

ARTICLE VII

Section 7.1. **Board of Directors**.

(A) Except as otherwise provided in this Amended and Restated Certificate of Incorporation or the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. Except as otherwise provided for or fixed pursuant to the provisions of Article V (including any certificate of designation with respect to any series of Preferred Stock) and this Article VII relating to the rights of the holders of any series of Preferred Stock to elect additional directors, the total number of directors constituting the whole Board of Directors shall be determined from time to time exclusively by resolution adopted by the Board of Directors with a maximum of fifteen (15) directors. The directors (other than those directors elected by the holders of any series of Preferred Stock, voting separately as a series or together with one or more other such series, as the case may be) shall be divided into three classes designated Class I, Class II and Class III. Each class shall consist, as nearly as possible, of one-third ($^{1}/_{3}$) of the total number of such directors. The initial division of the Board of Directors into classes shall be made by the decision of the affirmative vote of a majority of the entire Board. Class I directors shall initially serve for a term expiring at the first annual meeting of stockholders following the IPO Date, Class II directors shall initially serve for a term expiring at the second annual meeting of stockholders following the IPO Date and Class III directors shall initially serve for a term expiring at the third annual meeting of stockholders following the IPO Date or, in each case, upon such director's earlier death, resignation or removal. At each

succeeding annual meeting of stockholders commencing with the first annual meeting of stockholders following the IPO Date, successors to the class of directors whose term expires at that annual meeting shall be elected for a three (3)-year term and until their successors are duly elected and qualified. If the total number of such directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any such additional director of any class elected to fill a newly created directorship resulting from an increase in such class or from the removal from office, death, disability, resignation or disqualification of a director or other cause shall hold office for a term that shall coincide with the remaining term of that class, but in no case shall a decrease in the total number of directors have the effect of removing or shortening the term of any incumbent director. Any such director shall hold office until the annual meeting at which his or her term expires and until his or her successor shall be elected and qualified, or his or her earlier death, resignation, retirement, disqualification or removal from office. Elections of directors need not be by written ballot unless the Bylaws shall so provide.

(B) Subject to the rights granted to the holders of any one or more series of Preferred Stock then outstanding, (i) any newly created directorship on the Board of Directors that results from an increase in the total number of directors shall be filled by the affirmative vote of a majority of the directors then in office (other than directors elected by the holders of any series of Preferred Stock, voting separately as a series or together with one or more series, as the case may be), provided that a quorum is present, and (ii) and any other vacancy occurring in the Board of Directors (whether by death, resignation, retirement, disqualification, removal or other cause) shall be filled by the affirmative vote of a majority of the directors then in office (other than directors elected by the holders of any series of Preferred Stock, voting separately as a series or together with one or more series, as the case may be), although less than a quorum, or by a sole remaining director. Any director elected to fill a newly created directorship or other vacancy shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall be elected and qualified, or until his or her earlier death, resignation, retirement, disqualification or removal.

(C) Any or all of the directors (other than the directors elected by the holders of any series of Preferred Stock, voting separately as a series or together with one or more other such series, as the case may be) may be removed at any time, but only for cause, by the affirmative vote of a majority in voting power of all outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class. Any director may resign at any time in accordance with the Bylaws.

(D) During any period when the holders of any series of Preferred Stock, voting separately as a series or together with one or more other such series, have the right to elect additional directors pursuant to the provisions of this Amended and Restated Certificate of Incorporation (including any certificate of designation with respect to any series of Preferred Stock) in respect of such series, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total number of directors of the Corporation shall automatically be increased by such specified number of directors, and the holders of such series of Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions, and (ii) each such additional director shall serve until such director’s successor shall have been duly elected and qualified, or until such

director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, retirement, disqualification or removal. Except as otherwise provided by the Board of Directors in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to the provisions of such Preferred Stock, the terms of office of all such additional directors elected by the holders of such Preferred Stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate and the total authorized number of directors of the Corporation shall automatically be reduced accordingly.

(E) In addition to the powers and authority hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject to the provisions of the DGCL, this Amended and Restated Certificate of Incorporation and the Bylaws; provided, however, that no Bylaws hereafter adopted by the stockholders shall invalidate any prior act of the directors that would have been valid if such Bylaws had not been adopted.

ARTICLE VIII

Section 8.1. **Limitation on Liability of Directors**. No director shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director; provided, however, that to the extent required by the provisions of Section 102(b)(7) of the DGCL or any successor statute, or any other laws of the State of Delaware, this provision shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended after the date of this Amended and Restated Certificate of Incorporation to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation, in addition to the limitation on personal liability provided in this Amended and Restated Certificate of Incorporation, shall be limited to the fullest extent permitted by the DGCL, as so amended. Any repeal or modification of this Section 8.1 shall not adversely affect any limitation on the personal liability or any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

Section 8.2. **Indemnification of Directors**

(A) The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by applicable law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives; provided, however, that, except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized

or consented to by the Board of Directors. The right to indemnification conferred by this Article VIII shall include the right to be paid by the Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition upon receipt by the Corporation of an undertaking by or on behalf of the director or officer receiving advancement to repay the amount advanced if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation under this Article VIII.

(B) The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this Article VIII to directors and officers of the Corporation.

(C) The rights to indemnification and to the advancement of expenses conferred in this Article VIII shall not be exclusive of any other right which any person may have or hereafter acquire under this Amended and Restated Certificate of Incorporation, the Bylaws, any statute, agreement, vote of stockholders or disinterested directors or otherwise.

(D) Any repeal or modification of this Article VIII by the stockholders of the Corporation shall not adversely affect any rights to indemnification and to the advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE IX

Section 9.1. **Consent of Stockholders in Lieu of Meeting**. At any time when the Voting Group beneficially owns, in the aggregate, at least thirty percent (30%) of the total voting power of all the then-outstanding shares of stock of the Corporation entitled to vote generally in the election of directors, any action required or permitted to be taken at any annual or special meeting of stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with the applicable provisions of the DGCL. At any time when the Voting Group beneficially owns, in the aggregate, less than thirty percent (30%) of the total voting power of all the then-outstanding shares of stock of the Corporation entitled to vote generally in the election of directors, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent of stockholders in lieu of a meeting unless such action is unanimously recommended by the Board of Directors. Notwithstanding the foregoing, any action required or permitted to be taken by the holders of Class B Common Stock, voting separately as a class, or, to the extent expressly permitted by the certificate of designation relating to one or more series of Preferred Stock, by the holders of such series of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding shares of the relevant class or series having not less than the minimum number of votes that would be

necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with the applicable provisions of the DGCL.

Section 9.2. **Special Meetings of the Stockholders**. Except as otherwise required by law and subject to the rights of the holders of any series of Preferred Stock, special meetings of the stockholders of the Corporation for any purpose or purposes may be called at any time only by or at the direction of the Board of Directors or the Chairman of the Board of Directors.

Section 9.3. **Annual Meetings of the Stockholders**. An annual meeting of stockholders for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting shall be held at such place, if any, on such date and at such time as shall be fixed exclusively by resolution of the Board of Directors or a duly authorized committee thereof.

ARTICLE X

Section 10.1. **DGCL Section 203 and Business Combinations**.

(A) The Corporation shall be governed by Section 203 of the DGCL at all times at which the shares of Class B Common Stock held by the Voting Group represent at least fifteen percent (15%) of the Class B Common Stock held by the Voting Group as of the IPO Date. The Corporation shall not be governed by Section 203 of the DGCL at any time at which the shares of Class B Common Stock held by the Voting Group represent less than fifteen percent (15%) of the Class B Common Stock held by the Voting Group as of the IPO Date.

(B) Notwithstanding the foregoing, the Corporation shall not engage in any business combination (as defined below), at any point in time at which the Corporation's Common Stock is registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), with any interested stockholder (as defined below) for a period of three (3) years following the time that such stockholder became an interested stockholder, unless:

(1) prior to such time, the Board of Directors approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;

(2) upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least eighty-five percent (85%) of the voting stock (as defined below) of the Corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned by (i) persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

(3) at or subsequent to such time, the business combination is approved by the Board of Directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least sixty-six and two-thirds percent (66 $^{2}/_{3}$%) of the outstanding voting stock of the Corporation that is not owned by the interested stockholder.

(C) For purposes of this Article X, references to:

(1) "**affiliate**" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(2) "**associate**," when used to indicate a relationship with any person, means: (i) any corporation, partnership, unincorporated association or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of twenty percent (20%) or more of any class of voting stock; (ii) any trust or other estate in which such person has at least a twenty percent (20%) beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

(3) "**business combination**," when used in reference to the Corporation and any interested stockholder of the Corporation, means:

(i) any merger or consolidation of the Corporation or any direct or indirect majority-owned subsidiary of the Corporation (a) with the interested stockholder or (b) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the interested stockholder and as a result of such merger or consolidation Section 10.1(B) is not applicable to the surviving entity;

(ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a stockholder of the Corporation, to or with the interested stockholder, whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority-owned subsidiary of the Corporation which assets have an aggregate market value equal to ten percent (10%) or more of either the aggregate market value of all the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the Corporation;

(iii) any transaction that results in the issuance or transfer by the Corporation or by any direct or indirect majority-owned subsidiary of the Corporation of any stock of the Corporation or of such subsidiary to the interested stockholder, except: (a) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of the Corporation or any such subsidiary which securities were outstanding prior to the time that the interested stockholder became such; (b) pursuant to a merger under

Section 251(g) of the DGCL; (c) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of the Corporation or any such subsidiary which security is distributed, pro rata to all holders of a class or series of stock of the Corporation subsequent to the time the interested stockholder became such; (d) pursuant to an exchange offer by the Corporation to purchase stock made on the same terms to all holders of said stock; or (e) any issuance or transfer of stock by the Corporation; provided, however, that in no case under items (c) through (e) of this Section 10.1(C)(3)(iii) shall there be an increase in the interested stockholder's proportionate share of the stock of any class or series of the Corporation or of the voting stock of the Corporation (except as a result of immaterial changes due to fractional share adjustments);

(iv) any transaction involving the Corporation or any direct or indirect majority-owned subsidiary of the Corporation that has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the Corporation or of any such subsidiary that is owned by the interested stockholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested stockholder; or

(v) any receipt by the interested stockholder of the benefit, directly or indirectly (except proportionately as a stockholder of the Corporation), of any loans, advances, guarantees, pledges or other financial benefits (other than those expressly permitted in subsections (i) through (iv) above) provided by or through the Corporation or any direct or indirect majority-owned subsidiary.

(4) "**control**," including the terms "**controlling**," "**controlled by**" and "**under common control with**," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract or otherwise. A person who is the owner of twenty percent (20%) or more of the outstanding voting stock of a corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such person holds voting stock, in good faith and not for the purpose of circumventing this Section 10.1, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) "**interested stockholder**" means any person (other than the Corporation or any direct or indirect majority-owned subsidiary of the Corporation) that (i) is the owner of fifteen percent (15%) or more of the outstanding voting stock of the Corporation or (ii) is an affiliate or associate of the Corporation and was the owner of fifteen percent (15%) or more of the outstanding voting stock of the Corporation at any time within the three (3)-year period immediately prior to the date on which it is sought to be determined whether such person is an interested stockholder; and the affiliates and associates of such person; but "interested

stockholder" shall not include (a) the Voting Group or any of their respective affiliates or successors or any "group," or any member of any such group, to which such persons are a party under Rule 13d-5 of the Exchange Act, or (b) any person whose ownership of shares in excess of the fifteen percent (15%) limitation set forth herein is the result of any action taken solely by the Corporation; provided, however, that in the case of clause (b), such person shall be an interested stockholder if thereafter such person acquires additional shares of voting stock of the Corporation, except as a result of further corporate action not caused, directly or indirectly, by such person. For the purpose of determining whether a person is an interested stockholder, the voting stock of the Corporation deemed to be outstanding shall include stock deemed to be owned by the person through application of the definition of "owner" below but shall not include any other unissued stock of the Corporation that may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) "**owner**," including the terms "**own**" and "**owned**," when used with respect to any stock, means a person that individually or with or through any of its affiliates or associates:

(i) beneficially owns such stock, directly or indirectly;

(ii) has (a) the right to acquire such stock (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange, or (b) the right to vote such stock pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the owner of any stock because of such person's right to vote such stock if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to ten or more persons; or

(iii) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in item (b) of subsection (ii) above), or disposing of such stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock.

(7) "**person**" means any individual, corporation, partnership, unincorporated association or other entity.

(8) "**stock**" means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(9) "**voting stock**" means stock of any class or series entitled to vote generally in the election of directors.

ARTICLE XI

Section 11.1. **Severability**. If any provision or provisions of this Amended and Restated Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever: (i) the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Amended and Restated Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not, to the fullest extent permitted by applicable law, in any way be affected or impaired thereby and (ii) to the fullest extent permitted by applicable law, the provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, each such portion of any paragraph of this Amended and Restated Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to permit the Corporation to protect its directors, officers, employees and agents from personal liability in respect of their good faith service to or for the benefit of the Corporation to the fullest extent permitted by law.

Section 11.2. **Forum**. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, stockholder or employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation or any director, officer or employee of the Corporation arising pursuant to any provision of the DGCL, this Amended and Restated Certificate of Incorporation or the Bylaws (as each may be amended and/or restated from time to time), or (iv) any action asserting a claim against the Corporation or any director, officer or employee of the Corporation governed by the internal affairs doctrine, provided, however, that, in the event that the Court of Chancery of the State of Delaware lacks subject matter jurisdiction over any such action or proceeding, the sole and exclusive forum for such action or proceeding shall be another state or federal court located within the State of Delaware, in each such case, unless the Court of Chancery (or such other state or federal court located within the State of Delaware, as applicable) has dismissed a prior action by the same plaintiff asserting the same claims because such court lacked personal jurisdiction over an indispensable party named as a defendant therein. Failure to enforce the foregoing provisions would cause the Corporation irreparable harm and the Corporation shall be entitled to equitable relief, including injunctive relief and specific performance, to enforce the foregoing provisions. To the fullest extent permitted by law, any person purchasing or otherwise acquiring any interest in shares of stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 11.2.

* * * * *

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by David Katzman, its Chief Executive Officer, this 13th day of September, 2019.

SMILEDIRECTCLUB, INC.

By: /s/ David Katzman
Name: David Katzman
Title: Chief Executive Officer

[Signature Page to Amended and Restated Certificate of Incorporation of SmileDirectClub, Inc.]

Exhibit 3.2

AMENDED AND RESTATED

BY-LAWS

OF

SMILEDIRECTCLUB, INC.

A Delaware Corporation

Effective September 13, 2019

TABLE OF CONTENTS

AMENDED AND RESTATED BY-LAWS
OF
SMILEDIRECTCLUB, INC.
(hereinafter called the "Corporation")

ARTICLE I
OFFICES

Section 1.1 Registered Office. The registered office of the Corporation shall be fixed in the certificate of incorporation of the Corporation, as amended and restated from time to time (the "**Certificate of Incorporation**").

Section 1.2 Other Offices. The Corporation may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine.

ARTICLE II
MEETINGS OF STOCKHOLDERS

Section 2.1 Place of Meetings. Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware, as shall be designated from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that a meeting of the stockholders shall not be held at any place, but may instead be held solely by means of remote communication in the manner authorized by Section 211(a)(2) of the General Corporation Law of the State of Delaware (the "**DGCL**").

Section 2.2 Annual Meetings. The Annual Meeting of Stockholders for the election of directors shall be held on such date and at such time as shall be designated from time to time by the Board of Directors. Any other proper business may be transacted at the Annual Meeting of Stockholders.

Section 2.3 Special Meetings. Unless otherwise required by law or by the Certificate of Incorporation, Special Meetings of Stockholders, for any purpose or purposes, may be called by the Chairman of the Board, if there be one, or the Board of Directors. Such request shall state the purpose or purposes of the proposed meeting. At a Special Meeting of Stockholders, only such business shall be conducted as shall be specified in the notice of meeting (or any supplement thereto).

Section 2.4 Nature of Business at Meetings of Stockholders.

(a) Only such business (other than nominations for election to the Board of Directors, which must comply with the provisions of Section 2.5 hereof) may be transacted at an Annual Meeting of Stockholders as is either (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (b) otherwise properly brought before the Annual Meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof), or (c) otherwise properly brought before the Annual

Meeting by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.4 and on the record date for the determination of stockholders entitled to notice of and to vote at such Annual Meeting and (ii) who complies with the notice procedures set forth in this Section 2.4.

(b) In addition to any other applicable requirements, for business to be properly brought before an Annual Meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation. To be timely, a stockholder's notice to the Secretary must be delivered to or be mailed and received at the principal executive offices of the Corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding Annual Meeting of Stockholders; provided, however, that in the event that the Annual Meeting is called for a date that is not within thirty (30) days before or sixty (60) days after such anniversary date, notice by the stockholder in order to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which such notice of the date of the Annual Meeting was mailed or such public disclosure of the date of the Annual Meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an Annual Meeting, or the public announcement of such an adjournment or postponement, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) To be in proper written form, a stockholder's notice to the Secretary must set forth the following information: (a) as to each matter such stockholder proposes to bring before the Annual Meeting, a brief description of the business desired to be brought before the Annual Meeting and the proposed text of any proposal regarding such business (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend these bylaws, the text of the proposed amendment), and the reasons for conducting such business at the Annual Meeting, and (b) as to the stockholder giving notice and the beneficial owner, if any, on whose behalf the proposal is being made, (i) the name and address of such person, (ii) (A) the class or series and number of all shares of stock of the Corporation which are owned beneficially or of record by such person and any affiliates or associates of such person, (B) the name of each nominee holder of shares of all stock of the Corporation owned beneficially but not of record by such person or any affiliates or associates of such person, and the number of such shares of stock of the Corporation held by each such nominee holder, (C) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of such person, or any affiliates or associates of such person, with respect to stock of the Corporation and (D) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of the Corporation) has been made by or on behalf of such person, or any affiliates or associates of such person, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such person, or any affiliates or associates of such person, or to increase or decrease the voting power or pecuniary or economic interest of such person, or any affiliates or associates of such person, with respect to stock of the Corporation; (iii) a description of all agreements,

arrangements, or understandings (whether written or oral) between or among such person, or any affiliates or associates of such person, and any other person or persons (including their names) in connection with or relating to (A) the Corporation or (B) the proposal, including any material interest in, or anticipated benefit from the proposal to such person, or any affiliates or associates of such person, (iv) a representation that the stockholder giving notice intends to appear in person or by proxy at the Annual Meeting to bring such business before the meeting; and (v) any other information relating to such person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies by such person with respect to the proposed business to be brought by such person before the Annual Meeting pursuant to Section 14 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and the rules and regulations promulgated thereunder.

(d) A stockholder providing notice of business proposed to be brought before an Annual Meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.4 shall be true and correct as of the record date for determining the stockholders entitled to receive notice of the Annual Meeting and such update and supplement shall be delivered to or be mailed and received by the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for determining the stockholders entitled to receive notice of the Annual Meeting.

(e) No business shall be conducted at the Annual Meeting of Stockholders except business brought before the Annual Meeting in accordance with the procedures set forth in this Section 2.4; provided, however, that, once business has been properly brought before the Annual Meeting in accordance with such procedures, nothing in this Section 2.4 shall be deemed to preclude discussion by any stockholder of any such business. If the chairman of an Annual Meeting determines that business was not properly brought before the Annual Meeting in accordance with the foregoing procedures, the chairman shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted.

(f) Nothing contained in this Section 2.4 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act (or any successor provision of law).

Section 2.5 Nomination of Directors.

(a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation, except as may be otherwise provided in the Certificate of Incorporation with respect to the right of holders of preferred stock of the Corporation to nominate and elect a specified number of directors in certain circumstances. Nominations of persons for election to the Board of Directors may be made at any Annual Meeting of Stockholders, or at any Special Meeting of Stockholders called for the purpose of electing directors, (a) by or at the

direction of the Board of Directors (or any duly authorized committee thereof) or (b) by any stockholder of the Corporation (i) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.5 and on the record date for the determination of stockholders entitled to notice of and to vote at such Annual Meeting or Special Meeting and (ii) who complies with the notice procedures set forth in this Section 2.5.

(b) In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation. To be timely, a stockholder's notice to the Secretary must be delivered to or be mailed and received at the principal executive offices of the Corporation (a) in the case of an Annual Meeting, not less than ninety (90) days nor more than one hundred twenty (120) days prior to the anniversary date of the immediately preceding Annual Meeting of Stockholders; provided, however, that in the event that the Annual Meeting is called for a date that is not within thirty (30) days before or sixty (60) days after such anniversary date, notice by the stockholder in order to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which such notice of the date of the Annual Meeting was mailed or such public disclosure of the date of the Annual Meeting was made, whichever first occurs; and (b) in the case of a Special Meeting of Stockholders called for the purpose of electing directors, not later than the close of business on the tenth (10th) day following the day on which notice of the date of the Special Meeting was mailed or public disclosure of the date of the Special Meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an Annual Meeting or a Special Meeting called for the purpose of electing directors, or the public announcement of such an adjournment or postponement, commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) To be in proper written form, a stockholder's notice to the Secretary must set forth the following information: (a) as to each person whom the stockholder proposes to nominate for election as a director (i) the name, age, business address and residence address of such person, (ii) the principal occupation or employment of such person, (iii) (A) the class or series and number of all shares of stock of the Corporation which are owned beneficially or of record by such person and any affiliates or associates of such person, (B) the name of each nominee holder of shares of all stock of the Corporation owned beneficially but not of record by such person or any affiliates or associates of such person, and the number of such shares of stock of the Corporation held by each such nominee holder, (C) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of such person, or any affiliates or associates of such person, with respect to stock of the Corporation and (D) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of the Corporation) has been made by or on behalf of such person, or any affiliates or associates of such person, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such person, or any affiliates or associates of such person, or to increase or decrease the voting power or pecuniary or

economic interest of such person, or any affiliates or associates of such person, with respect to stock of the Corporation, (iv) such person's written representation and agreement that such person (A) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the Corporation that has not been disclosed to the Corporation in such representation and agreement, (C) in such person's individual capacity, would be in compliance, if elected as a director of the Corporation, and will comply with, all applicable publicly disclosed confidentiality, corporate governance, conflict of interest, Regulation FD, code of conduct and ethics, and stock ownership and trading policies and guidelines of the Corporation, and (D) for the full term for which such person is standing for election, and (v) any other information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder; and (b) as to the stockholder giving the notice, and the beneficial owner, if any, on whose behalf the nomination is being made, (i) the name and record address of the stockholder giving the notice and the name and principal place of business of such beneficial owner; (ii) (A) the class or series and number of all shares of stock of the Corporation which are owned beneficially or of record by such person and any affiliates or associates of such person, (B) the name of each nominee holder of shares of the Corporation owned beneficially but not of record by such person or any affiliates or associates of such person, and the number of shares of stock of the Corporation held by each such nominee holder, (C) whether and the extent to which any derivative instrument, swap, option, warrant, short interest, hedge or profit interest or other transaction has been entered into by or on behalf of such person, or any affiliates or associates of such person, with respect to stock of the Corporation and (D) whether and the extent to which any other transaction, agreement, arrangement or understanding (including any short position or any borrowing or lending of shares of stock of the Corporation) has been made by or on behalf of such person, or any affiliates or associates of such person, the effect or intent of any of the foregoing being to mitigate loss to, or to manage risk or benefit of stock price changes for, such person, or any affiliates or associates of such person, or to increase or decrease the voting power or pecuniary or economic interest of such person, or any affiliates or associates of such person, with respect to stock of the Corporation; (iii) a description of (A) all agreements, arrangements, or understandings (whether written or oral) between such person, or any affiliates or associates of such person, and any proposed nominee, or any affiliates or associates of such proposed nominee, (B) all agreements, arrangements, or understandings (whether written or oral) between such person, or any affiliates or associates of such person, and any other person or persons (including their names) pursuant to which the nomination(s) are being made by such person, or otherwise relating to the Corporation or their ownership of capital stock of the Corporation, and (C) any material interest of such person, or any affiliates or associates of such person, in such nomination, including any

anticipated benefit therefrom to such person, or any affiliates or associates of such person; (iv) a representation that the stockholder giving notice intends to appear in person or by proxy at the Annual Meeting or Special Meeting to nominate the persons named in its notice; and (v) any other information relating to such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with the solicitation of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Such notice must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation and to determine the independence of such director under the Exchange Act and rules and regulations thereunder and applicable stock exchange rules.

(d) A stockholder providing notice of any nomination proposed to be made at an Annual Meeting or Special Meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.5 shall be true and correct as of the record date for determining the stockholders entitled to receive notice of the Annual Meeting or Special Meeting, and such update and supplement shall be delivered to or be mailed and received by the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for determining the stockholders entitled to receive notice of such Annual Meeting or Special Meeting.

(e) No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 2.5. If the Chairman of the meeting determines that a nomination was not made in accordance with the foregoing procedures, the Chairman shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

Section 2.6 Notice. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and, in the case of a Special Meeting, the purpose or purposes for which the meeting is called. Unless otherwise required by law, written notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to notice of and to vote at such meeting.

Section 2.7 Adjournments. Any meeting of the stockholders may be adjourned from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place, if any, thereof the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record

date is fixed for the adjourned meeting, notice of the adjourned meeting in accordance with the requirements of Section 2.6 hereof shall be given to each stockholder of record entitled to notice of and to vote at the meeting.

Section 2.8 Quorum. Unless otherwise required by applicable law or the Certificate of Incorporation, the holders of a majority of the Corporation's capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. A quorum, once established, shall not be broken by the withdrawal of enough votes to leave less than a quorum. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, in the manner provided in Section 2.7 hereof, until a quorum shall be present or represented.

Section 2.9 Voting. Unless otherwise required by law, the Certificate of Incorporation or these By-Laws, or permitted by the rules of any stock exchange on which the Corporation's shares are listed and traded, any question brought before any meeting of the stockholders, other than the election of directors, shall be decided by the vote of the holders of a majority of the total number of votes of the Corporation's capital stock represented at the meeting and entitled to vote on such question, voting as a single class. Unless otherwise provided in the Certificate of Incorporation, and subject to Section 2.13(a) hereof, each stockholder represented at a meeting of the stockholders shall be entitled to cast one (1) vote for each share of the capital stock entitled to vote thereat held by such stockholder; provided, however, that until 5:00 p.m. in New York City, New York on the earlier of (i) the ten (10)-year anniversary of the IPO Date (as defined in the Certificate of Incorporation) or (ii) the date on which the shares of Class B Common Stock (as defined in the Certificate of Incorporation) beneficially held by the Voting Group (as defined in the Certificate of Incorporation) represent less than fifteen percent (15%) of the Class B Common Stock held by the Voting Group as of the IPO Date, each holder of shares of Class B Common Stock shall be entitled to cast ten (10) votes for each share of Class B Common Stock. Such votes may be cast in person or by proxy as provided in Section 2.10 hereof. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of the stockholders, in such officer's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

Section 2.10 Proxies. Each stockholder entitled to vote at a meeting of the stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder as proxy, but no such proxy shall be voted upon after three years from its date, unless such proxy provides for a longer period. Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy, the following shall constitute a valid means by which a stockholder may grant such authority:

(a) A stockholder may execute a writing authorizing another person or persons to act for such stockholder as proxy. Execution may be accomplished by the stockholder or such stockholder's authorized officer, director, employee or agent

signing such writing or causing such person's signature to be affixed to such writing by any reasonable means, including, but not limited to, by facsimile signature.

(b) A stockholder may authorize another person or persons to act for such stockholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram or other electronic transmission was authorized by the stockholder. If it is determined that such telegrams, cablegrams or other electronic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information on which they relied.

(c) Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission authorizing another person or persons to act as proxy for a stockholder may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used; provided, however, that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

Section 2.11 Consent of Stockholders in Lieu of Meeting. If and to the extent provided in the Certificate of Incorporation, any action required or permitted to be taken at any Annual or Special Meeting of Stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of the stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered in the manner required by this Section 2.11 and, if applicable, Section 2.13(b) hereof, to the Corporation, written consents signed by a sufficient number of holders to take action are delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of the stockholders are recorded. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section 2.11, provided that any such telegram, cablegram or other electronic transmission

sets forth or is delivered with information from which the Corporation can determine (i) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of the stockholders are recorded. Delivery made to the Corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided, however, that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Corporation as provided above in this Section 2.11.

Section 2.12 List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before every meeting of the stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Section 2.13 Record Date.

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of the stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of the stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of the stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary of the Corporation, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors (within ten (10) days of the date on which such a request is received, in the case of a stockholder request), the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of the stockholders are recorded, to the attention of the Secretary of the Corporation. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by applicable law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 2.14 Stock Ledger. The stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 2.12 hereof or the books of the Corporation, or to vote in person or by proxy at any meeting of the stockholders.

Section 2.15 Conduct of Meetings. The Board of Directors of the Corporation may adopt by resolution such rules and regulations for the conduct of any

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

Section 2.16 Inspectors of Election. In advance of any meeting of the stockholders, the Board of Directors, by resolution, the Chairman or the President shall appoint one or more inspectors to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of the stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by applicable law, inspectors may be officers, employees or agents of the Corporation. Each inspector, before entering upon the discharge of the duties of inspector, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and shall take charge of the polls and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by applicable law.

ARTICLE III
DIRECTORS

Section 3.1 Number and Election of Directors. Subject to the Amended and Restated Certificate of Incorporation, the number of directors shall be fixed by resolution of the Board of Directors. Except as provided in Section 3.2 hereof, directors shall be elected by a plurality of the votes cast at an Annual Meeting of Stockholders. Directors need not be stockholders. The directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as possible, of one-third of the total number of directors constituting the entire Board of Directors. The initial division of the Board of Directors into classes shall be made by the decision of the affirmative vote of a majority of the entire Board of Directors. The term of the initial Class I directors shall terminate on the date of the 2020 Annual Meeting; the term of the initial Class II directors shall terminate on the date of the 2021 Annual Meeting; and the term of the initial Class III directors shall terminate on the date of the 2022 Annual Meeting or, in each case, upon such director's earlier death, resignation or removal. At each succeeding Annual Meeting of Stockholders beginning in 2020, successors to the

class of directors whose term expires at that Annual Meeting shall be elected for a three-year term and until their successors are duly elected and qualified. If the total number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional director of any class elected to fill a vacancy resulting from an increase in such class or from the removal from office, death, disability, resignation or disqualification of a director or other cause shall hold office for a term that shall coincide with the remaining term of that class, but in no case will a decrease in the number of directors have the effect of removing or shortening the term of any incumbent director.

Section 3.2 Vacancies. Unless otherwise required by law or the Certificate of Incorporation (a) any vacancy on the Board of Directors or any committee thereof that results from an increase in the number of directors constituting the Board of Directors or such committee may be filled by a majority of the Board of Directors then in office, provided that a quorum is present, and (b) any other vacancy occurring on the Board of Directors or any committee thereof, resulting from death, resignation, removal, or otherwise, may be filled only by a majority of the directors then in office, though less than a quorum, or by a sole remaining director. In the case of the Board of Directors, any director of any class elected to fill a vacancy resulting from an increase in the number of directors of such class shall hold office for a term that shall coincide with the remaining term of that class and any director elected to fill a vacancy not resulting from an increase in the number of directors shall have the same remaining term as that of his or her predecessor, in each case until his or her successor is duly elected and qualified, or until his or her earlier death, resignation or removal. In the case of any committee of the Board of Directors, any director of any class elected to fill a vacancy shall hold office until his or her successor is duly appointed by the Board of Directors or until his or her earlier death, resignation or removal.

Section 3.3 Duties and Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws required to be exercised or done by the stockholders.

Section 3.4 Meetings. The Board of Directors and any committee thereof may hold meetings, both regular and special, either within or without the State of Delaware. Regular meetings of the Board of Directors or any committee thereof may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors or such committee, respectively. Special meetings of the Board of Directors may be called by the Chairman, if there be one, the President, or by any director. Special meetings of any committee of the Board of Directors may be called by the chairman of such committee, if there be one, the President, or any director serving on such committee. Notice thereof stating the place, date and hour of the meeting shall be given to each director (or, in the case of a committee, to each member of such committee) either by mail not less than forty-eight (48) hours before the date of the meeting, by telephone, telegram or electronic means on twenty-four (24) hours' notice, or

on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances.

Section 3.5 Organization. At each meeting of the Board of Directors or any committee thereof, the Chairman of the Board of Directors or the chairman of such committee, as the case may be, or, in his or her absence or if there be none, a director chosen by a majority of the directors present, shall act as chairman. Except as provided below, the Secretary of the Corporation shall act as secretary at each meeting of the Board of Directors and of each committee thereof. In case the Secretary shall be absent from any meeting of the Board of Directors or of any committee thereof, an Assistant Secretary shall perform the duties of secretary at such meeting; and in the absence from any such meeting of the Secretary and all the Assistant Secretaries, the chairman of the meeting may appoint any person to act as secretary of the meeting. Notwithstanding the foregoing, the members of each committee of the Board of Directors may appoint any person to act as secretary of any meeting of such committee and the Secretary or any Assistant Secretary of the Corporation may, but need not if such committee so elects, serve in such capacity.

Section 3.6 Resignations and Removals of Directors. Any director of the Corporation may resign from the Board of Directors or any committee thereof at any time, by giving notice in writing or by electronic transmission to the Chairman of the Board of Directors, if there be one, the President or the Secretary of the Corporation and, in the case of a committee, to the chairman of such committee, if there be one. Such resignation shall take effect at the time therein specified or, if no time is specified, immediately; and, unless otherwise specified in such notice, the acceptance of such resignation shall not be necessary to make it effective. Except as otherwise required by applicable law or the Certificate of Incorporation, and subject to the rights, if any, of the holders of shares of preferred stock then outstanding, any director or the entire Board of Directors may be removed from office at any time, but only for cause, and only by the affirmative vote of the holders of at least a majority in voting power of the issued and outstanding capital stock of the Corporation entitled to vote in the election of directors. Any director serving on a committee of the Board of Directors may be removed from such committee at any time by the Board of Directors.

Section 3.7 Quorum. Except as otherwise required by law, the Certificate of Incorporation or the rules and regulations of any securities exchange or quotation system on which the Corporation's securities are listed or quoted for trading, at all meetings of the Board of Directors or any committee thereof, a majority of the entire Board of Directors or a majority of the directors constituting such committee, as the case may be, shall constitute a quorum for the transaction of business and the act of a majority of the directors or committee members present at any meeting at which there is a quorum shall be the act of the Board of Directors or such committee, as applicable. If a quorum shall not be present at any meeting of the Board of Directors or any committee thereof, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting of the time and place of the adjourned meeting, until a quorum shall be present. A meeting at which a quorum is initially present may

continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by a majority of the required quorum for that meeting.

Section 3.8 Actions of the Board by Written Consent. Unless otherwise provided in the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all the members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 3.9 Meetings by Means of Conference Telephone. Unless otherwise provided in the Certificate of Incorporation or these By-Laws, members of the Board of Directors of the Corporation, or any committee thereof, may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 3.9 shall constitute presence in person at such meeting.

Section 3.10 Committees. The Board of Directors may designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Each member of a committee must meet the requirements for membership, if any, imposed by applicable law and the rules and regulations of any securities exchange or quotation system on which the securities of the Corporation are listed or quoted for trading. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of any such committee. Subject to the rules and regulations of any securities exchange or quotation system on which the securities of the Corporation are listed or quoted for trading, in the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another qualified member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent permitted by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it. Each committee shall keep regular minutes and report to the Board of Directors when required. Notwithstanding anything to the contrary contained in this Article III, the resolution of the Board of Directors establishing any committee of the Board of Directors and/or the charter of any such committee may establish requirements or procedures relating to the governance and/or operation of such committee that are different from, or in addition to, those set forth in these By-Laws and, to the extent that there is any

inconsistency between these By-Laws and any such resolution or charter, the terms of such resolution or charter shall be controlling.

Section 3.11 Compensation. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary for service as director, payable in cash or securities. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for service as committee members.

Section 3.12 Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because any such director's or officer's vote is counted for such purpose if: (i) the material facts as to the director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to the director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board of Directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE IV
OFFICERS

Section 4.1 General. The officers of the Corporation shall be chosen by the Board of Directors and shall be a President, a Secretary and a Treasurer. The Board of Directors, in its discretion, also may choose a Chairman of the Board of Directors (who must be a director) and one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers. Any number of offices may be held by the same person, unless otherwise prohibited by law, the Certificate of Incorporation or these By-Laws. The officers of the Corporation need not be stockholders of the Corporation nor, except in the case of the Chairman of the Board of Directors, need such officers be directors of the Corporation.

Section 4.2 Election. The Board of Directors, at its first meeting held after each Annual Meeting of Stockholders (or action by written consent of stockholders

in lieu of the Annual Meeting of Stockholders, if allowed by the Certificate of Incorporation), shall elect the officers of the Corporation who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors; and each officer of the Corporation shall hold office until such officer's successor is elected and qualified, or until such officer's earlier death, resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the Board of Directors. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors. The salaries of all officers of the Corporation shall be fixed by the Board of Directors.

Section 4.3 Voting Securities Owned by the Corporation. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the President or any Vice President or any other officer authorized to do so by the Board of Directors and any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon any other person or persons.

Section 4.4 Chairman of the Board of Directors. The Chairman of the Board of Directors, if there be one, shall preside at all meetings of the stockholders and of the Board of Directors. The Chairman of the Board of Directors shall be the Chief Executive Officer of the Corporation, unless the Board of Directors designates the President as the Chief Executive Officer, and, except where by law the signature of the President is required, the Chairman of the Board of Directors shall possess the same power as the President to sign all contracts, certificates and other instruments of the Corporation which may be authorized by the Board of Directors. During the absence or disability of the President, the Chairman of the Board of Directors shall exercise all the powers and discharge all the duties of the President. The Chairman of the Board of Directors shall also perform such other duties and may exercise such other powers as may from time to time be assigned by these By-Laws or by the Board of Directors.

Section 4.5 President. The President shall, subject to the control of the Board of Directors and, if there be one, the Chairman of the Board of Directors, have general supervision of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall execute all bonds, mortgages, contracts and other instruments of the Corporation requiring a seal, under the seal of the Corporation, if any, except where required or permitted by law to be otherwise signed and executed and except that the other officers of the Corporation may sign and execute documents when so authorized by these By-Laws, the Board of Directors or the President. In the absence or disability of the Chairman of the Board of Directors, or if there be none, the President shall preside at all meetings of the stockholders and, provided the President is also a director, the Board of Directors. If the

Board of Directors shall not otherwise designate a Chief Executive Officer, the President shall be the Chief Executive Officer of the Corporation. The President shall also perform such other duties and may exercise such other powers as may from time to time be assigned to such officer by these By-Laws or by the Board of Directors.

Section 4.6 Vice Presidents. At the request of the President or in the President's absence or in the event of the President's inability or refusal to act (and if there be no Chairman of the Board of Directors), the Vice President, or the Vice Presidents if there are more than one (in the order designated by the Board of Directors), shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Each Vice President shall perform such other duties and have such other powers as the Board of Directors from time to time may prescribe. If there be no Chairman of the Board of Directors and no Vice President, the Board of Directors shall designate the officer of the Corporation who, in the absence of the President or in the event of the inability or refusal of the President to act, shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

Section 4.7 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the stockholders and record all the proceedings thereat in a book or books to be kept for that purpose; the Secretary shall also perform like duties for committees of the Board of Directors when required. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors or the President, under whose supervision the Secretary shall be. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the stockholders and special meetings of the Board of Directors, and if there be no Assistant Secretary, then either the Board of Directors or the President may choose another officer to cause such notice to be given. The Secretary shall have custody of the seal of the Corporation and the Secretary or any Assistant Secretary, if there be one, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest to the affixing by such officer's signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by law to be kept or filed are properly kept or filed, as the case may be.

Section 4.8 Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all transactions as Treasurer and of the financial condition of the Corporation. If

required by the Board of Directors, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of the office of the Treasurer and for the restoration to the Corporation, in case of the Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in the Treasurer's possession or under the Treasurer's control belonging to the Corporation.

Section 4.9 Assistant Secretaries. Assistant Secretaries, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice President, if there be one, or the Secretary, and in the absence of the Secretary or in the event of the Secretary's inability or refusal to act, shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

Section 4.10 Assistant Treasurers. Assistant Treasurers, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice President, if there be one, or the Treasurer, and in the absence of the Treasurer or in the event of the Treasurer's inability or refusal to act, shall perform the duties of the Treasurer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Treasurer. If required by the Board of Directors, an Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of the office of Assistant Treasurer and for the restoration to the Corporation, in case of the Assistant Treasurer's death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in the Assistant Treasurer's possession or under the Assistant Treasurer's control belonging to the Corporation.

Section 4.11 Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors. The Board of Directors may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

ARTICLE V
STOCK

Section 5.1 Shares of Stock. Except as otherwise provided in a resolution approved by the Board of Directors, all shares of capital stock of the Corporation shall be uncertificated shares.

Section 5.2 Signatures. To the extent any shares are represented by certificates, any or all of the signatures on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar

before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Section 5.3 Lost Certificates. The Board of Directors may direct a new certificate or uncertificated shares be issued in place of any certificate theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issuance of a new certificate or uncertificated shares, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or such owner's legal representative, to advertise the same in such manner as the Board of Directors shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate or the issuance of such new certificate or uncertificated shares.

Section 5.4 Transfers. Stock of the Corporation shall be transferable in the manner prescribed by applicable law, the Certificate of Incorporation and these By-Laws. Transfers of stock shall be made on the books of the Corporation, and in the case of certificated shares of stock, only by the person named in the certificate or by such person's attorney lawfully constituted in writing and upon the surrender of the certificate therefor, properly endorsed for transfer and payment of all necessary transfer taxes; or, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney lawfully constituted in writing, and upon payment of all necessary transfer taxes and compliance with appropriate procedures for transferring shares in uncertificated form; provided, however, that such surrender and endorsement (to the extent any shares are represented by certificates), compliance or payment of taxes shall not be required in any case in which the officers of the Corporation shall determine to waive such requirement. With respect to certificated shares of stock, every certificate exchanged, returned or surrendered to the Corporation shall be marked "Cancelled," with the date of cancellation, by the Secretary or Assistant Secretary of the Corporation or the transfer agent thereof. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

Section 5.5 Dividend Record Date. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 5.6 Record Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by law.

Section 5.7 Transfer and Registry Agents. The Corporation may from time to time maintain one or more transfer offices or agencies and registry offices or agencies at such place or places as may be determined from time to time by the Board of Directors.

ARTICLE VI
NOTICES

Section 6.1 Notices. Whenever written notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, such notice may be given by mail, addressed to such director, member of a committee or stockholder, at such person's address as it appears on the records of the Corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under applicable law, the Certificate of Incorporation or these By-Laws shall be effective if given by a form of electronic transmission if consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed to be revoked if (i) the Corporation is unable to deliver by electronic transmission two (2) consecutive notices by the Corporation in accordance with such consent and (ii) such inability becomes known to the Secretary or Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, that the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Notice given by electronic transmission, as described above, shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network, together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder. Notice to directors or committee members may be given personally or by telegram, telex, cable or by means of electronic transmission.

Section 6.2 Waivers of Notice. Whenever any notice is required by applicable law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, a waiver thereof in writing, signed by the person or persons entitled to notice, or a waiver by electronic transmission by the

person or persons entitled to notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting, present in person or represented by proxy, shall constitute a waiver of notice of such meeting, except where the person attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any Annual or Special Meeting of Stockholders or any regular or special meeting of the directors or members of a committee of directors need be specified in any written waiver of notice unless so required by law, the Certificate of Incorporation or these By-Laws.

ARTICLE VII
GENERAL PROVISIONS

Section 7.1 Dividends. Dividends upon the capital stock of the Corporation, subject to the requirements of the DGCL and the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting of the Board of Directors (or any action by written consent in lieu thereof in accordance with Section 3.8 hereof), and may be paid in cash, in property, or in shares of the Corporation's capital stock. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves to meet contingencies, or for purchasing any of the shares of capital stock, warrants, rights, options, bonds, debentures, notes, scrip or other securities or evidences of indebtedness of the Corporation, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for any proper purpose, and the Board of Directors may modify or abolish any such reserve.

Section 7.2 Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 7.3 Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 7.4 Corporate Seal. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE VIII
INDEMNIFICATION

Section 8.1 Actions Not By or in the Right of the Corporation. Subject to Section 8.3 hereof, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation), by reason of the fact that such person is or was a

director or officer of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including, for the avoidance of doubt, SDC Financial, LLC, a Delaware limited liability company ("**SDC Financial**")), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

Section 8.2 Actions By or in the Right of the Corporation. Subject to Section 8.3 hereof, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including, for the avoidance of doubt, SDC Financial), against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 8.3 Authorization of Indemnification. Any indemnification under this Article VIII (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director or officer is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 8.1 or 8.2 hereof, as the case may be. Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (i) by the affirmative vote of a majority of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion or (iv) by the stockholders. Such determination shall be made, with respect to former directors and officers, by any person

or persons having the authority to act on the matter on behalf of the Corporation. To the extent, however, that a present or former director or officer of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case.

Section 8.4 Good Faith Defined. For purposes of any determination under Section 8.3 hereof, a person shall be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe such person's conduct was unlawful, if such person's action is based on the records or books of account of the Corporation or another enterprise, or on information supplied to such person by the officers of the Corporation or another enterprise in the course of their duties, or on the advice of legal counsel for the Corporation or another enterprise or on information or records given or reports made to the Corporation or another enterprise by an independent certified public accountant, financial advisor, appraiser or other expert selected with reasonable care by the Corporation or another enterprise. The provisions of this Section 8.4 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Section 8.1 or 8.2 hereof, as the case may be.

Section 8.5 Indemnification by a Court. Notwithstanding any contrary determination in the specific case under Section 8.3 hereof, and notwithstanding the absence of any determination thereunder, any director or officer may apply to the Court of Chancery of the State of Delaware or any other court of competent jurisdiction in the State of Delaware for indemnification to the extent otherwise permissible under Section 8.1 or 8.2 hereof. The basis of such indemnification by a court shall be a determination by such court that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 8.1 or 8.2 hereof, as the case may be. Neither a contrary determination in the specific case under Section 8.3 hereof nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director or officer seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 8.5 shall be given to the Corporation promptly upon the filing of such application. If successful, in whole or in part, the director or officer seeking indemnification shall also be entitled to be paid the expense of prosecuting such application.

Section 8.6 Expenses Payable in Advance. Expenses (including attorneys' fees) incurred by a director or officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the

Corporation as authorized in this Article VIII. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Corporation deems appropriate.

Section 8.7 Nonexclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Certificate of Incorporation, these By-Laws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Corporation that indemnification of the persons specified in Section 8.1 or 8.2 hereof shall be made to the fullest extent permitted by law. The provisions of this Article VIII shall not be deemed to preclude the indemnification of any person who is not specified in Section 8.1 or 8.2 hereof but whom the Corporation has the power or obligation to indemnify under the provisions of the DGCL, or otherwise.

Section 8.8 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including, for the avoidance of doubt, SDC Financial) against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power or the obligation to indemnify such person against such liability under the provisions of this Article VIII.

Section 8.9 Certain Definitions. For purposes of this Article VIII, references to "**the Corporation**" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any person who is or was a director or officer of such constituent corporation, or is or was a director or officer of such constituent corporation serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including, for the avoidance of doubt, SDC Financial), shall stand in the same position under the provisions of this Article VIII with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. The term "**another enterprise**" as used in this Article VIII shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise (including, for the avoidance of doubt, SDC Financial) of which such person is or was serving at the request of the Corporation as a director, officer, employee or agent. For purposes of this Article VIII, references to "**fines**" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "**serving at the request of the Corporation**" shall include any service as a director, officer, employee or agent of

the Corporation which imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "**not opposed to the best interests of the Corporation**" as referred to in this Article VIII.

Section 8.10 Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 8.11 Limitation on Indemnification. Notwithstanding anything contained in this Article VIII to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 8.5 hereof), the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) or advance expenses in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors of the Corporation.

Section 8.12 Indemnification of Employees and Agents. The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this Article VIII to directors and officers of the Corporation.

ARTICLE IX
FORUM FOR ADJUDICATION OF CERTAIN DISPUTES

Section 9.1 Forum for Adjudication of Certain Disputes. Unless the Corporation consents in writing to the selection of an alternative forum (an "**Alternative Forum Consent**"), the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer, stockholder, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation or any director, officer, stockholder, employee or agent of the Corporation arising out of or relating to any provision of the General Corporation Law of Delaware or the Corporation's Certificate of Incorporation or Bylaws, or (iv) any action asserting a claim against the Corporation or any director, officer, stockholder, employee or agent of the Corporation governed by the internal affairs doctrine of the State of Delaware; provided, however, that, in the event that the Court of Chancery of the State of Delaware lacks subject matter jurisdiction over any such action or proceeding, the sole and exclusive forum for such action or proceeding shall be another state or federal court located within the State of Delaware, in each such case, unless the Court of Chancery (or such other state or federal court located within the State of Delaware, as applicable) has dismissed a

prior action by the same plaintiff asserting the same claims because such court lacked personal jurisdiction over an indispensable party named as a defendant therein. Failure to enforce the foregoing provisions would cause the Corporation irreparable harm and the Corporation shall be entitled to equitable relief, including injunctive relief and specific performance, to enforce the foregoing provisions. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 9.1. The existence of any prior Alternative Forum Consent shall not act as a waiver of the Corporation's ongoing consent right as set forth above in this Section 9.1 with respect to any current or future actions or claims.

ARTICLE X
AMENDMENTS

Section 10.1 Amendments. These By-Laws may be altered, amended or repealed, in whole or in part, or new By-Laws may be adopted by the stockholders or by the Board of Directors; provided, however, that notice of such alteration, amendment, repeal or adoption of new By-Laws be contained in the notice of such meeting of the stockholders or Board of Directors, as the case may be. All such amendments must be approved by either the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 $^{2}/_{3}$%) of the voting power of outstanding capital stock entitled to vote thereon or by a majority of the entire Board of Directors then in office.

Section 10.2 Entire Board of Directors. As used in this Article X and in these By-Laws generally, the term "**entire Board of Directors**" means the total number of directors which the Corporation would have if there were no vacancies.

* * *

Adopted as of: August 29, 2019

Effective as of September 13, 2019.

Exhibit 10.1

SDC FINANCIAL LLC

a Delaware Limited Liability Company

SEVENTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

THE UNITS DESCRIBED AND REPRESENTED BY THIS LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY APPLICABLE STATE SECURITIES LAWS AND ARE RESTRICTED SECURITIES AS THAT TERM IS DEFINED IN RULE 144 UNDER THE SECURITIES ACT.

THE UNITS MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED OR OTHERWISE TRANSFERRED AT ANY TIME EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT OR QUALIFICATION UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER, OR PREEMPTION OF, THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, THE AVAILABILITY OF WHICH IS TO BE ESTABLISHED TO THE SATISFACTION OF THE COMPANY, AND IN COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

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SDC FINANCIAL LLC
SEVENTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

This Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial LLC, a Delaware limited liability company (the "**Company**"), dated as of September 13, 2019 (the "**Effective Date**"), is entered into by and among the Members (as defined below).

WHEREAS, unless the context otherwise requires, capitalized terms have the respective meanings ascribed to them in Article I;

WHEREAS, the Company was formed as a Tennessee limited liability company with the name "SDC Financial LLC" by the filing of Articles of Organization with the Secretary of State of the State of Tennessee, pursuant to and in accordance with the Tennessee Act, and the execution by the Pre-IPO Members party thereto of the Operating Agreement of the Company, dated as of January 31, 2018, which was subsequently amended and restated by the Second Amended and Restated Operating Agreement, dated as of August 20, 2018, the Third Amended and Restated Operating Agreement, dated as of October 12, 2018, the Fourth Amended and Restated Operating Agreement, dated as of October 26, 2018, the Fifth Amended and Restated Operating Agreement, dated as of January 31, 2019, and the Sixth Amended and Restated Operating Agreement, dated as of March 14, 2019, each by and among the Company and the Pre-IPO Members party thereto;

WHEREAS, pursuant to that certain Contribution and Exchange Agreement, dated as of January 31, 2018, between the Company, SmileDirectClub, LLC, a Tennessee limited liability company ("**SDC LLC**") and the Pre-IPO Members party thereto who were previously members of SDC LLC, such Pre-IPO Members transferred all of their membership units in SDC LLC to the Company in exchange for corresponding membership units in the Company;

WHEREAS, in connection with a series of transactions effected in connection with the contemplated IPO, on September 13, 2019, the Company was converted into a Delaware limited liability company with the name "SDC Financial LLC" by the filing of a Certificate of Conversion with the Secretary of State of the State of Tennessee, pursuant to and in accordance with the Tennessee Act, and the filing of a Certificate of Conversion and the Certificate with the Secretary of State of the State of Delaware, each pursuant to and in accordance with the Delaware Act;

WHEREAS, the Pre-IPO Members have approved the initial public offering (the "**IPO**") of shares Class A common stock, par value $0.0001 per share ("**Class A Shares**") of SDC Inc. and, in connection therewith, pursuant to a Recapitalization, Contribution and Exchange Agreement, dated as of the Effective Date, the Company's capital structure is being reclassified to consist only of Common Units; and

WHEREAS, the Pre-IPO Members have authorized SDC Inc., as Manager, to adopt this Agreement immediately prior to the closing of the IPO without the consent or approval of any other Members.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each of the Members, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINED TERMS

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

"**AAA**" has the meaning set forth in Section 15.12(c).

"**Additional Funds**" has the meaning set forth in Section 3.3(a).

"**Additional Member**" means a Person who is admitted to the Company as a Member pursuant to the Delaware Act and Section 12.2, who is shown as such on the books and records of the Company, and who has not ceased to be a Member pursuant to the Delaware Act and this Agreement.

"**Acquired Percentage**" has the meaning set forth in Section 11.1(b).

"**Adjusted Capital Account Balance**" means a Capital Account of any Member as of the end of any Taxable Year, subject to the following adjustments:

(a) reduction for any items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), and (6); and

(b) increase for any amount such Member is obligated to contribute or is treated as being obligated to contribute to the Company pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c) (relating to partner liabilities to a partnership) or 1.704-2(g)(1) and 1.704-2(i) (relating to Minimum Gain).

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Adjusted Capital Account at the end of any Taxable Year.

"**Adjustment Factor**" means 1.0; provided, however, that in the event that:

(a) SDC Inc. (i) declares or pays a dividend on its outstanding Class A Shares wholly or partly in Class A Shares or makes a distribution to all holders of its outstanding Class A Shares wholly or partly in Class A Shares, (ii) splits or subdivides its outstanding Class A Shares or (iii) effects a reverse stock split or otherwise combines its outstanding Class A Shares into a smaller number of Class A Shares, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (x) the numerator of which shall be the number of Class A Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has

occurred as of such time) and (y) the denominator of which shall be the actual number of Class A Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;

(b) SDC Inc. distributes any rights, options or warrants to all holders of its Class A Shares to subscribe for or to purchase or to otherwise acquire Class A Shares, or other securities or rights convertible into, exchangeable for or exercisable for Class A Shares (other than Class A Shares issuable pursuant to a Qualified DRIP), at a price per share less than the Value of a Class A Share on the record date for such distribution (each a "**Distributed Right**"), then, as of the distribution date of such Distributed Rights or, if later, the time such Distributed Rights become exercisable, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (i) the numerator of which shall be the number of Class A Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus the maximum number of Class A Shares purchasable under such Distributed Rights and (ii) the denominator of which shall be the number of Class A Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus a fraction (1) the numerator of which is the maximum number of Class A Shares purchasable under such Distributed Rights, multiplied by the minimum purchase price per Class A Share under such Distributed Rights and (2) the denominator of which is the Value of a Class A Share as of the record date (or, if later, the date such Distributed Rights become exercisable); provided, however, that if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution (or, if later, the time the Distributed Rights become exercisable) of the Distributed Rights, to reflect a reduced maximum number of Class A Shares or any change in the minimum purchase price for the purposes of the above fraction; and

(c) SDC Inc. shall, by dividend or otherwise, distribute to all holders of its Class A Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (a) or (b) above), which evidences of indebtedness or assets relate to assets not received by SDC Inc. or its Subsidiaries pursuant to a pro rata distribution by the Company, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business as of the record date fixed for the determination of stockholders entitled to receive such distribution by a fraction (i) the numerator of which shall be such Value of a Class A Share on such record date and (ii) the denominator of which shall be the Value of a Class A Share as of such record date less the then fair market value (as determined by the Manager, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one Class A Share.

Notwithstanding the foregoing, no adjustments to the Adjustment Factor will be made for any class or series of Units to the extent that the Company makes or effects any correlative distribution or payment to all of the Members holding Units of such class or series, or effects any correlative split or reverse split in respect of the Units of such class or series. Any adjustments to the Adjustment Factor shall become effective immediately after such event, retroactive to the record date, if any, for such event. For illustrative purposes, examples of adjustments to the Adjustment Factor are set forth on Exhibit A attached hereto.

"**Affiliate**" means, with respect to any Person, any Person directly or indirectly controlling or controlled by or under common control with such Person. For the purposes of this definition, "**control**" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Agreement**" means this Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial LLC, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"**Annual Income Tax Liability**" means, with respect to a Member, an amount, not less than zero, equal to the product of (i) the excess of (w) the taxable income of the Company, determined without regard to any adjustments pursuant to Sections 734 and 743 of the Code, that is projected, in the good faith belief of the Managing Member, to be allocated pursuant to this Agreement for the Taxable Year to the Units held by such Member on the applicable Company Record Date, over (x) the cumulative net losses, if any, of the Company in any prior Taxable Year allocated to such Member's Units held on the applicable Company Record Date, but only to the extent not previously applied for purposes of this definition, and (ii) the sum of (y) the highest marginal U.S. federal income tax rate applicable to an individual (including, for the avoidance of doubt, the 3.8% net investment income tax or corresponding portion of self-employment tax) or corporation at the time such Annual Income Tax Liability is calculated and (z) the greater of (A) the most recently-calculated Blended Rate, as such term is defined in the Tax Receivable Agreement and calculated thereunder, provided, however, that if the Blended Rate has not been recalculated for purposes of the Tax Receivable Agreement within one (1) calendar year of the date on which the Annual Income Tax Liability is computed, the Blended Rate shall be recalculated in accordance with the terms set forth in the Tax Receivable Agreement for purposes of this clause (A), and (B) the highest marginal income tax rate, whether individual or corporate, of the State of Michigan, measured as of the most recent calculation of the Blended Rate as provided in clause (A).

"**Appellate Rules**" has the meaning set forth in Section 15.12(c)(vi).

"**Assignee**" means a Person to whom one or more Units have been Transferred but who has not become a Substituted Member, and who has the rights set forth in Section 10.5.

"**Associated PC**" has the meaning set forth in Section 7.6(a)(i).

"**Award**" has the meaning set forth in Section 15.12(c)(iv).

"**Bankruptcy**" means, with respect to any Person, the occurrence of any event specified in Section 18-304 of the Delaware Act with respect to such Person, and the term "**Bankrupt**" has a meaning correlative to the foregoing.

"**Board of Directors**" means the Board of Directors of SDC Inc.

"**Book Value**" means, with respect to any Company property, the Company's adjusted basis for U.S. federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulations Section 1.704-1(b)(2)(iv)(d)-(g).

"**Business Day**" means any weekday, excluding any legal holiday observed pursuant to U.S. federal or New York State Law or regulation.

"**Capital Account**" means the capital account maintained for a Member in accordance with Section 5.1.

"**Capital Contribution**" means, with respect to any Member, the amount of any cash, cash equivalents, promissory obligations or the Fair Market Value of other property that such Member (or such Member's predecessor) contributes (or is deemed to contribute) to the Company pursuant to Article III.

"**Capital Share**" means a share of any class or series of stock of SDC Inc. now or hereafter authorized, other than a Common Share.

"**Cash Amount**" means an amount of cash equal to the product of (i) the Value of a Class A Share and (ii) the Class A Shares Amount determined as of the applicable Valuation Date.

"**Certificate**" means the Certificate of Formation executed and filed in the Office of the Secretary of State of the State of Delaware (and any and all amendments thereto and restatements thereof) on behalf of the Company pursuant to the Delaware Act.

"**Chosen Courts**" has the meaning set forth in Section 15.12(b).

"**Class A Share**" has the meaning set forth in the recitals to this Agreement.

"**Class A Shares Amount**" means a number of Class A Shares equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor; provided, however, that, in the event that SDC Inc. issues to all holders of Class A Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling SDC Inc.'s stockholders to subscribe for or purchase Class A Shares, or any other securities or property (collectively, the "**Rights**"), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the Class A Shares Amount shall also include such Rights that a holder of that number of Class A Shares would be entitled to receive, expressed, where relevant hereunder, as a number of Class A Shares determined by the Manager.

"**Class B Share**" means a share of Class B Common Stock, par value $0.0001 per share, of SDC Inc.

"**Code**" means the U.S. Internal Revenue Code of 1986, as amended.

"**Common Share**" means a Class A Share or a Class B Share (and shall not include any additional series or class of SDC Inc.'s common stock created after the date of this Agreement).

"**Common Unit**" means a Unit representing a fractional share of ownership interest in the Company and having the rights and obligations specified with respect to Common Units in this Agreement.

"**Company**" has the meaning set forth in the preamble to this Agreement.

"**Company Employee**" means an employee of the Company or an employee of a Company Subsidiary, if any.

"**Company Record Date**" means the record date established by the Manager for the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or to consent to any matter, or to receive any distribution or the allotment of any other rights, or in order to make a determination of Members for any other proper purpose, which, in the case of a record date fixed for the determination of Member entitled to receive any distribution, shall (unless otherwise determined by the Manager) generally be the same as the record date established by SDC Inc. for a distribution to its stockholders.

"**Competing Business**" means (a) any business or Person directly or indirectly engaged in owning, operating, developing, managing or providing administrative, management, marketing or other business services for the remote provision of tooth alignment apparatus or similar businesses, (b) any provider of services identical or substantially similar to the services provided by the Company and its Affiliates or in which the Company and its Affiliates engage, and (c) any business or business opportunity that the Member knows the Company or its Subsidiaries, Affiliates or Associated PCs to be pursuing or considering.

"**Confidential Information**" has the meaning set forth in Section 15.3(a).

"**Consent of the Members**" means the consent to, approval of or vote in favor of a proposed action by a Majority in Interest of the Members, which consent, approval or vote shall be obtained before the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by Members in their discretion.

"**Controlled Entity**" means, as to any Person, (a) any corporation more than fifty percent (50%) of the outstanding voting stock of which is owned by such Person or such Person's Family Members or Affiliates, (b) any trust, whether or not revocable, of which such Person or such Person's Family Members or Affiliates are the sole beneficiaries, (c) any partnership of which such Person or an Affiliate of such Person is the managing partner and in which such Person or such Person's Family Members or Affiliates hold partnership interests representing at least twenty-five percent (25%) of such partnership's capital and profits, and (d) any limited liability company of which such Person or an Affiliate of such Person is the manager or managing member and in which such Person or such Person's Family Members or Affiliates hold membership interests representing at least twenty-five percent (25%) of such limited liability company's capital and profits.

"**Cut-Off Date**" means the fifth (5th) Business Day after the Manager's receipt of a Notice of Redemption.

"**Debt**" means, as to any Person, as of any date of determination, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person's interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) obligations of such Person as lessee under capital leases.

"**Declination**" has the meaning set forth in Section 11.1(a).

"**Delaware Act**" means the Delaware Limited Liability Company Act, 6 Del.C. §§ 18-101, *et seq.*, as it may be amended from time to time, and any successor thereto.

"**Designated Individual**" has the meaning set forth in Section 9.4(a).

"**Dispute**" has the meaning set forth in Section 15.12(c).

"**Distributed Right**" has the meaning set forth in the definition of "Adjustment Factor."

"**Distribution**" means each distribution made by the Company to the Members with respect to each Member's Units, whether in cash, property or securities of the Company and whether by liquidating distribution or otherwise; provided, however, that none of the following shall be a Distribution: (a) any recapitalization that does not result in the distribution of cash or property to Members, (b) any exchange of securities of the Company, (c) any subdivision (by Unit split or otherwise) of any outstanding Units, (d) any combination (by reverse Unit split or otherwise) of any outstanding Units, or (e) any other payment made by the Company to a Member that is not properly treated as a "distribution" for purposes of Sections 731, 732, or 733 or other applicable provisions of the Code, and the term "**Distribute**" has a meaning correlative to the foregoing.

"**Effective Date**" has the meaning set forth in the preamble to this Agreement.

"**Equity Plan**" means any plan, agreement or other arrangement that provides for the grant or issuance of equity or equity-based awards and that is now in effect or is hereafter adopted by the Company or SDC Inc. for the benefit of any of their respective employees or other service providers (including directors, advisers and consultants), or the employees or other services providers (including directors, advisers and consultants) of any of their respective Affiliates or Subsidiaries.

"**Equivalent Units**" means, with respect to any class or series of Capital Shares, Units with preferences, conversion and other rights (other than voting rights), restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption that are substantially the same as (or correspond to) the preferences, conversion and other rights,

restrictions, limitations as to distributions, qualifications and terms and conditions of redemption of such Capital Shares as appropriate to reflect the relative rights and preferences of such Capital Shares as to the Common Shares and the other classes and series of Capital Shares as such Equivalent Units would have as to Common Units and the other classes and series of Units corresponding to the other classes of Capital Shares, but not as to matters such as voting for members of the Board of Directors that are not applicable to the Company. For the avoidance of doubt, the voting rights, redemption rights and rights to Transfer Equivalent Units need not be similar to the rights of the corresponding class or series of Capital Shares, provided, however, that with respect to redemption rights, the terms of Equivalent Units must be such so that the Company complies with Section 3.7.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and any successor statute thereto, and the rules and regulations of the SEC promulgated thereunder.

"**Fair Market Value,**" with respect to any asset, has the meaning set forth in Section 14.1.

"**Family Members**" means, as to a Person that is an individual, such Person's spouse, ancestors, descendants (whether by blood or by adoption), brothers and sisters (whether by blood or by adoption) and inter vivos or testamentary trusts of which only such Person and his spouse, ancestors, descendants (whether by blood or by adoption), brothers and sisters (whether by blood or adoption) are beneficiaries.

"**Fiscal Period**" means any interim accounting period within a Taxable Year established by the Manager and which is permitted or required by Section 706 of the Code.

"**Fiscal Year**" means the Company's annual accounting period established pursuant to Section 8.2.

"**Funding Debt**" means any Debt incurred by or on behalf of SDC Inc. for the purpose of providing funds to the Company.

"**GAAP**" means U.S. generally accepted accounting principles, consistently applied.

"**Governmental Entity**" means (a) the United States of America, (b) any other sovereign nation, (c) any state, province, district, territory or other political subdivision of (a) or (b) of this definition, including any county, municipal or other local subdivision of the foregoing, or (d) any entity exercising executive, legislative, judicial, regulatory or administrative functions of government on behalf of (a), (b) or (c) of this definition.

"**Holder**" means either (a) a Member or (b) an Assignee that owns one or more Units.

"**Imputed Underpayment Amount**" has the meaning set forth in Section 9.4(e).

"**Incapacity**" means, (a) as to any Member who is an individual, death, total physical disability or entry by a court of competent jurisdiction determining the Member to be

incompetent to manage his or her person or his or her estate; (b) as to any Member that is a corporation or limited liability company, the filing of a certificate of dissolution or cancellation, respectively, or the revocation of its charter or other equivalent formation document; (c) as to any Member that is a partnership, the dissolution and commencement of winding up of the partnership; (d) as to any Member that is an estate, the distribution by the fiduciary of the estate's entire interest in the Company; (e) as to any trustee of a trust that is a Member, the termination of the trust (but not the substitution of a new trustee); or (f) as to any Member, the bankruptcy of that Member, and the terms "**Incapacitated**" and "**Incapacitation**" have meanings correlative to the foregoing.

"**Indemnified Person**" has the meaning set forth in Section 7.3(a).

"**IPO**" has the meaning set forth in the recitals to this Agreement.

"**Joinder**" means a joinder to this Agreement, in the form attached as Exhibit B hereto.

"**Law**" means any law, statute, ordinance, rule, regulation, directive, code or order enacted, issued, promulgated, enforced or entered by any Governmental Entity.

"**Lead Tendering Party**" has the meaning set forth in Section 11.1(g)(iii)(2).

"**Liquidating Event**" has the meaning set forth in Section 13.1.

"**Liquidator**" has the meaning set forth in Section 13.2(a).

"**Lock-Up Period**" means the period commencing on the Effective Date and continuing through the date one hundred eighty (180) days after the date of the final prospectus used in connection with the IPO; provided, however, that the Manager may, by written agreement with a Holder, shorten or lengthen the Lock-Up Period applicable to such Holder, in the sole discretion of the Manager, and without having any obligation to do so for any other Holder.

"**Losses**" means items of Company loss or deduction determined according to Section 5.1(b).

"**Majority in Interest of the Members**" means Members (including the Manager) entitled to vote on or consent to any matter holding more than fifty percent (50%) of all outstanding Units held by all Members (including the Manager) entitled to vote on or consent to such matter. Unless otherwise specified, references in this definition to "Units" shall mean Common Units.

"**Manager**" means SDC Inc. or any successor Manager designated as such pursuant to this Agreement, in each case that has not ceased to be a managing member pursuant to this Agreement.

"**Market Price**" has the meaning set forth in the definition of "Value."

"**Marks**" has the meaning set forth in Section 15.6.

"**Member**" means, as of any date of determination, each of the members identified and listed on the Register as of such date, including any Person admitted to the Company as a Substituted Member or Additional Member in accordance with Article XII on or prior to such date, but, in each case, only so long as such Person is shown on the Company's books and records as the owner of one or more Units, each in its capacity as a member of the Company. The Members holding Common Units shall constitute a single class of members for all purposes of the Delaware Act.

"**Minimum Gain**" means "partnership minimum gain" determined pursuant to Treasury Regulations Section 1.704-2(d).

"**Net Losses**" means, with respect to a Fiscal Year, the excess if any, of Losses for such Fiscal Year over Profits for such Fiscal Year (excluding Profits and Losses specially allocated pursuant to Section 5.3 and Section 5.4).

"**Net Proceeds**" has the meaning set forth in Section 11.1(g)(ii).

"**Net Profits**" means, with respect to a Fiscal Year, the excess, if any, of Profits for such Fiscal Year over Losses for such Fiscal Year (excluding Profits and Losses specially allocated pursuant to Section 5.3 and Section 5.4).

"**New Securities**" means (a) any rights, options, warrants or convertible or exchangeable securities that entitle the holder thereof to subscribe for or purchase, convert such securities into or exchange such securities for, Common Shares or Preferred Shares, excluding Preferred Shares and grants under the Equity Plans, or (b) any Debt issued by SDC Inc. that provides any of the rights described in clause (a).

"**Non-Manager Member**" means each Member other than the Manager.

"**Notice of Redemption**" means the Notice of Redemption substantially in the form of Exhibit C attached hereto.

"**Offered Shares**" has the meaning set forth in Section 11.1(g)(i).

"**Offering Units**" has the meaning set forth in Section 11.1(g)(i).

"**Officer**" and "**Officers**" each have the meaning set forth in Section 6.1(b).

"**Optionee**" means a Person to whom an outstanding stock option has been granted under any Equity Plan.

"**Partnership Audit Procedures**" means Sections 6221 through 6241 of the Code and any successor statutes thereto or the Treasury Regulations promulgated thereunder.

"**Partnership Representative**" has the meaning set forth in Section 9.4(a).

"**Percentage Interest**" means, with respect to each Member, as to any class or series of Units, the fraction, expressed as a percentage, the numerator of which is the aggregate number of

Units of such class or series held by such Member and the denominator of which is the total number of Units of such class or series held by all Members. If not otherwise specified, "Percentage Interest" shall be deemed to refer to Common Units.

"**Permitted Lender Transferee**" any lender or lenders secured by a Pledge, or agents acting on their behalf, to whom one or more Units are transferred pursuant to the exercise of remedies under a Pledge and any special purpose entities owned and used by such lenders or agents for the purpose of holding any such Units.

"**Permitted Transfer**" means (i) a Transfer by a Member of one or more Units to any Permitted Transferee and (ii) a Pledge and any Transfer of one or more Units to a Permitted Transferee pursuant to the exercise of remedies under a Pledge.

"**Permitted Transferee**" means any Member and, with respect to a Member, (i) any Family Member, Controlled Entity or Affiliate of such Member, (ii) a Permitted Lender Transferee, and (iii) any Person, including any Third-Party Pledge Transferee designated by any lender or lenders secured by a Pledge, or agents acting on their behalf, to whom one or more Units are transferred pursuant to the exercise of remedies under a Pledge, whether before or after one or more Permitted Lender Transferees take title to such Units.

"**Person**" means an individual or a corporation, partnership, trust, unincorporated organization, association, limited liability company or other entity.

"**Pledge**" means a pledge by a Holder of one or more of its Units to one or more banks or lending institutions, or agents acting on their behalf, which are not Affiliates of such Holder, as collateral or security for a bona fide loan or other extension of credit.

"**Portfolio Company**" has the meaning set forth in Section 7.6(a).

"**Pre-IPO Members**" means the members of the Company prior to the Effective time.

"**Preferred Share**" means a share of stock of SDC Inc. now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Common Shares.

"**Preferred Unit**" means a Unit representing a fractional share of ownership interest in the Company of a particular class or series that the Manager has authorized pursuant to Section 3.1, 3.2 or 3.3 that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Common Units.

"**Pricing Agreements**" has the meaning set forth in Section 11.1(g)(iii)(2).

"**Pro rata**," "**pro rata portion**," "**according to their interests**," "**ratably**," "**proportionately**," "**proportional**," "**in proportion to**," "**based on the number of Units held**," "**based upon the percentage of Units held**," "**based upon the number of Units outstanding**," and other terms with similar meanings, when used in the context of a number of Units of a particular class or series relative to other Units of such class or series, means, with respect to

such class or series of Units, *pro rata* based upon the number of Units of such class or series, expressed as a percentage of the total number of outstanding Units of such class or series.

"**Profits**" means items of Company income and gain determined according to Section 5.1(b).

"**Qualified DRIP**" means a dividend reinvestment plan of SDC Inc. that permits participants to acquire Class A Shares using the proceeds of dividends paid by SDC Inc.; provided, however, that if such shares are offered at a discount, such discount must (i) be designed to pass along to the stockholders of SDC Inc. the savings enjoyed by SDC Inc. in connection with the avoidance of share issuance costs, and (ii) not exceed 5% of the value of a Class A Share as computed under the terms of such dividend reinvestment plan.

"**Qualified Transferee**" means an "accredited investor," as defined in Rule 501 promulgated under the Securities Act.

"**Qualifying Party**" means (a) a Member, (b) an Additional Member, or (c) an Assignee who is the transferee of one or more of a Member's Units in a Permitted Transfer, or (d) a Person, including a lending institution as the pledgee of a Pledge, who is the transferee of one or more of a Member's Units in a Permitted Transfer; provided, however, that a Qualifying Party shall not include the Manager.

"**Redemption**" has the meaning set forth in Section 11.1(a).

"**Register**" has the meaning set forth in Section 3.1.

"**Rights**" has the meaning set forth in the definition of "Class A Shares Amount."

"**Rules**" has the meaning set forth in Section 15.12(c).

"**Regulatory Allocations**" has the meaning set forth in Section 5.3(f).

"**SDC Inc.**" means SmileDirectClub, Inc., a Delaware corporation, together with its successors and permitted assigns.

"**SDC LLC**" has the meaning set forth in the recitals to this Agreement.

"**SEC**" means the U.S. Securities and Exchange Commission.

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"**Share Offering Funding**" has the meaning set forth in Section 11.1(g)(i).

"**Share Offering Funding Amount**" has the meaning set forth in Section 11.1(g)(2).

"**Single Funding Notice**" has the meaning set forth in Section 11.1(g)(i)(1).

"**Special Redemption**" has the meaning set forth in Section 11.1(a).

"**Specified Redemption Date**" means a date set by SDC Inc. in accordance with Section 11.1(d)(v); provided, however, that no Specified Redemption Date with respect to any Common Units shall occur during the Lock-Up Period, if any, applicable to such Common Units (except pursuant to a Special Redemption); and provided, further, that if SDC Inc. elects a Share Offering Funding pursuant to Section 11.1(g), such Specified Redemption Date shall be deferred until the next Business Day following the date of the closing of the Share Offering Funding.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, limited liability company, joint venture, trust or other legal entity of which such Person (either directly or through or together with another direct or indirect Subsidiary of such Person) (i) owns a majority of the equity interests having ordinary voting power for the election of directors or trustees or other governing body or (ii) otherwise controls the management, including through a Person's status as general partner, manager or managing member of the entity.

"**Substituted Member**" means a Person who is admitted as a Member of the Company pursuant to Section 10.4.

"**Surviving Company**" has the meaning set forth in Section 10.7(b).

"**Tax Receivable Agreement**" means that certain Tax Receivable Agreement, dated as of September 13, 2019, among SDC Inc., the Company, and each of the Members.

"**Taxable Year**" means the Company's accounting period for U.S. federal income tax purposes determined pursuant to Section 9.2.

"**Tendered Units**" has the meaning set forth in Section 11.1(a).

"**Tendering Party**" has the meaning set forth in Section 11.1(a).

"**Tennessee Act**" means the Tennessee Revised Limited Liability Company Act, 48 Tenn.C. §§ 249-101, *et seq.*, as it may be amended from time to time, and any successor thereto.

"**Termination Transaction**" means (a) a merger, consolidation or other combination involving SDC Inc., on the one hand, and any other Person, on the other hand, (b) a sale, lease, exchange or other transfer of all or substantially all of the assets of SDC Inc. not in the ordinary course of its business, whether in a single transaction or a series of related transactions, (c) a reclassification, recapitalization or change of the outstanding Class A Shares (other than a change in par value, or from par value to no par value, or as a result of a stock split, stock dividend or similar subdivision), (d) the adoption of any plan of liquidation or dissolution of SDC Inc., or (e) a Transfer of any of SDC Inc.'s Units, other than (i) a Transfer to the Company or (ii) a Transfer effected in accordance with Section 10.2(b).

"**Third-Party Pledge Transferee**" means a Qualified Transferee, other than a Permitted Lender Transferee, that acquires one or more Units pursuant to the exercise of remedies by Permitted Lender Transferees under a Pledge and that agrees to be bound by the terms and conditions of this Agreement.

"**Transaction Consideration**" has the meaning set forth in Section 10.7(a).

"**Transfer**" means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary or involuntary or by operation of Law; provided, however, that when the term is used in Article X, "Transfer" does not include (a) any Redemption of Common Units by the Company, or acquisition of Tendered Units by SDC Inc., pursuant to Section 11.1 or (b) any redemption of Units pursuant to any Unit Designation, and the terms "**Transferred**" and "**Transferring**" have meanings correlative to the foregoing.

"**Treasury Regulations**" means the tax regulations, including temporary regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Unit**" means a fractional share of ownership interest in the Company held by a Member, including any and all rights to which the Member holding such Units may be entitled as provided in this Agreement and the Delaware Act, together with all obligations of such Member to comply with the terms and provisions of this Agreement and the Delaware Act. There may be one or more classes or series of Units, including Common Units, Preferred Units or other Units.

"**Unit Designation**" has the meaning set forth in Section 3.2(a).

"**Valuation Date**" means the date of receipt by the Manager of a Notice of Redemption pursuant to Section 11.1, or such other date as specified herein, or, if such date is not a Business Day, the immediately preceding Business Day.

"**Value**" means, on any Valuation Date with respect to a Class A Share, the average of the daily Market Prices for ten (10) consecutive trading days immediately preceding the Valuation Date (except that, in lieu of such average of daily market prices, for purposes of Section 3.4 (i) in the case of an exercise of a share option under any Equity Plan, the Market Price for the trading day immediately preceding the date of exercise shall be used, and (ii) in the case of delivery of Class A Shares pursuant to restricted share units or other equity compensation plans, the Market Price on the date of such delivery shall be used). The term "**Market Price**" on any date means, with respect to any Class A Shares, the last sale price for such Class A Shares, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Class A Shares, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the NASDAQ Global Select Market or, if such Class A Shares are not listed or admitted to trading on the NASDAQ Global Select Market, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Class A Shares are listed or admitted to trading or, if such Class A Shares are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the principal automated quotation system that may then be in use or, if such Class A Shares are not quoted by any such system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Class A Shares selected by the Manager or, in the event that no trading price is available for such Class A Shares, the fair market value of the Class A Shares, as determined by SDC Inc. (whose determination shall be conclusive). In the event that the Class A Shares Amount includes Rights

(as defined in the definition of "Class A Shares Amount") that a holder of Class A Shares would be entitled to receive, then the Value of such Rights shall be determined by the Manager acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

"**Withdrawing Member**" has the meaning set forth in Section 11.1(g)(iii)(3).

ARTICLE II

ORGANIZATIONAL MATTERS

Section 2.1 Formation and Conversion of Company. The Company was formed as a Tennessee limited liability company on January 31, 2018 pursuant to the provisions of the Tennessee Act. The Company was converted to a Delaware limited liability company on September 13, 2019 pursuant to the provisions of the Tennessee Act and the Delaware Act by the filing of a Certificate of Conversion with the Secretary of State of the State of Tennessee and the filing of a Certificate of Conversion and the Certificate with the Secretary of State of the State of Delaware.

Section 2.2 Seventh Amended and Restated Limited Liability Company Agreement. The Members hereby execute this Agreement for the purpose of providing for the governance of the Company and its affairs and the conduct of its business in accordance with the provisions of the Delaware Act. The Members hereby agree that, during the term of the Company set forth in Section 2.7, the rights and obligations of the Members with respect to the Company will be determined in accordance with the terms and conditions of this Agreement and the Delaware Act; provided, that no provision of this Agreement shall be in violation of the Delaware Act, and, to the extent any provision of this Agreement is in violation of the Delaware Act, such provision shall be void and of no effect to the extent of such violation without affecting the validity of any other provision of this Agreement; provided, however, that where the Delaware Act provides that a provision of the Delaware Act shall apply "unless otherwise provided in a limited liability company agreement" or words of similar effect, the provisions of this Agreement shall in each instance control. On any matter upon which this Agreement is silent, the Delaware Act shall control. For the avoidance of doubt, the vote or approval required under this Agreement for any action taken by the Company shall govern and supersede any default voting standard set forth in the Delaware Act, including, without limitation, any default voting standard that requires unanimous consent of the Members.

Section 2.3 Name. The name of the Company is "SDC Financial LLC." The Manager may change the name of the Company at any time and from time to time, in accordance with applicable law. Notification of any such change shall be given to all of the Members. The Company's business may be conducted under its name or any other name or names deemed advisable by the Manager.

Section 2.4 Principal Place of Business; Other Places of Business. The address of the principal office of the Company is 414 Union Street, Nashville, Davidson County, Tennessee and may be moved to another location within or outside the State of Delaware as the Manager

may designate from time to time. The Company may have such other offices within or outside the State of Delaware as the Manager may designate from time to time.

Section 2.5 Registered Office and Resident Agent. So long as required by the Delaware Act, the Company shall continuously maintain a registered office and a designated and duly qualified agent for service of process on the Company in the State of Delaware. The registered office of the Company and the name of the resident agent are as stated in the Certificate and may be changed by the Manager in accordance with the requirements of the Delaware Act.

Section 2.6 Purpose; Powers. The nature of the business or purposes to be conducted or promoted by the Company is to engage in such activities as are permitted under applicable Law (including the Delaware Act) and determined from time to time by the Manager in accordance with the terms and conditions of this Agreement. Subject to the limitations set forth in this Agreement, the Company shall possess, and may exercise, all of the powers and privileges granted to it by the Delaware Act, by any other applicable Law or by this Agreement, together with all powers incidental thereto, so far as those powers are necessary or convenient to the conduct, promotion or attainment of the purpose of the Company.

Section 2.7 Term. The term of the Company began on the date the Certificate was filed with the Secretary of State of the State of Delaware and the Company shall continue in existence until the dissolution of the Company pursuant to this Agreement and the Delaware Act. Notwithstanding the dissolution of the Company, the existence of the Company shall continue until termination pursuant to this Agreement or as otherwise provided in the Delaware Act.

Section 2.8 No State Law Partnership. The Members do not intend for the Company to be a partnership (including a limited partnership) or joint venture under any state Law, and no Member or Manager shall be a partner or joint venturer of any other Member by reason of this Agreement for any purposes, other than under applicable federal and state tax Laws, and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise. Each Member hereby acknowledges and agrees that, except as expressly provided herein, in performing its obligations or exercising its rights hereunder, it is acting independently and is not acting in concert with, on behalf of, as agent for, or as joint venturer or partner of, any other Member. Other than in respect of the Company, nothing contained in this Agreement shall be construed as creating a corporation, association, joint stock company, business trust, or organized group of persons, whether incorporated or not, among or involving any Member or any of their respective Affiliates, and nothing in this Agreement shall be construed as creating or requiring any continuing relationship or commitment as between such parties other than as specifically set forth herein. Notwithstanding the foregoing or anything in this Agreement to the contrary, the Members intend that the Company shall be treated as a partnership for U.S. federal, state and local tax purposes, and each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

Section 2.9 Certificates; Filings. The Manager may execute and file any duly authorized amendments to the Certificate from time to time in a form prescribed by the Delaware

Act. The Manager shall also cause to be made, on behalf of the Company, such additional filings and recordings as the Manager shall deem necessary or advisable. If requested by the Manager, the Members shall promptly execute all certificates and other documents consistent with the terms of this Agreement necessary for the Manager to accomplish all filing, recording, publishing and other acts as may be appropriate to comply with all requirements for (a) the formation and operation of a limited liability company under the Laws of the State of Delaware, (b) if the Manager deems it advisable, the operation of the Company as a limited liability company in all jurisdictions where the Company proposes to operate, and (c) all other filings required to be made by the Company.

Section 2.10 Investment Representations of Members. Each Member hereby represents, warrants and acknowledges to the Company that: (a) such Member has such knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of an investment in the Company and is making an informed investment decision with respect thereto; (b) such Member is acquiring interests in the Company for investment only and not with a view to, or for resale in connection with, any distribution to the public or public offering thereof; and (c) the execution, delivery and performance of this Agreement have been duly authorized by such Member.

ARTICLE III

CAPITALIZATION

Section 3.1 Capital Contributions. The Members as of the Effective Date (or their predecessors in interest) have heretofore made Capital Contributions to the Company. Except as provided by Law or in Section 3.2, 3.3 or 9.5, the Members shall have no obligation or, except with the prior written consent of the Manager, right to make any other Capital Contributions or any loans to the Company. The Manager shall cause to be maintained in the principal business office of the Company, or such other place as may be determined by the Manager, the books and records of the Company, which shall include, among other things, a register containing the name, address, and number and class of Units of each Member, and such other information as the Manager may deem necessary or desirable (the "**Register**"). The Register shall not be deemed part of this Agreement. The Manager shall from time to time update the Register as necessary to accurately reflect the information therein, including as a result of any sales, exchanges or other Transfers, or any redemptions, issuances or similar events involving Units. Any reference in this Agreement to the Register shall be deemed a reference to the Register as in effect from time to time. Subject to the terms of this Agreement, the Manager may take any action authorized hereunder in respect of the Register without any need to obtain the consent of any Non-Manager Member. No action of any Non-Manager Member shall be required to amend or update the Register. Except as required by Law, no Non-Manager Member shall be entitled to receive a copy of the information set forth in the Register relating to any Member other than itself.

Section 3.2 Issuances of Additional Units. Subject to the rights of any Holder set forth in a Unit Designation:

(a) General. Initially, all Units shall be designated as "Common Units." As of the Effective Date, all interests in the Company were converted into Common Units. Common

Units may be held by any Member. Except as expressly provided herein, Common Units shall entitle the Holders thereof to equal rights under this Agreement. The Members and the number of Common Units held by each Member as of the effectiveness of this Agreement is set forth in the Register. The Manager is hereby authorized to cause the Company to issue additional Units, for any Company purpose, at any time or from time to time, to the Members (including the Manager) or to other Persons, and to admit such Persons as Additional Members, for such consideration and on such terms and conditions as shall be established by the Manager, all without the approval of any Non-Manager Member or any other Person. Without limiting the foregoing, the Manager is expressly authorized to cause the Company to issue Units (i) upon the conversion, redemption or exchange of any Debt, Units, or other securities issued by the Company, (ii) for less than fair market value, (iii) for no consideration, (iv) in connection with any merger of any other Person into the Company, or (v) upon the contribution of property or assets to the Company. Any additional Units may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences, conversion or other rights, voting powers, restrictions, rights to distributions, qualifications and terms and conditions of redemption (including rights that may be senior or otherwise entitled to preference over existing Units) as shall be determined by the Manager, without the approval of any Non-Manager Member or any other Person, and set forth in a written document thereafter attached to and made an exhibit to this Agreement, which exhibit shall be an amendment to this Agreement and shall be incorporated herein by this reference (each, a "**Unit Designation**"). Except to the extent specifically set forth in any Unit Designation, a Unit of any class or series other than a Common Unit shall not entitle the holder thereof to vote on, or consent to, any matter. Upon the issuance of any additional Units, the Manager shall amend the Register and the books and records of the Company as appropriate to reflect such issuance.

(b) Issuances to SDC Inc. No additional Units shall be issued to SDC Inc. unless (i) the additional Units are issued to all Members holding Common Units in proportion to their respective Percentage Interests in the Common Units, (ii) (a) the additional Units are (x) Common Units issued in connection with an issuance of Class A Shares or (y) Equivalent Units (other than Common Units) issued in connection with an issuance of Preferred Shares, New Securities or other interests in SDC Inc. (other than Common Shares), and (b) SDC Inc. contributes to the Company the cash proceeds or other consideration received in connection with the issuance of such Common Shares, Preferred Shares, New Securities or other interests in SDC Inc., or (iii) the additional Units are issued upon the conversion, redemption or exchange of Debt, Units or other securities issued by the Company.

(c) No Preemptive Rights. Except as expressly provided in this Agreement or in any Unit Designation, no Person, including any Holder, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Units.

Section 3.3 Additional Funds and Capital Contributions.

(a) General. The Manager may, at any time and from time to time, determine that the Company requires additional funds ("**Additional Funds**") for the acquisition or development of additional assets, for the redemption of Units or for such other purposes as the Manager may determine. Additional Funds may be obtained by the Company, at the election of

the Manager, in any manner provided in, and in accordance with, the terms of this Section 3.3 without the approval of any Non-Manager Member or any other Person.

(b) Additional Capital Contributions. The Manager, on behalf of the Company, may obtain any Additional Funds by accepting Capital Contributions from any Members or other Persons. In connection with any such Capital Contribution (of cash or property), the Manager is hereby authorized to cause the Company from time to time to issue additional Units (as set forth in Section 3.2) in consideration therefor and the Percentage Interests of the Manager and the Members shall be adjusted to reflect the issuance of such additional Units.

(c) Loans by Third Parties. The Manager, on behalf of the Company, may obtain any Additional Funds by causing the Company to incur Debt to any Person (other than, except as contemplated in Section 3.3(d), SDC Inc.) upon such terms as the Manager determines appropriate, including making such Debt convertible, redeemable or exchangeable for Units; provided, however, that the Company shall not incur any such Debt if any Member would be personally liable for the repayment of such Debt (unless such Member otherwise agrees).

(d) SDC Inc. Loans. The Manager, on behalf of the Company, may obtain any Additional Funds by causing the Company to incur Debt with SDC Inc. if (i) such Debt is, to the extent permitted by Law, on substantially the same terms and conditions (including interest rate, repayment schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by SDC Inc., the net proceeds of which are loaned to the Company to provide such Additional Funds, or (ii) such Debt is on terms and conditions no less favorable to the Company than would be available to the Company from any third party; provided, however, that the Company shall not incur any such Debt if any Member would be personally liable for the repayment of such Debt (unless such Member otherwise agrees).

(e) Issuance of Securities by SDC Inc. SDC Inc. shall not issue any additional Common Shares, Preferred Shares or New Securities unless SDC Inc. contributes the cash proceeds or other consideration received from the issuance of such additional Common Shares, Preferred Shares or New Securities (as the case may be) and from the exercise of the rights contained in any such additional New Securities to the Company in exchange for (i) in the case of an issuance of Class A Shares, Common Units and (ii) in the case of an issuance of Preferred Shares or New Securities, Equivalent Units; provided, however, that notwithstanding the foregoing, SDC Inc. may issue Common Shares, Preferred Shares or New Securities (1) pursuant to Section 3.4 or 11.1(b), (2) pursuant to a dividend or distribution (including any stock split) of Common Shares, Preferred Shares or New Securities to all of the holders of Common Shares, Preferred Shares or New Securities (as the case may be), (3) upon a conversion, redemption or exchange of Preferred Shares, (4) upon a conversion, redemption, exchange or exercise of New Securities, or (5) in connection with an acquisition of Units or a property or other asset to be owned, directly or indirectly, by SDC Inc. In the event of any issuance of additional Common Shares, Preferred Shares or New Securities by SDC Inc., and the contribution to the Company, by SDC Inc., of the cash proceeds or other consideration received from such issuance, the Company shall pay SDC Inc.'s expenses associated with such issuance, including any underwriting discounts or commissions. In the event that SDC Inc. issues any additional Common Shares, Preferred Shares or New Securities and contributes the cash proceeds or other

consideration received from the issuance thereof to the Company, the Company is authorized to issue to SDC Inc. (x) a number and type of Common Units equal to the number and type of Common Shares so issued, divided by the Adjustment Factor then in effect or (y) a number of Equivalent Units that correspond to the class or series of Preferred Shares or New Securities so issued, in either case, in accordance with this Section 3.3(e) without any further act, approval or vote of any Member or any other Persons.

Section 3.4 Equity Plans.

(a) Stock Options Granted to Persons other than Company Employees. If at any time or from time to time, in connection with any Equity Plan, an option to purchase Class A Shares granted to a Person other than a Company Employee is duly exercised, the following events will be deemed to have occurred:

(i) SDC Inc. shall, as soon as practicable after such exercise, make a Capital Contribution to the Company in an amount equal to the exercise price paid to SDC Inc. by such exercising party in connection with the exercise of such stock option.

(ii) Notwithstanding the amount of the Capital Contribution actually made pursuant to Section 3.4(a)(i), SDC Inc. shall be deemed to have contributed to the Company as a Capital Contribution an amount equal to the Value of a Class A Share as of the date of exercise multiplied by the number of Class A Shares then being issued in connection with the exercise of such stock option. In exchange for such Capital Contribution, the Company shall issue a number of Common Units to SDC Inc. equal to the quotient of (x) the number of Class A Shares issued in connection with the exercise of such stock option, divided by (y) the Adjustment Factor then in effect.

(b) Stock Options Granted to Company Employees. If at any time or from time to time, in connection with any Equity Plan, an option to purchase Class A Shares granted to a Company Employee is duly exercised, the following events will be deemed to have occurred:

(i) SDC Inc. shall sell to the Company, and the Company shall purchase from SDC Inc., the number of Class A Shares as to which such stock option is being exercised. The purchase price per Class A Share for such sale of Class A Shares to the Company shall be the Value of a Class A Share as of the date of exercise of such stock option.

(ii) The Company shall sell to the Optionee (or if the Optionee is an employee or other service provider of a Company Subsidiary, the Company shall sell to such Company Subsidiary, which in turn shall sell to the Optionee), for a cash price per share equal to the Value of a Class A Share as of the date of exercise, the number of Class A Shares equal to (x) the exercise price paid to SDC Inc. by the exercising party in connection with the exercise of such stock option divided by (y) the Value of a Class A Share at the time of such exercise.

(iii) The Company shall transfer to the Optionee (or if the Optionee is an employee or other service provider of a Company Subsidiary, the Company shall

transfer to such Company Subsidiary, which in turn shall transfer to the Optionee) at no additional cost, as additional compensation, the number of Class A Shares equal to the number of Class A Shares described in Section 3.4(b)(i) less the number of Class A Shares described in Section 3.4(b)(ii).

(iv) SDC Inc. shall, as soon as practicable after such exercise, make a Capital Contribution to the Company of an amount equal to all proceeds received (from whatever source, but excluding any payment in respect of payroll taxes or other withholdings) by SDC Inc. in connection with the exercise of such stock option. In exchange for such Capital Contribution, the Company shall issue a number of Common Units to SDC Inc. equal to the quotient of (x) the number of Class A Shares issued in connection with the exercise of such stock option, divided by (y) the Adjustment Factor then in effect.

(c) Other Class A Shares Issued to Company Employees Under Equity Plans. If at any time or from time to time, in connection with any Equity Plan (other than in respect of the exercise of a stock option), any Class A Shares are issued to a Company Employee (including any Class A Shares that are subject to forfeiture in the event specified vesting conditions are not achieved and any Class A Shares issued in settlement of a restricted stock unit or similar award) in consideration for services performed for the Company or a Company Subsidiary:

(i) SDC Inc. shall issue such number of Class A Shares as are to be issued to the Company Employee in accordance with the Equity Plan.

(ii) The following events will be deemed to have occurred: (w) SDC Inc. shall be deemed to have sold such shares to the Company (or if the Company Employee is an employee or other service provider of a Company Subsidiary, to such Company Subsidiary) for a purchase price equal to the Value of such shares, (x) the Company (or such Company Subsidiary) shall be deemed to have delivered the shares to the Company Employee, (y) SDC Inc. shall be deemed to have contributed the purchase price to the Company as a Capital Contribution, and (z) in the case where the Company Employee is an employee of a Company Subsidiary, the Company shall be deemed to have contributed such amount to the capital of the Company Subsidiary.

(iii) The Company shall issue to SDC Inc. a number of Common Units equal to the number of newly issued Class A Shares divided by the Adjustment Factor then in effect in consideration for the deemed Capital Contribution described in Section 3.4(c)(ii)(y).

(d) Other Class A Shares Issued to Persons other than Company Employees Under Equity Plans. If at any time or from time to time, in connection with any Equity Plan (other than in respect of the exercise of a stock option), any Class A Shares are issued to a Person other than a Company Employee (including any Class A Shares that are subject to forfeiture in the event specified vesting conditions are not achieved and any Class A Shares issued in settlement of a restricted stock unit or similar award) in consideration for services performed for SDC Inc., the Company or a Company Subsidiary:

(i) SDC Inc. shall issue such number of Class A Shares as are to be issued to such Person in accordance with the Equity Plan.

(ii) SDC Inc. shall be deemed to have contributed the Value of such Class A Shares to the Company as a Capital Contribution, and the Company shall issue to SDC Inc. a number of newly issued Common Units equal to the number of newly issued Class A Shares divided by the Adjustment Factor then in effect.

(e) Future Stock Incentive Plans. Nothing in this Agreement shall be construed or applied to preclude or restrain SDC Inc. from adopting, modifying or terminating stock incentive plans for the benefit of employees or directors of or other service providers to SDC Inc., the Company or any of their Affiliates. The Members acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by SDC Inc., the Manager shall have the power, without the Consent of the Members, to amend this Section 3.4 without any need to obtain the consent of any other Member.

(f) Issuance of Common Units. The Company is expressly authorized to issue Common Units in the numbers specified in this Section 3.4 without any further act, approval or vote of any Member or any other Persons.

Section 3.5 Stock Incentive Plan or Other Plan. Except as may otherwise be provided in this Article III, all amounts received by SDC Inc. in respect of any stock incentive or other stock or subscription plan or agreement, either (a) shall be utilized by SDC Inc. to effect open market purchases of Class A Shares, or (b) if SDC Inc. elects instead to issue new Class A Shares with respect to such amounts, shall be contributed by SDC Inc. to the Company in exchange for additional Common Units. Upon such contribution, the Company will issue to SDC Inc. a number of Common Units equal to the number of newly issued Class A Shares divided by the Adjustment Factor then in effect.

Section 3.6 No Interest; No Return. No Member shall be entitled to interest on its Capital Contribution or on such Member's Capital Account. Except as provided herein or by Law, no Member shall have any right to demand or receive the return of its Capital Contribution from the Company.

Section 3.7 Conversion or Redemption of Preferred Shares and Common Shares.

(a) Conversion of Preferred Shares. If, at any time, any Preferred Shares are converted into Common Shares, in whole or in part, then an equal number of Equivalent Units held by SDC Inc. that correspond to the class or series of Preferred Shares so converted shall automatically be converted or exchanged into a number of Common Units equal to the quotient of (i) the number of Common Shares issued upon such conversion divided by (ii) the Adjustment Factor then in effect.

(b) Redemption of Preferred Shares. If, at any time, any Preferred Shares are redeemed, repurchased or otherwise acquired (whether by exercise of a put or call, automatically or by means of another arrangement) by SDC Inc. for cash, then, immediately prior to such redemption, repurchase or acquisition of Preferred Shares, the Company shall purchase an equal number of Equivalent Units held by SDC Inc. that correspond to the class or series of Preferred

Shares so redeemed, repurchased or acquired upon the same terms and for the same price per Equivalent Unit, as such Preferred Shares are redeemed, repurchased or acquired.

(c) Redemption, Repurchase or Forfeiture of Common Shares. If, at any time, any Common Shares are redeemed, repurchased or otherwise acquired by SDC Inc. (whether upon forfeiture of any award granted under any Equity Plan, automatically or by means of another arrangement), then, immediately prior to such redemption, repurchase or acquisition of Common Shares, the Company shall redeem a number of Common Units held by SDC Inc. equal to the quotient of (i) the number of Common Shares so redeemed, repurchased or acquired, divided by (ii) the Adjustment Factor then in effect, such redemption, repurchase or acquisition to be upon the same terms and for the same price per Common Unit (after giving effect to application of the Adjustment Factor) as such Common Shares are redeemed, repurchased or acquired.

Section 3.8 Other Contribution Provisions. In the event that any Member is admitted to the Company and is given a Capital Account in exchange for services rendered to the Company, such transaction shall be treated by the Company and the affected Member as if the Company had compensated such Member in cash and such Member had contributed the cash to the capital of the Company in accordance with the principles promulgated in proposed Treasury Regulations Section 1.704-1. In addition, with the consent of the Manager, one or more Members (including the Manager) may enter into contribution agreements with the Company which have the effect of providing a guarantee of certain obligations of the Company.

ARTICLE IV

DISTRIBUTIONS

Section 4.1 Requirement and Characterization of Distributions. From time to time, as determined by the Manager, the Manager shall cause the Company to pay distributions, in such amounts as the Manager may determine, to the Holders of Common Units pro rata in accordance with their respective Percentage Interests as of the close of business on the applicable Company Record Date. Distributions payable with respect to any Units that were not outstanding during the entire period in respect of which any distribution is made (other than any Units issued to a Member in connection with the issuance of Common Shares or Capital Shares by SDC Inc.) shall be prorated based on the portion of the period that such Units were outstanding.

Section 4.2 Tax Distributions. Notwithstanding any provision in this Agreement to the contrary, the Company shall use commercially reasonable efforts to make distributions to each Member, pro rata in accordance with Members' respective Percentage Interests of Units on the applicable Company Record Date, in an amount equal to (i) an amount that is at least sufficient for each Member to pay the Annual Income Tax Liability attributable to such Member with respect to the portion of the applicable Taxable Year that has elapsed as of the date of such distribution minus (ii) the sum of all distributions previously made pursuant to this Section 4.2 with respect to the Units held by such Member as of the applicable Company Record Date with respect to such Taxable Year. All distributions made to Members pursuant to this Section 4.2 shall be treated as advance distributions and shall be taken into account in determining the amount subsequently distributed to Members under Section 4.1. The amounts distributable

pursuant to this Section 4.2 shall be calculated and distributed (a) quarterly, on an estimated basis, with respect to the portion of the Taxable Year through the end of such quarterly period, at least five (5) days prior to the date on which U.S. federal corporate estimated tax payments are due for such quarter, or (b) with respect to each Taxable Year, as soon as reasonably practicable after the end of such Taxable Year (or as soon as reasonably practicable after any event that subsequently adjusts the taxable income of such Taxable Year), provided, however, that the Company shall use commercially reasonable efforts to make any distribution pursuant to this Section 4.2 with respect to a particular quarter on a date that is at least three (3) business days prior to the Specified Redemption Date for such quarter, if applicable.

Section 4.3 Distributions in Kind. No Holder may demand to receive property other than cash as provided in this Agreement. The Manager may cause the Company to make a distribution in kind of Company assets or Units to the Holders, and such assets or Units shall be distributed in such a fashion as to ensure that the fair market value (as determined by the Manager, whose determination shall be conclusive) is distributed and allocated in accordance with Articles IV, V and IX.

Section 4.4 Amounts Withheld. All amounts withheld pursuant to the Code or any provisions of any state or local tax Law and Section 9.5 with respect to any allocation, payment or distribution to any Holder shall be treated as amounts paid or distributed to such Holder pursuant to Section 4.1, except as provided in Section 9.5.

Section 4.5 Distributions upon Liquidation. Notwithstanding the other provisions of this Article IV, upon the occurrence of a Liquidating Event, the assets of the Company shall be distributed to the holders of Units in accordance with Section 13.2 and Section 13.3.

Section 4.6 Revisions to Reflect Additional Units. In the event that the Company issues additional Units pursuant to the provisions of Article III, the Manager is hereby authorized to make such revisions to this Article IV and to Article V as it determines are necessary or desirable to reflect the issuance of such additional Units, including making preferential distributions to certain classes of Units.

Section 4.7 Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, neither the Company nor the Manager, on behalf of the Company, shall make a distribution to any Holder if such distribution would violate the Delaware Act or other applicable Law.

Section 4.8 Calculation of Distributions. In calculating all distributions payable to any holders of Units, the Manager shall round the amount per unit to the nearest whole cent ($0.01), with one-half cent rounded upward.

ARTICLE V

CAPITAL ACCOUNTS; ALLOCATIONS

Section 5.1 Capital Accounts.

(a) The Company shall maintain a separate Capital Account for each Member according to the rules of Treasury Regulations Section 1.704-1(b)(2)(iv). For this purpose, the Company may (as determined by the Manager), upon the occurrence of the events specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), increase or decrease the Capital Accounts in accordance with the rules of such Treasury Regulations and Treasury Regulations Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of Company property.

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

(i) The computation of all items of income, gain, loss and deduction shall include those items described in Section 705(a)(l)(B) or Section 705(a)(2)(B) of the Code and Treasury Regulations Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for U.S. federal income tax purposes.

(ii) If the Book Value of any Company property is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property.

(iii) Items of income, gain, loss or deduction attributable to the disposition of Company property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the Book Value of such property.

(iv) Items of depreciation, amortization and other cost recovery deductions with respect to Company property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g).

(v) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Sections 732(d), 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

Section 5.2 Allocations. Except as otherwise provided in Section 5.3 and Section 5.4, Net Profits and Net Losses for any Fiscal Year or Fiscal Period shall be allocated among the Capital Accounts of the Members pro rata in accordance with their respective Percentage Interests.

Section 5.3 Regulatory Allocations.

(a) Losses attributable to partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(b)(4)) shall be allocated in the manner required by Treasury Regulations Section 1.704-2(i). If there is a net decrease during a Taxable Year in partner nonrecourse debt minimum gain (as defined in Treasury Regulations Section 1.704-2(i)(3)), Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) shall be allocated to the Members in the amounts and of such character as determined according to Treasury Regulations Section 1.704-2(i)(4). This Section 5.3(a) is intended to be a partner nonrecourse debt minimum gain chargeback provision that complies with the requirements of Treasury Regulations Section 1.704-2(i), and shall be interpreted in a manner consistent therewith.

(b) Nonrecourse deductions (as determined according to Treasury Regulations Section 1.704-2(b)(1)) for any Taxable Year shall be allocated pro rata among the Members in accordance with their Percentage Interests. Except as otherwise provided in Section 5.3(a), if there is a net decrease in the Minimum Gain during any Taxable Year, each Member shall be allocated Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) in the amounts and of such character as determined according to Treasury Regulations Section 1.704- 2(f). This Section 5.3(b) is intended to be a minimum gain chargeback provision that complies with the requirements of Treasury Regulations Section 1.704-2(f), and shall be interpreted in a manner consistent therewith.

(c) If any Member that unexpectedly receives an adjustment, allocation or Distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) has an Adjusted Capital Account Deficit as of the end of any Taxable Year, computed after the application of Sections 5.3(a) and 5.3(b) but before the application of any other provision of this Article V, then Profits for such Taxable Year shall be allocated to such Member in proportion to, and to the extent of, such Adjusted Capital Account Deficit. This Section 5.3(c) is intended to be a qualified income offset provision as described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in a manner consistent therewith.

(d) If the allocation of Net Losses to a Member as provided in Section 5.2 would create or increase an Adjusted Capital Account Deficit, there shall be allocated to such Member only that amount of Losses as will not create or increase an Adjusted Capital Account Deficit. The Net Losses that would, absent the application of the preceding sentence, otherwise be allocated to such Member shall be allocated to the other Members in accordance with their relative Percentage Interests, subject to this Section 5.3(d).

(e) Profits and Losses described in Section 5.1(b)(v) shall be allocated in a manner consistent with the manner that the adjustments to the Capital Accounts are required to be made pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(j), (k) and (m).

(f) The allocations set forth in Sections 5.3(a) through and including 5.3(e) (the "**Regulatory Allocations**") are intended to comply with certain requirements of Treasury Regulations Section 1.704-1(b) and Section 1.704-2 and shall be interpreted in a manner consistent therewith. The Manager may modify the manner in which Capital Accounts are computed if the Manager determines such modification is necessary to comply with the Regulatory Allocations. The Regulatory Allocations may not be consistent with the manner in

which the Members intend to allocate Profit and Loss of the Company or make Distributions. Accordingly, notwithstanding the other provisions of this Article V, but subject to the Regulatory Allocations, income, gain, deduction and loss shall be reallocated among the Members so as to eliminate the effect of the Regulatory Allocations and thereby cause the respective Capital Accounts of the Members to be in the amounts (or as close thereto as possible) they would have been if Profit and Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In addition, if in any Taxable Year there is a decrease in Minimum Gain, or in partner nonrecourse debt minimum gain, and application of the minimum gain chargeback requirements set forth in Section 5.3(a) or 5.3(b) would cause a distortion in the economic arrangement among the Members, the Manager may, if it is not reasonably expected that the Company will have sufficient other income to correct such distortion, request the Internal Revenue Service to waive either or both of such minimum gain chargeback requirements. If such request is granted, this Agreement shall be applied in such instance as if it did not contain such minimum gain chargeback requirement.

Section 5.4 Final Allocations. Notwithstanding any contrary provision in this Agreement except Section 5.3, the Manager shall make appropriate adjustments to allocations of Profits and Losses to (or, if necessary, allocate items of gross income, gain, loss or deduction of the Company among) the Members upon the liquidation of the Company (within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g)), the transfer of substantially all the Units (whether by sale or exchange or merger) or sale of all or substantially all the assets of the Company, such that, to the maximum extent possible, the Capital Accounts of the Members are proportionate to their Percentage Interests. In each case, such adjustments or allocations shall occur, to the maximum extent possible, in the Taxable Year of the event requiring such adjustments or allocations.

Section 5.5 Tax Allocations.

(a) Except as otherwise provided in this Section 5.5, for U.S. federal, state and local income tax purposes, each Company item of income, gain, loss and deduction shall be allocated among the Members in the same manner as its correlative item of “book” income, gain, loss or deduction is allocated pursuant to Sections 5.2, 5.3 and 5.4.

(b) Notwithstanding Section 5.5(a), each Company item of income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Section 704(c) of the Code so as to take account of any variation between the adjusted basis of such property to the Company for U.S. federal income tax purposes and its Book Value using the traditional method set forth in Treasury Regulations Section 1.704-3(b).

(c) If the Book Value of any Company asset is adjusted pursuant to Section 5.1(b), including adjustments to the Book Value of any Company asset in connection with the execution of this Agreement, subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for U.S. federal income tax purposes and its Book Value using the traditional method set forth in Treasury Regulations Section 1.704-3(b).

(d) Allocations of tax credits, tax credit recapture, and any items related thereto shall be allocated to the Members as determined by the Manager, taking into account the principles of Treasury Regulations Section 1.704-1(b)(4)(ii).

(e) For purposes of determining a Member's share of the Company's "excess nonrecourse liabilities" within the meaning of Treasury Regulations Section 1.752-3(a)(3), each Member's interest in income and gain shall be determined pursuant to any proper method, as reasonably determined by the Manager in compliance with Treasury Regulations Section 1.752-3(a)(3).

(f) Allocations pursuant to this Section 5.5 are solely for purposes of U.S. federal, state and local income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, Distributions or other Company items pursuant to any provision of this Agreement.

ARTICLE VI

MANAGEMENT

Section 6.1 Authority of Manager.

(a) Except for situations in which the approval of one or more Non-Manager Members is specifically required by this Agreement, the Manager shall have full, exclusive and complete discretion to manage and control the business and affairs of the Company, to make all decisions affecting the business and affairs of the Company and to do, or cause to be done, any and all acts at the expense of the Company, as it deems necessary or appropriate to accomplish the purposes, conduct the business and direct the affairs of the Company. The Manager shall have the power and authority to bind the Company. The Manager may expressly delegate in writing to any other Person the power and authority to bind the Company. No such delegation shall cause the Manager to cease to be a Member or the Manager of the Company. The Manager shall be an agent of the Company, and the actions of the Manager taken in such capacity and in accordance with this Agreement shall bind the Company. The Manager shall at all times be a Member. The Members hereby consent to the exercise by the Manager, except as otherwise expressly provided for in this Agreement and subject to the other provisions of this Agreement, of all such powers and rights conferred on the Members by the Delaware Act with respect to the management and control of the Company. Except as otherwise required by Law or as specifically set forth in this Agreement, the Non-Manager Members shall not participate in the control, management, direction or operation of the activities or affairs of the Company and shall have no power to act for or bind the Company. For the avoidance of doubt, no Non-Manager Member shall be agent of the Company solely by virtue of being a Non-Manager Member, and no Non-Manager Member shall have the authority to act for the Company solely by virtue of being a Non-Manager Member. Any Non-Manager Member who takes any action or binds the Company in its capacity as a Member in violation of this Section 6.1 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense. The transaction of any such business by or on behalf of the Manager, in its capacity as such, shall not affect, impair or eliminate the limitation on the liability of the Members under this Agreement. For the

avoidance of doubt, the vote or approval required under this Agreement for any action taken by the Company shall govern and supersede any default voting standard set forth in the Delaware Act, including, without limitation, any default voting standard that requires unanimous consent of the Members.

(b) The Manager on behalf of the Company may, from time to time, employ and retain individuals as may be necessary or appropriate for the conduct of the Company's business, including employees, agents and other Persons (any of whom may be a Member) and any of whom may be designated as officers of the Company (each, an "**Officer**" and collectively, the "**Officers**"), with such titles as and to the extent authorized by the Manager. Officers need not be Members or residents of the State of Delaware. Each Officer shall hold office until his or her successor shall be duly designated and shall qualify or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the Manager. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any Officer may be removed as such, either with or without cause at any time by the Manager. Any one Person may hold more than one office. Subject to the other provisions in this Agreement, the salaries or other compensation, if any, of the employees, agents or Officers of the Company shall be fixed from time to time by the Manager. The employees, agents or Officers shall have the responsibility to carry on the Company's business and affairs on a day-to-day basis and those other duties, authorities and responsibilities that the Manager may, from time to time, delegate. The existing Officers of the Company as of the Effective Time shall remain in their respective positions and shall be deemed to have been appointed by the Manager.

(c) The Manager shall have the power and authority to effectuate the sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Company (including the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Company) or the merger, consolidation, reorganization, conversion or other combination of the Company with or into another entity.

(d) Only the Manager may commence a voluntary case on behalf of, or an involuntary case against, the Company under a chapter of Title 11 U.S.C. by the filing of a "petition" (as defined in 11 U.S.C. 101(42)) with the U.S. Bankruptcy Court. Any such petition filed by any other Member, to the fullest extent permitted by applicable Law, shall be deemed an unauthorized and bad faith filing and all parties to this Agreement shall use their best efforts to cause such petition to be dismissed.

Section 6.2 Transactions Between Company and Manager or Officers. The Manager may cause the Company to contract and deal with the Manager, any Affiliate of the Manager, any director (or equivalent), officer or employee of the Manager or any Officer, on such terms and for such compensation as the Manager may determine. Persons retained, engaged or employed by the Company may also be engaged, retained or employed by and act on behalf of the Manager or any of its Affiliates.

Section 6.3 Rights to Engage in Other Business. Subject to Section 7.6, any director (or equivalent), officer, employee or agent of the Manager or the Company may acquire, own, hold and dispose of Units, for his or her individual account, and may exercise all rights of a Member to the same extent and in the same manner as if he or she were not a director (or equivalent), officer, employee or agent of the Manager or the Company. Any such director (or equivalent), officer, employee or agent may be interested as a director (or equivalent), officer, trustee, stockholder, owner, partner, member, advisor or employee of, or otherwise have a direct or indirect interest in, (a) any Person who may be engaged to render advice or services to the Company, and may receive compensation from such Person as well as compensation as a director (or equivalent), officer, employee or agent of, or otherwise from, the Manager or the Company or (b) any Person to whom the Company may be engaged to render advice or services, and may receive compensation from such Person as well as compensation as a director (or equivalent), officer, employee or agent of, or otherwise from, the Manager or the Company. Any director (or equivalent), officer, employee or agent of the Manager or the Company may buy or sell property or services from or to the Company. Subject to Section 7.6, none of the foregoing positions, ownership interests or activities shall be deemed to conflict with his or her duties and powers as a director (or equivalent), officer, employee or agent of the Manager or the Company, as the case may be. For the avoidance of doubt, this Section 6.3 is not intended to supersede or modify the express terms of any written agreement between or among any director (or equivalent), officer, employee or agent of the Manager or the Company, on the one hand, and the Manager or the Company, on the other hand.

Section 6.4 Reimbursement for Expenses. The Company shall be liable for, and shall reimburse the Manager on a monthly basis, or such other basis as the Manager may determine, for all sums expended in connection with the Company's business, including (i) expenses relating to the ownership of interests in and management and operation of, or for the benefit of, the Company, (ii) compensation of officers and employees of the Manager, if any, including payments under future compensation plans of the Manager and the Company that may provide for stock units, or phantom stock, pursuant to which employees of the Manager or the Company will receive payments based upon dividends on or the value of Class A Shares, (iii) costs of indemnifying directors, officers, employees or agents of the Manager (including advancement of expenses), in their respective capacities as such, whether pursuant to the Manager's governing documents or otherwise, (iv) director fees and expenses, (v) all costs and expenses of the Manager being a public company, including costs of filings with the SEC, reports and other distributions to its stockholders and (vi) all organizational and operational expenses reasonably incurred by the Manager, including all payments, advances and other expenses in connection with any indemnity or similar obligation of the Manager. Such reimbursements shall be in addition to any reimbursement of the Manager as a result of indemnification pursuant to Section 7.3. To the extent practicable, expenses incurred by the Manager on behalf of or for the benefit of the Company shall be billed directly to and paid by the Company and, if and to the extent any reimbursements to the Manager or any of its Affiliates by the Company pursuant to this Section 6.4 constitute gross income to such Person (as opposed to the repayment of advances made by such Person on behalf of the Company), such amounts shall be treated as "guaranteed payments" within the meaning of Section 707(c) of the Code and shall not be treated as distributions for purposes of computing the Members' Capital Accounts. If at any time the Manager is different from SDC Inc., SDC Inc. shall be entitled, so long as there are Common Units outstanding that may be Redeemed pursuant to Article XI, to be reimbursed by the Company in the same manner

as the Manager pursuant to this Section 6.4. For the avoidance of doubt, distributions made under this Section 6.4 may not be used to pay dividends or distributions on equity securities of SDC Inc.

Section 6.5 Limitation of Liability.

(a) Neither the Manger nor any manager, member, director, officer, employee, agent or representative of the Manager or the Company shall be liable to the Company or any Member for money damages by reason of their service as such. Subject to its obligations and duties as the Manager set forth in the Agreement and applicable Law, the Manager may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its employees or agents, and shall not be responsible to the Company or any Member for any misconduct or negligence on the part of any such employee or agent. The Manger and the managers, members, directors, officers, employees, agent and representatives of the Manager and the Company shall be entitled to rely upon the advice of legal counsel, independent public accountants and other experts, including financial advisors, and any act of or failure to act by the Manger or any manager, member, director, officer, employee, agent or representative of the Manager or the Company, as the case may be, in good faith reliance on such advice shall in no event subject the Manager any manager, member, director, officer, employee, agent or representative of the Manager or the Company, as the case may be, to liability to the Company or any Member.

(b) Whenever in this Agreement or any other agreement contemplated herein, the Manager is permitted or required to take any action or to make a decision in its "sole discretion" or "discretion," with "complete discretion" or under a grant of similar authority or latitude, the Manager shall be entitled to consider such interests and factors as it desires, including its own interests, and shall, to the fullest extent permitted by applicable Law, have no duty or obligation to give any consideration to any interest of or factors affecting the Company or other Members.

(c) Whenever in this Agreement the Manager is permitted or required to take any action or to make a decision in its "good faith" or under another express standard, (i) the Manager shall act under such express standard and, to the extent permitted by applicable Law, shall not be subject to any other or different standards, (ii) any resolution, action or terms so made, taken or provided by the Manager shall be presumed to have been made, taken or provided in accordance with the standard set forth in this Section 6.5(c) and (iii) notwithstanding anything contained herein to the contrary, so long as the Manager acts in good faith, the resolution, action or terms so made, taken or provided by the Manager shall not constitute a breach of this Agreement or any other agreement contemplated herein or impose liability upon the Manager or any of the Manager's Affiliates.

Section 6.6 Outside Activities of the Manager. The Manager shall not, directly or indirectly, enter into or conduct any business or operations, other than in connection with (a) the ownership, acquisition and disposition of Units, (b) the management of the business and affairs of the Company and its Subsidiaries, (c) the operation of the Manager as a reporting company with a class (or classes) of securities registered under Section 12 of the Exchange Act and listed on a national securities exchange (as defined in the Exchange Act), (d) the offering, sale,

syndication, private placement or public offering of stock, bonds, securities or other interests, (e) financing or refinancing of any type related to the Company, its Subsidiaries or their assets or activities, and (f) such activities as are incidental to the foregoing; provided, however, that except as otherwise provided herein, the net proceeds of any financing raised by the Manager pursuant to the preceding clauses (d) and (e) shall be made available to the Company, whether as Capital Contributions, loans or otherwise, as appropriate, and, provided, further, that the Manager may, in its sole and absolute discretion, from time to time hold or acquire assets in its own name or otherwise other than through the Company and its Subsidiaries so long as the Manager takes commercially reasonable measures to ensure that the economic benefits and burdens of such assets are otherwise vested in the Company or its Subsidiaries, through assignment, loan or otherwise or, if it is not commercially reasonable to vest such economic interests in the Company or any of its Subsidiaries, the Members shall negotiate in good faith to amend this Agreement to reflect such activities and the direct ownership of assets by the Manager. Nothing contained herein shall be deemed to prohibit the Manager from executing any guarantee of indebtedness of the Company or its Subsidiaries.

ARTICLE VII

RIGHTS AND OBLIGATIONS OF MEMBERS

Section 7.1 Limitation of Liability and Duties of Members and Officers.

(a) Except as otherwise expressly provided in this Agreement or in the Delaware Act, no current or former Member (including a current or former Manager) or any current or former Officer shall be obligated personally for any debt, obligation or liability solely by reason of being a Member or, with respect to the Manager, acting as the Manager of the Company, or, with respect to an Officer, acting in his or her capacity as an Officer. Notwithstanding anything contained herein to the contrary, the failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal liability on the Manager for liabilities of the Company.

(b) Notwithstanding any other provision of this Agreement (subject to Section 6.5 with respect to the Manager), to the extent that, at Law or in equity, any Member (including the Manager), any Affiliate of a Member or any manager, managing member, general partner, director (or equivalent), officer, employee, agent, fiduciary or trustee of any Member or of any Affiliate of a Member) has duties (including fiduciary duties) to the Company, to another Member, to any Person who acquires an interest in one or more Units or to any other Person bound by this Agreement, all such duties (including fiduciary duties) are hereby limited solely to those expressly set forth in this Agreement, to the fullest extent permitted by Law. The limitation of duties (including fiduciary duties) to the Company, each of the Members, each other Person who acquires an interest in one or more Units and each other Person bound by this Agreement as expressly set forth herein, if any, are approved by the Company, each of the Members, each other Person who acquires an interest in one or more Units and each other Person bound by this Agreement.

Section 7.2 No Right of Partition. No Non-Manager Member shall have the right to seek or obtain partition by court decree or operation of Law of any Company property, or the right to own or use particular or individual assets of the Company.

Section 7.3 Indemnification.

(a) The Company hereby agrees to indemnify and hold harmless any Person (each an "**Indemnified Person**") to the fullest extent permitted under the Delaware Act, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such amendment), from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including legal fees and expenses), judgments, fines, penalties, interest, settlements or other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, whether or not by or in the right of the Company, in which any Indemnified Person may be involved, or is threatened to be involved, as a party or otherwise, in connection with any act or omission performed, or omitted to be performed, by such Indemnified Person by reason of the fact that such Person is or was a Member (including the Manager), is or was serving as a Partnership Representative or an officer or director (or equivalent) of the Manager or the Company, or is or was an officer or director (or equivalent) of the Manager or the Company serving at the request of the Manager or Company as an officer or director (or equivalent) of another corporation, partnership, joint venture, limited liability company, trust or other entity or which or which relates to or arises out of the Company or its property, business or affairs; provided, however, that no Person shall be indemnified and held harmless under this Section 7.3(a) in respect of a matter if (i) there has been a final and non-appealable judgment entered by a court or arbitration panel of competent jurisdiction determining that, in respect of the matter, the Indemnified Person engaged in fraud, willful misconduct, bad faith or gross negligence or (ii) such matter was initiated by such Indemnified Person unless such matter was (1) initiated to enforce such Indemnified Person's rights to indemnification under this Agreement or (2) authorized or consented to by the Manager. Expenses, including attorneys' fees, incurred by any such Indemnified Person in defending a proceeding shall be paid by the Company in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company.

(b) The right to indemnification and the advancement of expenses conferred in this Section 7.3 shall be in addition to any other right which any Person may have or hereafter acquire under any insurance, statute, agreement, bylaw, action by the Manager or otherwise, and shall continue as to an Indemnified Person who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnified Person.

(c) The Company may, but shall not be required to, maintain directors' and officers' liability insurance, or substantially equivalent insurance, at its expense, to protect any Person against any expense, liability or loss, including any expense, liability or loss described in

Section 7.3(a) and whether or not the Company would have the power to indemnify such Indemnified Person against such expense, liability or loss under the provisions of this Section 7.3.

(d) Any indemnification pursuant to this Section 7.3 shall be made only out of the assets of the Company and its Subsidiaries, it being agreed that the Members shall not be directly liable for such indemnification and shall have no obligation to contribute or loan any monies or property to the Company to enable it to effectuate such indemnification.

(e) An Indemnified Person shall not be denied indemnification in whole or in part under this Section 7.3 solely because the Indemnified Person had an interest in the transaction with respect to which the indemnification applies.

(f) The Company shall have the power, with the approval of the Manager, to provide indemnification and advancement of expenses to any Person who is not an Indemnified Person.

(g) The Company shall have the power, with the approval of the Manager, to enter into an agreement providing for the obligation of the Company to indemnify and advance expenses to any Person.

(h) If this Section 7.3 or any portion hereof shall be invalidated on any ground by any court or arbitration panel of competent jurisdiction, then the Company shall nevertheless indemnify and hold each Indemnified Person harmless pursuant to this Section 7.3 to the fullest extent permitted by any applicable portion of this Section 7.3 that shall not have been invalidated and to the fullest extent permitted by applicable Law.

(i) The provisions of this Section 7.3 shall be applicable to all claims, demands, actions, suits or proceedings made or commenced after the adoption thereof whether arising from acts or omissions to act occurring before or after its adoption.

(j) No amendment or other modification of any subsection of this Section 7.3, nor the inclusion of any provision inconsistent with this Section 7.3 shall adversely affect any right or protection of any Indemnified Person established pursuant to this Section 7.3 existing at the time of such amendment or other modification or inclusion of an inconsistent provision, including without limitation by eliminating or reducing the effect of this Section 7.3, for or in respect of any act, omission or other matter occurring, or any action or proceeding accruing or arising (or that, but for this Section 7.3, would accrue or arise), prior to such amendment or other modification or inclusion of an inconsistent provision.

Section 7.4 Members' Right to Act. For matters that require the approval of the Members, the Members shall act through meetings and written consents as described in paragraphs (a) and (b) below:

(a) Except as otherwise expressly provided by this Agreement, acts by Consent of the Members, voting together as a single class, shall be the acts of the Members. Any Member entitled to vote at a meeting of Members or to express consent or dissent to Company action in a written transmission without a meeting may authorize another Person or Persons to

act for it by proxy in accordance with the Delaware Act. Should a proxy designate two or more Persons to act as proxies, unless that instrument shall provide to the contrary, a majority of such Persons shall have and may exercise all the powers of voting or giving consents thereby conferred, or, if a majority do not agree on any particular issue, the Company shall not be required to recognize such proxy with respect to such issue if such proxy does not specify how the votes that are the subject of such proxy are to be voted with respect to such issue.

(b) The actions by the Members permitted hereunder may be taken at a meeting called by the Manager or by a Majority in Interest of the Members on at least forty-eight (48) hours' prior written notice to the other Members entitled to vote, which notice shall state the purpose or purposes for which such meeting is being called. The actions taken by the Members entitled to vote or consent at any meeting (as opposed to by written consent), however called and noticed, shall be as valid as though taken at a meeting duly held after regular call and notice if (but not until), either before, at or after the meeting, the Members entitled to vote or consent as to whom it was improperly held execute a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof. The actions by the Members entitled to vote or consent may be taken by vote of the Members entitled to vote or consent at a meeting or by written consent, so long as such consent is signed by Members having not less than the minimum Percentage Interest that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote thereon were present and voted. Prompt notice of the action so taken, which shall state the purpose or purposes for which such consent is required and may be delivered via email, without a meeting shall be given to those Members entitled to vote or consent who have not consented in writing; provided, however, that the failure to give any such notice shall not affect the validity of the action taken by such written consent. Any action taken pursuant to such written consent of the Members shall have the same force and effect as if taken by the Members at a meeting thereof.

Notwithstanding the foregoing, no Non-Manager Member shall have any right to approve any matter or action taken by the Company except those matters for which approval or consent of the Members (or such Member) is expressly provided for in this Agreement.

Section 7.5 Inspection Rights. The Company shall permit each Member and each of its designated representatives to (a) visit and inspect any of the properties of the Company and its Subsidiaries, all at reasonable times and upon reasonable notice, (b) examine the business and financial records of the Company or any of its Subsidiaries and make copies thereof or extracts therefrom, and (c) consult with the Manager, and the managers, officers, employees and independent accountants of the Company or any of its Subsidiaries concerning the affairs, finances and accounts of the Company or any of its Subsidiaries.

Section 7.6 Restrictive Covenants.

(a) Except as otherwise provided herein or as otherwise consented to in writing by the Company, each Non-Manager Member and each owner of any such Non-Manager Member agrees that, so long as such Non-Manager Member remains a Member of the Company and for a period of two (2) years immediately following the date on which such Non-Manager Member ceases to be a Member, such Non-Manager Member and such Non-Manager Member's

Affiliates (including, for the avoidance of doubt, any portfolio company controlled by any such Non-Manager Member or its Affiliates) shall not, directly or indirectly:

(i) Solicit or attempt to entice away the employment of any Company Employee or other service provider of the Company or any of its Affiliates, or any licensed professional or professional entity for which the Company or any of its Affiliates provide services (each, an "**Associated PC**"), other than help wanted advertisements or recruitment efforts by any recruitment agency that are not specifically targeted at employees or contract workers of the Company, any of its Affiliates or any Associated PC, nor hire any such employee or individual who was an employee or contract worker of the Company, any of its Affiliates or any Associated PC at any time during the prior twelve (12) months, other than any individual who responds to such general solicitation or who has been terminated by the Company, any of its Affiliates or any Associated PC;

(ii) Solicit any Person who is a customer, client or patient of the Company, any of its Affiliates or any Associated PC to cease doing business with the Company, any of its Affiliates or any Associated PC, or with respect to the provision services by a Competing Business;

(iii) Unless such interference is required by applicable Law, interfere with any business relationship between the Company, any of its Affiliates or any Associated PC, on the one hand, and any of their respective customers, clients, patients, vendors, suppliers or other Persons having a business relationship therewith, on the other hand.

(iv) Make, publish or communicate to any Person or in any public forum any defamatory or disparaging remarks, comments or statements concerning the Company, any of its Affiliates, any Associated PC or any of their businesses; provided, that this Section 7.6(a)(iv) does not, in any way, restrict or impede any Member from exercising protected rights to the extent that such rights cannot be waived by agreement or from responding truthfully and in good faith upon demand pursuant to any investigation or inquiry by a governmental authority or as required by applicable Law, subpoena, court order or other compulsory legal process, or in enforcing or defending such Member's rights. Notwithstanding the foregoing, in no event does the Company, any of its Affiliates, any Associated PC or any of their respective businesses waive any claims or causes of action it may have under applicable Law in connection with the making of such disparaging or defamatory statements by any Member;

(v) Engage in (whether as an owner, proprietor, general or limited partner, member, principal, officer, employee, consultant, director, investor, agent or otherwise), or be employed or contracted by, any Competing Business in any state in which the Company does or intends to conduct business (whether or not compensated for such services); provided, that the restriction in this Section 7.6(a)(v) shall not apply to any Member's passive ownership of (1) any interests in any exchange traded fund or mutual fund or (2) less than five percent (5%) of the securities in any publicly traded company or lending money to any such publicly traded company; nor

(vi) Except on behalf of the Company, use or operate any enterprise under the name "SmileDirectClub," "SDC Financial" or any variants thereof;

provided, that nothing in this Section 7.6 shall, except as hereinafter set forth, restrict any portfolio company that the Pre-IPO Members or their respective Affiliates does not control (each, a "**Portfolio Company**") from engaging in any activity, including a Competing Business; provided, further, that the Pre-IPO Members shall not (x) provide any of their respective Portfolio Companies with any Confidential Information, (y) cause any of their respective Portfolio Companies to breach any of the provisions of this Section 7.6, or (z) in the event it has notice of and the power or authority to prevent a Portfolio Company from engaging in such action, fail to prevent a Portfolio Company from taking any of the actions set forth in this Section 7.6(a).

(b) Each Non-Manager Member, subject to this Section 7.6, hereby expressly acknowledges and agrees that the geographic boundaries, scope of prohibited activities, and time duration set forth in this Section 7.6, as applicable to such Person, are reasonable and are no broader than are necessary to protect the legitimate business interests of the Company. Each Non-Manager Member acknowledges that its obligations under this Section 7.6 are reasonable in the context of the nature of the Company Business and the competitive injuries likely to be sustained by the Company if any Non-Manager Member were to violate such obligations. Each Non-Manager Member further acknowledges that this Agreement is made in consideration of, and is adequately supported by the agreement of the Company to perform its obligations under this Agreement and by other consideration, which each Non-Manager Member acknowledges constitutes good, valuable and sufficient consideration.

(c) If any provision or clause of this Section 7.6 is found to be in conflict with a mandatory provision of applicable Law, each Non-Manager Member agrees the conflicting provision shall be modified to conform. Each Non-Manager Member covenants and agrees that should any provision of this Section 7.6, under any circumstances, foreseen or unforeseen, including term periods and geographic areas, be deemed too broad for the intended purposes, such provision shall, nevertheless, be valid and enforceable to the extent allowed by applicable Law and such provision shall be construed by limiting and reducing it so as to be enforceable to the extent compatible with the applicable Law.

ARTICLE VIII

BOOKS, RECORDS, ACCOUNTING AND REPORTS, AFFIRMATIVE COVENANTS

Section 8.1 Records and Accounting. The Company shall keep, or cause to be kept, the books of account of the business in conformity with GAAP, together with all other appropriate books and records with respect to the Company's business, including all books and records necessary to provide any information, lists and copies of documents required pursuant to applicable Law. All matters concerning (a) the determination of the relative amount of allocations and Distributions among the Members pursuant to Articles III and IV and (b) accounting procedures and determinations, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be determined by the Manager,

whose determination shall be final and conclusive as to all of the Members absent manifest clerical error.

Section 8.2 Fiscal Year. The Fiscal Year of the Company shall end on December 31 of each year or such other date as may be established by the Manager.

ARTICLE IX

TAX MATTERS

Section 9.1 Preparation of Tax Returns. The Manager shall arrange for the preparation and timely filing of all returns with respect to the Company's income, gains, deductions, losses and other items required of the Company for federal and state income tax purposes and shall use all reasonable effort to furnish, within one hundred and eighty (180) days of the close of each Taxable Year, the tax information reasonably required by the Members and for federal and state income tax and any other tax reporting purposes. The Members shall promptly provide the Manager with such information relating to any assets contributed to the Company (excluding cash), including tax basis and other relevant information, as may be reasonably requested by the Manager from time to time.

Section 9.2 Taxable Year. The Taxable Year of the Company shall be the Fiscal Year set forth in Section 8.2, unless otherwise required by Section 706 of the Code.

Section 9.3 Tax Elections. The Manager shall file (or cause to be filed) an election pursuant to Section 754 of the Code for the Company for its first Fiscal Year and shall maintain and keep such election in effect at all times. Except as otherwise provided herein, the Manager shall determine whether to make any available election pursuant to the Code (excluding, for the avoidance of doubt, the election under Section 754 of the Code). The Manager shall have the right to seek to revoke any such election (excluding, for the avoidance of doubt, any election under Section 754 of the Code).

Section 9.4 Partnership Representative.

(a) The Manager is hereby designated to serve as the "tax matters partner" under Section 6231(a)(7) of the Code (as in effect prior to repeal of such section pursuant to the Bipartisan Budget Act, Pub.L. 144-74 (2015)) and the "partnership representative" with respect to the Company, as provided in Section 6223(a) of the Partnership Audit Procedures (in such capacities, the "**Partnership Representative**") to oversee or handle matters relating to the taxation of the Company. For each Taxable Year in which the Partnership Representative is an entity, the Company shall appoint the "designated individual" identified by the Partnership Representative to act on behalf of the Partnership Representative (the "**Designated Individual**") in accordance with the applicable Treasury Regulations. Each Member expressly consents to such designations and agrees that it will execute, acknowledge, deliver, file and record at the appropriate public offices such documents as may be necessary or appropriate to evidence such consent.

(b) The Partnership Representative shall have the sole authority to act on behalf of the Company in connection with and make all relevant decisions regarding application

of the Partnership Audit Procedures, including, but not limited to, any elections under the Partnership Audit Procedures or any decisions to settle, compromise, challenge, litigate or otherwise alter the defense of any proceeding before the Internal Revenue Service.

(c) The Members agree to cooperate in good faith to timely provide information requested by the Partnership Representative as needed to comply with the Partnership Audit Procedures, including without limitation to make any elections available to the Company under the Partnership Audit Procedures. Each Member agrees that, upon request of the Company, such Member shall take such actions as may be necessary or desirable (as determined by the Partnership Representative) to (i) allow the Company to comply with the provisions of Section 6226 of the Partnership Audit Procedures so that any "partnership adjustments" (as defined in Section 6241(2) of the Partnership Audit Procedures) are taken into account by the Members and former Members rather than the Company; (ii) use the provisions of Section 6225(c) of the Partnership Audit Procedures including, but not limited to, filing amended tax returns with respect to any "reviewed year" (within the meaning of Section 6225(d)(1) of the Partnership Audit Procedures) or using the alternative procedure to filing amended returns to reduce the amount of any partnership adjustment otherwise required to be taken into account by the Company; or (iii) otherwise allow the Company and its Members to address and respond to any matters arising under the Partnership Audit Procedures.

(d) The Partnership Representative shall keep the Non-Manager Members informed, from time to time, as to the status of any audit of the Company. The Partnership Representative shall provide to the Non-Manager Members reasonable opportunity to provide information and other input to the Company and its advisors concerning the conduct of any such portion of any audit of the Company the outcome of which is reasonably expected to materially affect the Non-Manager Members' rights and obligations under the Tax Receivable Agreement (as such term is defined therein).

(e) Notwithstanding other provisions of this Agreement to the contrary, if any partnership adjustment is determined with respect to the Company, the Partnership Representative may cause the Company to elect pursuant to Section 6226 of the Partnership Audit Procedures to have such adjustment passed through to the Members for the year to which the adjustment relates (i.e., the "reviewed year" within the meaning of Section 6225(d)(1) of the Partnership Audit Procedures). In the event that the Partnership Representative has not caused the Company to so elect pursuant to Section 6226 of the Partnership Audit Procedures, then any "imputed underpayment" (as determined in accordance with Section 6225 of the Partnership Audit Procedures) or partnership adjustment that does not give rise to an imputed underpayment shall be apportioned among the Members of the Company for the Taxable Year in which the adjustment is finalized in such manner as may be necessary (as determined by the Partnership Representative in good faith) so that, to the maximum extent possible, the tax and economic consequences of the imputed underpayment or other partnership adjustment and any associated interest and penalties (any such amount, an "**Imputed Underpayment Amount**") are borne by the Members based upon their Percentage Interests in the Company for the reviewed year. Imputed Underpayment Amounts also shall include any imputed underpayment within the meaning of Section 6225 of the Partnership Audit Procedures paid (or payable) by any entity treated as a partnership for U.S. federal income tax purposes in which the Company holds (or has held) a direct or indirect interest other than through entities treated as corporations for U.S.

federal income tax purposes to the extent that the Company bears the economic burden of such amounts, whether by Law or contract.

(f) Each Member agrees to indemnify and hold harmless the Company from and against any liability with respect to such Member's share of any tax deficiency paid or payable by the Company that is allocable to the Member as determined in accordance with the second sentence of Section 9.4(e) with respect to an audited or reviewed taxable year for which such Member was a partner in the Company. Any obligation of a Member pursuant to this Section 9.4(f) shall be implemented through adjustments to distributions otherwise payable to such Member as determined in accordance with Section 4.1; provided, however, that, at the written request of the Partnership Representative, each Member or former Member may be required to contribute to the Company such Member's Imputed Underpayment Amount imposed on and paid by the Company; provided, further, that if a Member or former Member individually directly pays, pursuant to the Partnership Audit Procedures, any such Imputed Underpayment Amount, then such payment shall reduce any offset to distribution or required capital contribution of such Member or former Member. Any amount withheld from distributions pursuant to this Section 9.4(f) shall be treated as an amount distributed to such Member or former Member for all purposes under this Agreement.

(g) All expenses incurred by the Partnership Representative or Designated Individual in connection with its duties as partnership representative or designated individual, as applicable, shall be expenses of the Company (including, for the avoidance of doubt, any costs and expenses incurred in connection with any claims asserted against the Partnership Representative or Designated Individual, as applicable, except to the extent the Partnership Representative or Designated Individual is determined to have performed its duties in the manner described in the final sentence of this Section 9.4(g)), and the Company shall reimburse and indemnify the Partnership Representative or Designated Individual, as applicable, for all such expenses and costs. Nothing herein shall be construed to restrict the Partnership Representative or Designated Individual from engaging lawyers, accountants, tax advisers, or other professional advisers or experts to assist the Partnership Representative or Designated Individual in discharging its duties hereunder. Neither the Partnership Representative nor Designated Individual shall be liable to the Company, any Member or any Affiliate thereof for any costs or losses to any persons, any diminution in value or any liability whatsoever arising as a result of the performance of its duties pursuant to this Section 9.4 absent (i) willful breach of any provision of this Section 9.4 or (ii) bad faith, fraud, gross negligence or willful misconduct on the part of the Partnership Representative or Designated Individual, as applicable.

Section 9.5 Withholding. Each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member any amount of U.S. federal, state, local or foreign taxes that the Manager determines that the Company is required to withhold or pay with respect to any amount distributable or allocable to such Member pursuant to this Agreement, including any taxes required to be withheld or paid by the Company pursuant to Section 1441, Section 1442, Section 1445 or Section 1446 of the Code. Any amount paid on behalf of or with respect to a Member shall constitute a loan by the Company to such Member, with interest assessed at a rate equal to the Applicable Federal Short-Term Rate as published monthly by the Internal Revenue Service plus two percent (2%), compounded annually, which loan shall be repaid by such Member within fifteen (15) days after notice from the Manager that

such payment must be made unless (i) the Company withholds such payment from a distribution that would otherwise be made to the Member or (ii) the Manager determines that such payment may be satisfied out of the cash of the Company that would, but for such payment, be distributed to the Member. Each Member hereby unconditionally and irrevocably grants to the Company a security interest in such Member's Units to secure such Member's obligation to pay to the Company any amounts required to be paid pursuant to this Section 9.5. In the event that a Member fails to pay any amounts owed to the Company pursuant to this Section 9.5 when due, such amounts shall bear interest at the base rate on corporate loans at large U.S. money center commercial banks, as published from time to time in the Wall Street Journal, plus four (4) percentage points (but not higher than the maximum lawful rate) from the date such amount is due (i.e., fifteen (15) days after demand) until such amount is paid in full. Each Member shall take such actions as the Company or the Manager shall request in order to perfect or enforce the security interest created hereunder.

Section 9.6 Organizational Expenses. The Manager may cause the Company to elect to deduct expenses, if any, incurred by it in organizing the Company ratably over a one hundred eighty (180)-month period as provided in Section 709 of the Code.

Section 9.7 Survival. The obligations set forth in this Article IX shall survive the termination of any Member's interest in the Company, the termination of this Agreement and/or the termination, dissolution, liquidation or winding up of the Company, and shall remain binding on each Member for the period of time necessary to resolve with the Internal Revenue Service (or any other applicable taxing authority) all income tax matters relating to the Company and for Members to satisfy their indemnification obligations, if any, pursuant to this Article IX.

ARTICLE X

TRANSFERS; WITHDRAWALS

Section 10.1 Transfer.

(a) No part of the interest of a Member shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

(b) No Unit shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article X. Any Transfer or purported Transfer of one or more Units not made in accordance with this Article X shall be null and void *ab initio*.

(c) No Transfer of any Unit may be made to a lender to the Company or any Person who is related (within the meaning of Treasury Regulations Section 1.752-4(b)) to any lender to the Company whose loan constitutes a nonrecourse liability (within the meaning of Treasury Regulations Section 1.752-1(a)(2)), without the consent of the Manager; provided, that as a condition to such consent, the lender will be required to enter into an arrangement with the Company and SDC Inc. to redeem or exchange for the Class A Shares Amount any Units in which a security interest is held by such lender immediately before the time at which such lender

would be deemed to be a member in the Company for purposes of allocating liabilities to such lender under Section 752 of the Code.

Section 10.2 Transfer of Manager's Units.

(a) Except as provided in Section 10.2(b), and subject to the rights of any Holder set forth in a Unit Designation, the Manager may not Transfer any of its Units without the Consent of the Members.

(b) Subject to compliance with the other provisions of this Article X, the Manager may Transfer all of its Units at any time to any Person that is, at the time of such Transfer, a direct or indirect wholly owned Subsidiary of the Manager without the consent of any Member, and may designate the transferee to become the new Manager under Article XII.

(c) The Manager may not voluntarily withdraw as a Member of the Company, except in connection with a Transfer all of the Manager's Units permitted in this Article X and the admission of the Transferee as a successor Manager of the Company pursuant to the Delaware Act and this Agreement.

(d) It is a condition to any Transfer of all of the Manager's Units otherwise permitted hereunder that (i) coincident or prior to such Transfer, the transferee is admitted as the Manager pursuant to the Delaware Act and this Agreement; (ii) the transferee assumes by operation of Law or express agreement all of the obligations of the transferor Manager under this Agreement with respect to such Transferred Units; and (iii) the transferee has executed such instruments as may be necessary to effectuate such admission and to confirm the agreement of such transferee to be bound by all the terms and provisions of this Agreement applicable to the Manager and the admission of such transferee as the Manager.

Section 10.3 Non-Manager Members' Rights to Transfer.

(a) General. Except as provided below, no Holder may Transfer any Unit without the consent of the Manager. Notwithstanding the foregoing, any Holder may, at any time, without the consent of the Manager, Transfer all or any portion of its Units pursuant to a Permitted Transfer (including, in the case of a Holder that is a Permitted Lender Transferee, any Transfer of Units to a Third-Party Pledge Transferee). Any Transfer by a Holder is subject to Section 10.4 and to satisfaction of the following conditions:

(i) Qualified Transferee. Any Transfer of any Units shall be made only to a single Qualified Transferee; provided, however, that for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee; provided, further, that each Transfer meeting the minimum Transfer restriction set forth in Section 10.3(a)(iii) may be to a separate Qualified Transferee.

(ii) Opinion of Counsel. The transferor shall deliver or cause to be delivered to the Manager an opinion of legal counsel reasonably satisfactory to the Manager to the effect that the proposed Transfer may be effected without registration

under the Securities Act and will not otherwise violate the registration provisions of the Securities Act and the regulations promulgated thereunder or violate any state securities laws or regulations applicable to the Company or the Units Transferred; provided, however, that the Manager may waive this condition upon the request of the transferor. If the Manager determines, based on the advice of counsel, that such Transfer would create a material risk of requiring the filing of a registration statement under the Securities Act or otherwise violating any federal or state securities laws or regulations applicable to the Company or the Units, the Manager may prohibit any Transfer otherwise permitted under this Section 10.3.

(iii) Minimum Transfer Restriction. Any transferor must Transfer not less than the lesser of (i) ten thousand (10,000) Units (as adjusted for any unit split, unit distribution, reverse unit split, reclassification or similar event, in each case with such adjustment being determined by the Manager) or (ii) all of the remaining Units owned by such transferor; provided, however, that for purposes of determining compliance with the foregoing restriction, all Units owned by Affiliates of a Holder shall be considered to be owned by such Holder.

(iv) No Further Transfers. The transferee shall not be permitted to effect any further Transfer of the Units, other than to SDC Inc. or the Company.

(v) Exception for Permitted Transfers. The conditions of Section 10.3(a)(ii) and 10.3(a)(iv) shall not apply in the case of a Permitted Transfer.

It is a condition to any Transfer otherwise permitted hereunder (whether or not such Transfer is effected during or after any applicable Lock-Up Period) that the transferee assumes by operation of Law or express agreement all of the obligations of the transferor Member under this Agreement with respect to such Transferred Units, and no such Transfer (other than pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor are assumed by a successor corporation by operation of Law) shall relieve the transferor of its obligations under this Agreement without the approval of the Manager. Any transferee, whether or not admitted as a Substituted Member, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Member, no transferee, whether by a voluntary Transfer, by operation of Law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 10.5.

(b) Incapacity. If a Member is Incapacitated, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Member's estate shall have all the rights of a Member, but not more rights than those enjoyed by other Members, for the purpose of settling or managing the estate, and such power as the Incapacitated Member possessed to Transfer all or any part of its interest in the Company. The Incapacity of a Member, in and of itself, shall not dissolve or terminate the Company.

Section 10.4 Substituted Members.

(a) No Member shall have the right to substitute a transferee other than a Permitted Transferee as a Member in its place. A transferee of the interest of a Member may be

admitted as a Substituted Member only with the consent of the Manager; provided, however, that a Permitted Transferee shall be admitted as a Substituted Member pursuant to a Permitted Transfer without the consent of the Manager, subject to compliance with the last sentence of this Section 10.4. The failure or refusal by the Manager to permit a transferee of any such interests to become a Substituted Member shall not give rise to any cause of action against the Company or the Manager. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Member until and unless it furnishes to the Manager (i) an executed Joinder to this Agreement, (ii) Consent by Spouse (if applicable), and (iii) such other documents and instruments as the Manager may require to effect such Assignee's admission as a Substituted Member.

(b) Concurrently with, and as evidence of, the admission of a Substituted Member, the Manager shall amend the Register and the books and records of the Company to reflect the name, address and number of Units of such Substituted Member and to eliminate or adjust, if necessary, the name, address and number of Units of the predecessor of such Substituted Member.

(c) A transferee who has been admitted as a Substituted Member in accordance with this Article X shall have all the rights and powers and be subject to all the restrictions and liabilities of a Member under this Agreement.

Section 10.5 Assignees. If the Manager's consent is required for the admission of any transferee under Section 10.3 as a Substituted Member, as described in Section 10.4, and the Manager withholds such consent, such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited liability company interest under the Delaware Act, including the right to receive distributions from the Company and the share of Net Profits, Net Losses and other items of income, gain, loss, deduction and credit of the Company attributable to the Units assigned to such transferee and the rights to Transfer the Units provided in this Article X, but shall not be deemed to be a Holder for any other purpose under this Agreement (other than as expressly provided in Section 11.1 with respect to a Qualifying Party that becomes a Tendering Party), and shall not be entitled to effect a consent or vote with respect to such Units on any matter presented to the Members for approval (such right to consent or vote, to the extent provided in this Agreement or under the Delaware Act, fully remaining with the transferor Member). In the event that any such transferee desires to make a further assignment of any such Units, such transferee shall be subject to all the provisions of this Article X to the same extent and in the same manner as any Member desiring to make an assignment of Units.

Section 10.6 General Provisions.

(a) No Member may withdraw from the Company other than: (i) as a result of a Permitted Transfer of all of such Member's Units in accordance with this Article X with respect to which the transferee becomes a Substituted Member; (ii) pursuant to a redemption (or acquisition by SDC Inc.) of all of its Units pursuant to a Redemption under Article X or Section 11.1 and/or pursuant to any Unit Designation; or (iii) as a result of the acquisition by the Company or SDC Inc. of all of such Member's Units, whether or not pursuant to Section 11.1(b).

(b) Any Member who shall Transfer all of its Units in a Transfer (i) permitted pursuant to this Article X where such transferee was admitted as a Substituted Member, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Units pursuant to a Redemption under Section 11.1 and/or pursuant to any Unit Designation, or (iii) to SDC Inc., whether or not pursuant to Section 11.1(b), shall cease to be a Member.

(c) If any Unit is Transferred in compliance with the provisions of this Article X, or is redeemed by the Company, or acquired by SDC Inc. pursuant to Section 11.1, on any day other than the first day of a Fiscal Year, then Net Profits, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Unit for such Fiscal Year shall be allocated to the transferor Member or the Tendering Party (as the case may be) and, in the case of a Transfer or assignment other than a Redemption, to the transferee Member, by taking into account their varying interests during the Fiscal Year in accordance with Section 706(d) of the Code, using the "interim closing of the books" method or another permissible method or methods selected by the Manager. Should the "interim closing of the books" method be used, then solely for purposes of making such allocations, unless otherwise determined by the Manager, each of such items for the calendar month in which a Transfer occurs shall be allocated to the transferee Member and none of such items for the calendar month in which a Transfer or a Redemption occurs shall be allocated to the transferor Member, or the Tendering Party (as the case may be) if such Transfer occurs on or before the fifteenth (15th) day of the month, otherwise such items shall be allocated to the transferor. All distributions attributable to such Unit with respect to which the Company Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Member or the Tendering Party (as the case may be) and, in the case of a Transfer other than a Redemption, all distributions thereafter attributable to such Unit shall be made to the transferee.

(d) In addition to any other restrictions on Transfer herein contained, in no event may any Transfer or assignment of Units by any Member (including any Redemption, any acquisition of Units by the Manager or any other acquisition of Units by the Company) be made (i) to any person or entity who lacks the legal right, power or capacity to own Units; (ii) in violation of applicable Law; (iii) of any component portion of a Unit, such as the Capital Account, or rights to distributions, separate and apart from all other components of a Unit; (iv) if the Manager determines that such Transfer would create a material risk that the Company would become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in Section 3(14) of ERISA) or a "disqualified person" (as defined in Section 4975(c) of the Code); (v) if the Manager determines, based on the advice of counsel, that such Transfer would create a material risk that any portion of the assets of the Company would constitute assets of any employee benefit plan pursuant to Department of Labor Treasury Regulations Section 2510.2-101; (vi) if such Transfer requires the registration of such Unit pursuant to any applicable federal or state securities Laws; (vii) if the Manager determines that such Transfer creates a material risk that the Company would become a reporting company under the Exchange Act; (viii) if such Transfer subjects the Company to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or ERISA, each as amended; or (ix) if the Manager determines that such Transfer would create a material risk that the Company would become a "publicly traded partnership," as such term is defined in Sections 469(k)(2) or 7704(b) of the Code, or otherwise cease to be classified as a partnership for

U.S. federal income tax purposes (except as a result of the Redemption (or acquisition by SDC Inc.) of all Units held by all Members (other than SDC Inc.).

(e) Notwithstanding anything in this Agreement to the contrary, in no event may any Transfer or assignment of any Units by any Member (including any Redemption, any acquisition of Units by SDC Inc. or any other acquisition of Units by the Company) result in the Company's having more than one hundred (100) Members within the meaning of Treasury Regulations Section 1.7704-1(h)(1) (determined pursuant to the rules of Treasury Regulations Section 1.7704-1(h)(3)).

(f) Transfers pursuant to this Article X, other than a Permitted Transfer to a Permitted Transferee pursuant to the exercise of remedies under a Pledge, may only be made on the first day of a fiscal quarter of the Company, unless the Manager otherwise agrees.

Section 10.7 Restrictions on Termination Transactions. SDC Inc. shall not engage in, or cause or permit, a Termination Transaction, other than (i) with Consent of the Members, or (ii) either:

(a) in connection with any such Termination Transaction, each Holder of Common Units (other than SDC Inc. and its wholly owned Subsidiaries) will receive, or will have the right to elect to receive, for each Common Unit an amount of cash, securities or other property equal to the product of the Adjustment Factor and the greatest amount of cash, securities or other property paid to a holder of one Class A Share in consideration of one Class A Share pursuant to the terms of such Termination Transaction; provided, that if in connection with such Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of a majority of the outstanding Class A Shares, each Holder of Common Units (other than SDC Inc. and its wholly owned subsidiaries) will receive, or will have the right to elect to receive, the greatest amount of cash, securities or other property which such Holder of Common Units would have received had it exercised its right to Redemption pursuant to Article XI and received Class A Shares in exchange for its Common Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon accepted such purchase, tender or exchange offer and then such Termination Transaction shall have been consummated (the fair market value, as determined by the Manager (whose determination shall be conclusive) at the time of the Termination Transaction, of the amount specified herein with respect to each Common Unit is referred to as the "**Transaction Consideration**"); or

(b) all of the following conditions are met: (i) substantially all of the assets directly or indirectly owned by the Company prior to the announcement of the Termination Transaction are, immediately after the Termination Transaction, owned directly or indirectly by the Company or another limited partnership or limited liability company which is the survivor of a merger, consolidation or combination of assets with the Company (in each case, the "**Surviving Company**"); (ii) the Surviving Company is classified as a partnership for U.S. federal income tax purposes; (iii) the Members (other than SDC Inc.) that held Common Units immediately prior to the consummation of such Termination Transaction own a percentage interest of the Surviving Company based on the relative fair market value (as determined by the Manager, whose determination shall be conclusive) of the net assets of the Company and the

other net assets of the Surviving Company immediately prior to the consummation of such transaction; (iv) the rights of such Members with respect to the Surviving Company are at least as favorable as those of Members holding Common Units immediately prior to the consummation of such transaction (except to the extent that any such rights are consistent with clause (v) below) and as those applicable to any other limited partners or non-managing members of the Surviving Company; and (v) such rights include the right to redeem their interests in the Surviving Company at any time for cash in an amount equal to the fair market value of such interest at the time of redemption, as determined at least once every calendar quarter by an independent appraisal firm of recognized national standing retained by the Surviving Company.

ARTICLE XI

REDEMPTION AND EXCHANGE RIGHTS

Section 11.1 Redemption Rights of Qualifying Parties.

(a) After the expiration or earlier termination of any applicable Lock-Up Period, a Qualifying Party shall have the right (subject to the terms and conditions set forth herein) to redeem all or a portion of the Common Units held by such Qualifying Party (Common Units that have in fact been tendered for redemption being hereafter referred to as "**Tendered Units**") in exchange for the Cash Amount payable on the Specified Redemption Date (in each case, a "**Redemption**"). Notwithstanding the foregoing, the Company may, in the Manager's sole and absolute discretion, redeem Tendered Units at the request of the Tendering Party prior to the end of any applicable Lock-Up Period (subject to the terms and conditions set forth herein) (a "**Special Redemption**"); provided, that the Manager first receives a legal opinion to the same effect as the legal opinion described in Section 11.1(e). Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the Manager by the Qualifying Party when exercising the Redemption right (the "**Tendering Party**"). To be effective, such Notice of Redemption must be received by the Company not less than three (3) and not more than ten (10) Business Days prior to the Specified Redemption Date. The Company's obligation to effect a Redemption, however, shall not arise or be binding against the Company (i) unless and until SDC Inc. declines to exercise its purchase rights pursuant to Section 11.1(b) hereof following receipt of a Notice of Redemption (a "**Declination**") and (ii) until the Business Day following the Cut-Off Date. In the event of a Redemption, the applicable Cash Amount shall be delivered as a certified or bank check payable to the Tendering Party or, in the Manager's sole and absolute discretion, by wire transfer of funds on or before the Specified Redemption Date.

(b) Notwithstanding the provisions of Section 11.1(a) hereof, on or before the close of business on the Cut-Off Date, SDC Inc. may, in the sole and absolute discretion of the Board of Directors, elect to acquire some or all (such percentage being referred to as the "**Acquired Percentage**") of the Tendered Units from the Tendering Party in exchange for the Class A Shares Amount or the Cash Amount (as determined by SDC Inc. in its sole discretion), calculated based on the portion of Tendered Units it elects to acquire. If SDC Inc. so elects, on the Specified Redemption Date, the Tendering Party shall sell such number of the Tendered Units to SDC Inc. in exchange for (i) a number of Class A Shares equal to the product of the Class A Shares Amount and the Acquired Percentage, (ii) cash in an amount equal to the product

of the Cash Amount and the Acquired Percentage, or (iii) a combination of (i) and (ii), with the form and allocation of consideration determined by SDC Inc. in its sole discretion. The Tendering Party shall submit such written representations, investment letters, legal opinions or other instruments necessary, in the view of SDC Inc., to effect compliance with the Securities Act. In the event of a purchase of the Tendered Units by SDC Inc. pursuant to this Section 11.1(b), the Tendering Party shall no longer have the right to cause the Company to effect a Redemption of such Tendered Units, and, upon notice to the Tendering Party by SDC Inc., given on or before the close of business on the Cut-Off Date, that SDC Inc. has elected to acquire some or all of the Tendered Units pursuant to this Section 11.1(b), the obligation of the Company to effect a Redemption of the Tendered Units as to which SDC Inc.'s notice relates shall not accrue or arise. If SDC Inc. elects to acquire Tendered Units for Class A Shares, then a number of Class A Shares equal to the product of the Applicable Percentage and the Class A Shares Amount, if applicable, shall be delivered by SDC Inc. as duly authorized, validly issued, fully paid and non-assessable Class A Shares and, if applicable, Rights, free of any pledge, lien, encumbrance or restriction, other than restrictions provided in the certificate of incorporation of SDC Inc., the Securities Act and relevant state securities or "blue sky" Laws. Neither any Tendering Party whose Tendered Units are acquired by SDC Inc. pursuant to this Section 11.1(b), any Member, any Assignee nor any other interested Person shall have any right to require or cause SDC Inc. to register, qualify or list any Class A Shares owned or held by such Person, whether or not such Class A Shares are issued pursuant to this Section 11.1(b), with the SEC, with any state securities commissioner, department or agency, under the Securities Act or the Exchange Act or with any stock exchange; provided, however, that this limitation shall not be in derogation of any registration or similar rights granted pursuant to any other written agreement between SDC Inc. and any such Person. Notwithstanding any delay in such delivery, the Tendering Party shall be deemed the owner of such Class A Shares and Rights for all purposes, including rights to vote or consent, receive dividends, and exercise rights, as of the Specified Redemption Date. Class A Shares issued upon an acquisition of Tendered Units by SDC Inc. pursuant to this Section 11.1(b) may contain such legends regarding restrictions under the Securities Act and applicable state securities Laws as SDC Inc. in good faith determines to be necessary or advisable in order to ensure compliance with such Laws. If SDC Inc. elects to acquire Tendered Units for cash, then cash equal to the product of the Acquired Percentage and the Cash Amount shall be delivered as a certified or bank check payable to the Tendering Party or, in SDC Inc.'s sole and absolute discretion, by wire transfer of funds on or before the Specified Redemption Date.

(c) In the event of a Declination, SDC Inc. shall give notice of such Declination to the Tendering Party on or before the close of business on the Cut-Off Date. The failure of SDC Inc. to give notice of such Declination by the close of business on the Cut-Off Date shall be deemed to be an election by SDC Inc. to acquire the Tendered Units in exchange for Class A Shares or cash. In the event of a Declination, the Company may elect to raise funds for the payment of any applicable Cash Amount (a) solely by requiring that SDC Inc. or its Subsidiaries contribute to the Company funds from (i) the proceeds of a registered public offering by SDC Inc. of Class A Shares sufficient to purchase the Tendered Units or (ii) any other sources available to SDC Inc. or its Subsidiaries or (b) with the consent of the Tendering Party, from any other sources available to the Company. To the extent determined by the Manager, the Company will treat such a transaction as a disguised sale under Section 707(a)(2)(B) of the Code. If the Cash Amount is not paid on or before the Specified

Redemption Date, interest shall accrue with respect to the Cash Amount from the day after the Specified Redemption Date to and including the date on which the Cash Amount is paid at a rate equal to the Applicable Federal Short-Term Rate as published monthly by the Internal Revenue Service.

(d) Notwithstanding anything herein to the contrary, with respect to any Redemption (or any tender of Common Units for Redemption if the Tendered Units are acquired by SDC Inc. pursuant to Section 11.1(b) hereof) pursuant to this Section 11.1:

(i) Without the consent of the Manager, no Tendering Party may effect a Redemption for less than five thousand (5,000) Common Units (as adjusted for any unit split, unit distribution, reverse unit split, reclassification or similar event, in each case with such adjustment being determined by the Manager.) or, if such Tendering Party holds less than five thousand (5,000) Common Units (as adjusted for any unit split, unit distribution, reverse unit split, reclassification or similar event, in each case with such adjustment being determined by the Manager), all of the Common Units held by such Tendering Party.

(ii) If (i) a Tendering Party surrenders Tendered Units during the period after the Company Record Date with respect to a distribution payable to Holders of Common Units, and before the record date established by SDC Inc. for a dividend to its stockholders of some or all of its portion of such Company distribution, and (ii) SDC Inc. elects to acquire any of such Tendered Units in exchange for Class A Shares pursuant to Section 11.1(b), then such Tendering Party shall pay to SDC Inc. on the Specified Redemption Date an amount in cash equal to the Company distribution paid or payable in respect of such Tendered Units.

(iii) The consummation of such Redemption (or an acquisition of Tendered Units by SDC Inc. pursuant to Section 11.1(b) hereof, as the case may be) shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

(iv) The Tendering Party shall continue to own (subject, in the case of an Assignee, to the provisions of Section 10.5) all Common Units subject to any Redemption, and be treated as a Member or an Assignee, as applicable, with respect to such Common Units for all purposes of this Agreement, until the Specified Redemption Date and until such Tendered Units are either paid for by the Company pursuant to Section 11.1(a) hereof or transferred to SDC Inc. and paid for by the issuance of Class A Shares or payment of cash pursuant to Section 11.1(b). Until a Specified Redemption Date and an acquisition of the Tendered Units by SDC Inc. for Class A Shares pursuant to Section 11.1(b) hereof, the Tendering Party shall have no rights as a stockholder of SDC Inc. with respect to the Class A Shares issuable in connection with such acquisition.

(v) The Manager shall establish a Specified Redemption Date in each quarter of each Fiscal Year, subject to the expiration or earlier termination of any applicable Lock-Up Period, provided, that the Manager may postpone any such date one or more times. The Manager shall provide notice to the Members of each Specified

Redemption Date at least forty-five (45) days prior to such date. The Manager may, in its sole discretion, establish additional Specified Redemption Dates on such terms and conditions as determined by the Manager in its sole discretion, if it determines that doing so would not create a material risk that the Company would become a "publicly traded partnership," as such term is defined in Sections 469(k)(2) or 7704(b) of the Code.

(e) In connection with any Special Redemption, SDC Inc. shall have the right to receive an opinion of counsel for the Tendering Party reasonably satisfactory to it to the effect that the proposed Special Redemption will not cause the Company or SDC Inc. to violate any federal or state securities Laws or regulations applicable to the Special Redemption or the issuance and sale of Class A Shares to the Tendering Party pursuant to Section 11.1(b) of this Agreement.

(f) Notwithstanding anything herein to the contrary, any Member may exchange Common Units only to the extent such Member's Adjusted Capital Account Balance at the time of the exchange represents at least the same percentage of the aggregate Adjusted Capital Account Balances of all partners of the Company as the percentage interest represented by such Common Units to be exchanged. For the avoidance of doubt, the exchanging Member may designate the portion of his or her Capital Account attributable to one or more Common Units being exchanged.

(g) Share Offering Funding Option.

(i) Notwithstanding Section 11.1(a) or Section 11.1(b) hereof, if (i) a Member has delivered to the Manager a Notice of Redemption with respect to a number of Common Units that, together with any other Tendered Units from other Members (collectively, the "**Offering Units**"), exceeds twenty-five million dollars ($25,000,000) gross value, based on a Common Unit price equal to the Value of a Class A Share, and (ii) SDC Inc. is eligible to file a registration statement under Form S-3 (or any successor form similar thereto), then either: (x) the Manager and SDC Inc. may cause the Company to redeem the Offering Units with the proceeds of an offering, whether registered under the Securities Act or exempt from such registration, underwritten, offered and sold directly to investors or through agents or other intermediaries, or otherwise distributed (a "**Share Offering Funding**") of a number of Class A Shares ("**Offered Shares**") equal to the Class A Shares Amount with respect to the Offering Units pursuant to the terms of this Section 11.1(g); (y) the Company shall pay the Cash Amount with respect to the Offering Units pursuant to the terms of Section 11.1(a); or (z) SDC Inc. shall acquire the Offering Units in exchange for the Class A Shares Amount pursuant to the terms of Section 11.1(b). The Manager and SDC Inc. must provide notice of its exercise of the election described in clause (x) above to purchase the Tendered Units through a Share Offering Funding on or before the Cut-Off Date.

(1) If the Manager and SDC Inc. elect a Share Offering Funding with respect to a Notice of Redemption, SDC Inc. may give notice (a "**Single Funding Notice**") of such election to all Members and require that all Members elect whether or not to effect a Redemption to be funded through such Share Offering Funding. If a Member elects to effect such a Redemption, it shall give notice thereof and of the

number of Common Units to be made subject thereto in writing to SDC Inc. within ten (10) Business Days after receipt of the Single Funding Notice, and such Member shall be treated as a Tendering Party for all purposes of this Section 11.1(g) as long as the requirements in Section 11.1(d)(iv) are otherwise satisfied.

(ii) If the Manager and SDC Inc. elect a Share Offering Funding, on the Specified Redemption Date, the Company shall redeem each Offering Unit that is still a Tendered Unit on such date for cash in immediately available funds in an amount (the "**Share Offering Funding Amount**") equal to the net proceeds per Offered Share received by SDC Inc. from the Share Offering Funding, determined after deduction of underwriting discounts and commissions but no other expenses of SDC Inc. or any other Member related thereto, including without limitation, legal and accounting fees and expenses, SEC registration fees, state blue sky and securities Laws fees and expenses, printing expenses, FINRA filing fees, exchange listing fees and other out of pocket expenses (the "**Net Proceeds**").

(iii) If the Manager and SDC Inc. elect a Share Offering Funding, the following additional terms and conditions shall apply:

(1) As soon as practicable after the Manager and SDC Inc. elect to effect a Share Offering Funding, SDC Inc. shall use its reasonable efforts to effect as promptly as possible a registration, qualification or compliance (including, without limitation, the execution of an undertaking to file post-effective amendments, appropriate qualifications under applicable blue sky or other state securities Laws and appropriate compliance with applicable regulations issued under the Securities Act and any other governmental requirements or regulations) as would permit or facilitate the sale and distribution of the Offered Shares; provided, that if SDC Inc. shall deliver a certificate to the Tendering Party stating that SDC Inc. has determined in the good faith judgment of the Board of Directors that such filing, registration or qualification would require disclosure of material non-public information, the disclosure of which would have a material adverse effect on SDC Inc., then SDC Inc. may delay making any filing or delay the effectiveness of any registration or qualification for the shorter of (a) the period ending on the date upon which such information is disclosed to the public or ceases to be material or (b) an aggregate period of ninety (90) days in connection with any Share Offering Funding.

(2) SDC Inc. shall advise each Tendering Party, regularly and promptly upon any request, of the status of the Share Offering Funding process, including the timing of all filings, the selection of and understandings with underwriters, agents, dealers and brokers, the nature and contents of all communications with the SEC and other governmental bodies, the expenses related to the Share Offering Funding as they are being incurred, the nature of marketing activities, and any other matters reasonably related to the timing, price and expenses relating to the Share Offering Funding and the compliance by SDC Inc. with its obligations with respect thereto. SDC Inc. will have reasonable procedures whereby the Tendering Party with the largest number of Offering Units (the "**Lead Tendering Party**") may represent all the Tendering Parties in connection with the Share Offering Funding by allowing it to participate in meetings with

the underwriters of the Share Offering Funding. In addition, SDC Inc. and each Tendering Party may, but shall be under no obligation to, enter into understandings in writing ("**Pricing Agreements**") whereby the Tendering Party will agree in advance as to the acceptability of a Net Proceeds amount at or below a specified amount. Furthermore, SDC Inc. shall establish pricing notification procedures with each such Tendering Party, such that the Tendering Member will have the maximum opportunity practicable to determine whether to become a Withdrawing Member pursuant to Section 11.1(g)(iii)(3) below.

(3) SDC Inc. will permit the Lead Tendering Party to participate in the pricing discussions for the Share Offering Funding and, upon notification of the price per Class A Share in the Share Offering Funding from the managing underwriter(s), in the case of a proposed registered public offering, or lead placement agent(s), in the event of an unregistered offering, engaged by SDC Inc. in order to sell the Offered Shares, shall immediately use its reasonable efforts to notify each Tendering Party of the price per Class A Share in the Share Offering Funding and resulting Net Proceeds. Each Tendering Party shall have one hour from the receipt of such written notice (as such time may be extended by SDC Inc.) to elect to withdraw its Redemption (a Tendering Party making such an election being a "**Withdrawing Member**"), and Common Units with a Class A Shares Amount equal to such excluded Offered Shares shall be considered to be withdrawn from the related Redemption; provided, however, that SDC Inc. shall keep each of the Tendering Parties reasonably informed as to the likely timing of delivery of its notice. If a Tendering Party, within such time period, does not notify SDC Inc. of such Tendering Party's election to become a Withdrawing Member, then such Tendering Party shall, except as otherwise provided in a Pricing Agreement, be deemed not to have withdrawn from the Redemption, without liability to SDC Inc. To the extent that SDC Inc. is unable to notify any Tendering Party, such unnotified Tendering Party shall, except as otherwise provided in any Pricing Agreement, be deemed not to have elected to become a Withdrawing Member. Each Tendering Party whose Redemption is being funded through the Share Offering Funding who does not become a Withdrawing Member shall have the right, subject to the approval of the managing underwriter(s) or placement agent(s) and restrictions of any applicable securities Laws, to submit for Redemption additional Common Units in a number no greater than the number of Common Units withdrawn. If more than one Tendering Party so elects to redeem additional Common Units, then such Common Units shall be redeemed on a pro rata basis, based on the number of additional Common Units sought to be so redeemed.

SDC Inc. shall take all reasonable action in order to effectuate the sale of the Offered Shares including, but not limited to, the entering into of an underwriting or placement agreement in customary form with the managing underwriter(s) or placement agent(s) selected for such offering. Notwithstanding any other provision of this Agreement, if the managing underwriter(s) or placement agent(s) advises SDC Inc. in writing that marketing factors require a limitation of the number of shares to be offered, then SDC Inc. shall so advise all Tendering Parties and the number of Common Units to be sold to SDC Inc. pursuant to the Redemption shall be allocated among all Tendering Parties in proportion, as nearly as practicable, to the respective number of Common Units as to which each Tendering Party elected to effect a Redemption.

Notwithstanding anything to the contrary in this Agreement, if SDC Inc. is also offering to sell shares for purposes other than to fund the redemption of Offering Units and to pay related expenses, then those other shares may in SDC Inc.'s sole discretion be given priority over any shares to be sold in the Share Offering Funding, and any shares to be sold in the Share Offering Funding shall be removed from the offering prior to removing shares the proceeds of which would be used for other purposes of SDC Inc. No Offered Shares excluded from the offering by reason of the managing underwriter's or placement agent's marketing limitation shall be included in such offering.

Each of the Company and SDC Inc. shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable upon a Redemption such amounts as may be required to be deducted or withheld therefrom under the Code or any provision of applicable Law, and to the extent deduction and withholding is required, such deduction and withholding may be taken in Class A Shares. To the extent that amounts are so withheld and paid over to the appropriate taxing authority (or, if taken in Class A Shares, cash in the amount of the fair market value of such shares is paid over to the appropriate taxing authority), such amounts will be treated for purposes of this Agreement as having been paid to the Tendering Party.

ARTICLE XII

ADMISSION OF MEMBERS

Section 12.1 Admission of Successor Manager. A successor to all or a portion of the Manager's Units pursuant to Section 10.2(b) who the Manager has designated to become a successor Manager shall be admitted to the Company as the Manager, effective immediately upon the Transfer of such Units to it. Upon any such Transfer and the admission of any such transferee as a successor Manager in accordance with this Article XII, the transferor Manager shall be relieved of its obligations under this Agreement and shall cease to be the Manager of the Company without the consent or approval of any Non-Manager Member. Any such successor shall carry on the business of the Company without dissolution. In each case, the admission shall be subject to the successor Manager executing and delivering to the Company an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission. In the event that the Manager withdraws from the Company, or transfers all of its Units, in violation of this Agreement, or otherwise dissolves or terminates or ceases to be the Manager of the Company, a Majority in Interest of the Members may elect to continue the Company by selecting a successor Manager in accordance with Section 13.1(b).

Section 12.2 Members; Admission of Additional Members.

(a) After the Effective Date, a Person (other than a then-existing Member) who makes a Capital Contribution to the Company in exchange for Units and in accordance with this Agreement shall be admitted to the Company as an Additional Member only upon furnishing to the Manager (i) an executed Joinder to this Agreement, (ii) Consent by Spouse (if applicable), and (iii) such other documents and instruments as the Manager may require to effect such Person's admission as an Additional Member. Concurrently with, and as evidence of, the admission of an Additional Member, the Manager shall amend the Register and the books and

records of the Company to reflect the name, address, number and type of Units of such Additional Member.

(b) Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Member without the consent of the Manager. The admission of any Person as an Additional Member shall become effective on the date upon which the name of such Person is recorded on the books and records of the Company, following the consent of the Manager to such admission and the satisfaction of all the conditions set forth in Section 12.2(a).

(c) If any Additional Member is admitted to the Company on any day other than the first day of a Fiscal Year, then Net Profits, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Members for such Fiscal Year shall be allocated among such Additional Member and all other Members by taking into account their varying interests during the Fiscal Year in accordance with Section 706(d) of the Code, using the "interim closing of the books" method or another permissible method or methods selected by the Manager. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Member occurs shall be allocated among all the Members including such Additional Member, in accordance with the principles described in Section 10.6(c). All distributions with respect to which the Company Record Date is before the date of such admission shall be made solely to Members and Assignees other than the Additional Member, and all distributions thereafter shall be made to all the Members and Assignees including such Additional Member.

(d) For the admission to the Company of any Member, the Manager shall take all steps necessary and appropriate under the Delaware Act to amend the Register and the books and records of the Company and, if necessary, to prepare as soon as practical an amendment of this Agreement and, if required by Law, shall prepare and file an amendment to the Certificate of Limited Company and may for this purpose exercise the power of attorney granted pursuant to Section 15.2.

Section 12.3 Limit on Number of Members. Unless otherwise permitted by the Manager, no Person shall be admitted to the Company as an Additional Member if the effect of such admission would be to cause the Company to have a number of Members (including as Members for this purpose those Persons indirectly owning an interest in the Company through another partnership, a limited liability company, a subchapter S corporation or a grantor trust) that would cause the Company to become a reporting company under the Exchange Act.

Section 12.4 Admission. A Person shall be admitted to the Company as a Member of the Company only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Company as a Member.

ARTICLE XIII

DISSOLUTION AND LIQUIDATION

Section 13.1 Events Causing Dissolution. The Company shall not be dissolved by the admission of Additional Members or Substituted Members or the attempted withdrawal or resignation of a Member. The Company shall be dissolved and its affairs shall be wound up upon the occurrence of any of the following events (each, a "**Liquidating Event**"):

(a) the sale of all or substantially all of the Company's assets;

(b) the Incapacitation of the Manager; provided, that the Company will not be dissolved or required to be wound up in connection with the Incapacitation of the Manager (and such Incapacitation shall not be considered a Liquidating Event) if, within ninety (90) days after such Incapacitation, the Company, acting by Consent of the Members, appoints a successor Manager effective as of the date of the event;

(c) an election to dissolve the Company made by the Manager, with the Consent of the Members; or

(d) the entry of a decree of judicial dissolution under Section 18-802 of the Delaware Act.

Section 13.2 Distribution upon Dissolution.

(a) Upon the dissolution of the Company pursuant to Section 13.1, unless the Company is continued pursuant to Section 13.1, the Manager (or, in the event that there is no remaining Manager or the Manager has dissolved, become Bankrupt or ceased to operate, any Person elected by Consent of the Members) (the Manager or such other Person being referred to herein as the "**Liquidator**") shall be responsible for overseeing the winding up and dissolution of the Company and shall take full account of the Company's liabilities and property, and the Company property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom shall be applied and distributed in the following order:

(i) First, to the satisfaction of all of the Company's debts and liabilities to creditors, including Members who are creditors (other than with respect to liabilities owed to Members in satisfaction of liabilities for distributions), whether by payment or the making of reasonable provision for payment thereof;

(ii) Second, to the satisfaction of all of the Company's liabilities to the Members in satisfaction of liabilities for distributions, whether by payment or the making of reasonable provision for payment thereof; and

(iii) The balance, if any, to the Holders in accordance with and in proportion to their positive Capital Account balances, after giving effect to all contributions, distributions and allocations for all periods.

The Manager shall not receive any additional compensation for any services performed pursuant to this Article XIII.

(b) Notwithstanding the provisions of Section 13.2(a) that require liquidation of the assets of the Company, but subject to the order of priorities set forth therein, if prior to or

upon dissolution of the Company, the Liquidator determines that an immediate sale of part or all of the Company's assets would be impractical or would cause undue loss to the Holders, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Company (including to those Holders as creditors) and/or distribute to the Holders, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2(a), undivided interests in such Company assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Holders, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the Fair Market Value of any property distributed in kind using such reasonable method of valuation as it may adopt.

(c) In the event that the Company is "liquidated," within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article XIII to the Holders that have positive Capital Accounts in compliance with Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2) to the extent of, and in proportion to, positive Capital Account balances. If any Holder has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), such Holder shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever. In the sole and absolute discretion of the Manager or the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Holder s pursuant to this Article XIII may be:

(i) distributed to a trust established for the benefit of the Manager and the Holders for the purpose of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company or of the Manager arising out of or in connection with the Company and/or Company activities. The assets of any such trust shall be distributed to the Holders, from time to time, in the reasonable discretion of the Manager, in the same proportions and amounts as would otherwise have been distributed to the Holders pursuant to this Agreement; or

(ii) withheld or escrowed to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company; provided, that such withheld or escrowed amounts shall be distributed to the Holders in the manner and order of priority set forth in Section 13.2(a) as soon as practicable.

Section 13.3 Rights of Holders. Except as otherwise provided in this Agreement and subject to the rights of any Holder set forth in a Unit Designation, (a) each Holder shall look solely to the assets of the Company for the return of its Capital Contribution, (b) no Holder shall have the right or power to demand or receive property other than cash from the Company, and (c) no Holder shall have priority over any other Holder as to the return of its Capital Contributions, distributions or allocations.

Section 13.4 Termination. The Company shall terminate when all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company, shall have been distributed to the Members in the manner provided for in this Article XIII, and the Certificate shall have been canceled in the manner required by the Delaware Act.

Section 13.5 Reasonable Time for Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 13.2, in order to minimize any losses otherwise attendant upon such winding up, and the provisions of this Agreement shall remain in effect between and among the Members during the period of liquidation.

ARTICLE XIV

VALUATION

Section 14.1 Determination. "**Fair Market Value**" of a specific Company asset will mean the amount which the Company would receive in an all-cash sale of the asset in an arms-length transaction with a willing unaffiliated third party, with neither party having any compulsion to buy or sell, consummated on the day immediately preceding the date on which the event occurred which necessitated the determination of the Fair Market Value (and after giving effect to any transfer taxes payable in connection with the sale), as that amount is determined by the Manager (or, if pursuant to Section 13.2, the Liquidators) in its good faith judgment using all factors, information and data it deems to be pertinent.

ARTICLE XV

GENERAL PROVISIONS

Section 15.1 Company Counsel. THE COMPANY, SDC INC., AND CERTAIN OF THEIR AFFILIATES MAY BE REPRESENTED BY THE SAME COUNSEL. THE ATTORNEYS, ACCOUNTANTS AND OTHER EXPERTS WHO PERFORM SERVICES FOR THE COMPANY MAY ALSO PERFORM SERVICES FOR SDC INC. OR AFFILIATES OF THE COMPANY OR SDC INC. IN ITS CAPACITY AS MANAGER MAY, WITHOUT THE CONSENT OF THE MEMBERS, EXECUTE ON BEHALF OF THE COMPANY ANY CONSENT TO THE REPRESENTATION OF THE COMPANY THAT COUNSEL MAY REQUEST PURSUANT TO THE NEW YORK RULES OF PROFESSIONAL CONDUCT OR SIMILAR RULES IN ANY OTHER JURISDICTION. THE COMPANY HAS INITIALLY SELECTED SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP ("**COMPANY COUNSEL**") AS LEGAL COUNSEL TO THE COMPANY. EACH MEMBER ACKNOWLEDGES THAT COMPANY COUNSEL DOES NOT REPRESENT ANY MEMBER IN ITS CAPACITY AS SUCH IN THE ABSENCE OF A CLEAR AND EXPLICIT WRITTEN AGREEMENT TO SUCH EFFECT BETWEEN SUCH MEMBER AND COMPANY COUNSEL (AND THEN ONLY TO THE EXTENT SPECIALLY SET FORTH IN SUCH AGREEMENT), AND THAT IN ABSENCE OF ANY SUCH AGREEMENT COMPANY COUNSEL SHALL OWE NO DUTIES TO ANY MEMBER. EACH MEMBER FURTHER ACKNOWLEDGES THAT, WHETHER OR NOT COMPANY COUNSEL HAS IN THE PAST REPRESENTED OR IS CURRENTLY REPRESENTING SUCH MEMBER

WITH RESPECT TO OTHER MATTERS, COMPANY COUNSEL HAS NOT REPRESENTED THE INTERESTS OF ANY MEMBER IN THE PREPARATION AND/OR NEGOTIATION OF THIS AGREEMENT.

Section 15.2 Power of Attorney.

(a) Each Member who is an individual hereby constitutes and appoints the Manager (or the Liquidator, if applicable) with full power of substitution, as the Member's true and lawful agent and attorney-in-fact, with full power and authority in the Member's name, place and stead, to:

(i) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (A) this Agreement, all certificates and other instruments and all amendments thereof which the Manager deems appropriate or necessary to form, qualify, or continue the qualification of, the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property; (B) all instruments which the Manager deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (C) all conveyances and other instruments or documents which the Manager deems appropriate or necessary to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, including a certificate of cancellation; and (D) all instruments relating to the admission, withdrawal or substitution of any Member pursuant to Article VII or Article XII; and

(ii) sign, execute, swear to and acknowledge all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the reasonable judgment of the Manager, to evidence, confirm or ratify any vote, consent, approval, agreement or other action which is made or given by the Members hereunder or is consistent with the terms of this Agreement, in the reasonable judgment of the Manager, to effectuate the terms of this Agreement.

(b) The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Member and the transfer any or all of his, her or its Units and shall extend to the Member's heirs, successors, assigns and personal representatives.

Section 15.3 Confidentiality.

(a) Each of the Members agrees to hold the Company's Confidential Information in confidence and may not disclose such information except as otherwise authorized separately in writing by the Manager. "**Confidential Information**" as used herein includes all information concerning the Company or its Subsidiaries in the possession of or furnished to any Member, including but not limited to, ideas, financial product structuring, business strategies, innovations and materials, all aspects of the Company's business plan, proposed operation and products, corporate structure, financial and organizational information, analyses, proposed partners, software code and system and product designs, employees and their identities, equity ownership, the methods and means by which the Company plans to conduct its business, all trade

secrets, trademarks, tradenames and all intellectual property associated with the Company's business. With respect to each Member, Confidential Information does not include information or material that: (a) is rightfully in the possession of such Member at the time of disclosure by the Company; (b) before or after it has been disclosed to such Member by the Company, becomes part of public knowledge, not as a result of any action or inaction of such Member in violation of this Agreement; (c) is approved for release by written authorization of the Chief Executive Officer, Chief Financial Officer or Senior Vice President, General Counsel and Secretary of the Company or the Manager, or any other officer designated by the Manager; (d) is disclosed to such Member or their representatives by a third party not to the knowledge of such Member in violation of any obligation of confidentiality owed to the Company with respect to such information; or (e) is or becomes independently developed by such Member or their respective representatives without use or reference to the Confidential Information.

(b) Each of the Members may disclose Confidential Information to its Subsidiaries, Affiliates, partners, directors, officers, employees, counsel, advisers, consultants, outside contractors and other agents, on the condition that such Persons keep the Confidential Information confidential to the same extent as such disclosing party is required to keep the Confidential Information confidential, solely to the extent it is reasonably necessary or appropriate to fulfill its obligations or to exercise its rights under this Agreement; provided, that the disclosing party shall remain liable with respect to any breach of this Section 15.3 by any such Subsidiaries, Affiliates, partners, directors, officers, employees, counsel, advisers, consultants, outside contractors and other agents.

(c) Notwithstanding Sections 15.3(a) and (b), each of the Members may disclose Confidential Information (i) to the extent that such party is legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, (ii) for purposes of reporting to its stockholders and direct and indirect equity holders the performance of the Company and its Subsidiaries and for purposes of including applicable information in its financial statements to the extent required by applicable Law or applicable accounting standards; (iii) to any bona fide prospective purchaser of the equity or assets of a Member, or the Common Units held by such Member, or a prospective merger partner of such Member (provided, that (i) such Persons will be informed by such Member of the confidential nature of such information and shall agree in writing to keep such information confidential in accordance with the contents of this Agreement and (ii) each Member will be liable for any breaches of this Section 15.3 by any such Persons), or (iv) to the extent required to be disclosed by applicable Law. Notwithstanding any of the foregoing, nothing in this Section 15.3 will restrict in any manner the ability of the Corporation to comply with its disclosure obligations under Law, and the extent to which any Confidential Information is necessary or desirable to disclose.

Section 15.4 Amendments. Except as may be otherwise required by Law or as expressly provided in this Agreement, this Agreement may be amended or otherwise modified, or the observance of any provision of this Agreement waived, only with the approval of the Manager and Consent of the Members (excluding for purposes of such consent all Units held directly or indirectly by the Manager); provided, however, that except as specifically provided in this Agreement, no amendment or other modification or waiver may:

(a) modify the limited liability of any Member, or increase the liabilities or obligations of any Member, in each case, without the approval of each such affected Member;

(b) modify the rights and obligations set forth in Article XI with respect to a Redemption, in each case, without the approval of the Members affected by such an amendment;

(c) modify the rights and obligations set forth in Section 7.3 with respect to indemnification of Indemnified Persons, in each case, without the approval of each affected Member; or

(d) amend this Section 15.4, without the approval of each Member.

For the avoidance of doubt, at the direction of the Manager, the Company may update the Register in accordance with the terms of this Agreement, and such update shall not be construed as an amendment requiring the consent of any party hereto.

Upon obtaining the applicable approval or consent in accordance with this Section 15.4, and without further action or execution by any other Person, including any Member, (i) any amendment or other modification or waiver to this Agreement shall be implemented and reflected in a writing executed by the Manager or a duly authorized Officer and (ii) the Members shall be deemed a party to and bound by the amendment or other modification or waiver of this Agreement. Within thirty (30) days after the effectiveness of any amendment or other modification or waiver to this Agreement, the Company shall deliver a copy of a written instrument reflecting the amendment or other modification or waiver to all Members.

Section 15.5 Title to Company Assets. Company assets shall be deemed to be owned by the Company as an entity, and no Member, individually or collectively, shall have any ownership interest in those Company assets or any portion thereof. The Company shall hold title to all of its property in the name of the Company and not in the name of any Member. All Company assets shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to those Company assets is held. The Company's credit and assets shall be used solely for the benefit of the Company, and no asset of the Company shall be transferred or encumbered for, or in payment of, any individual obligation of any Member.

Section 15.6 Company Name; Goodwill. The parties acknowledge and agree that, as among the parties, the Company shall own exclusively all right, title and interest in and to the name "SMILEDIRECTCLUB" and any trademark or name comprising or containing any of the foregoing, including any translation, transliteration or stylization thereof, or any trademark or name likely to be confused therewith (collectively, the "**Marks**") and any and all goodwill associated with the Marks. The Company hereby grants to SDC Inc. and its Affiliates (for so long as they remain Affiliates) a royalty-free, non-exclusive license to use the Marks as part of their names (as applicable) and in connection with their business activities; provided, that the SDC Inc. and its Affiliates shall abide by any guidelines or policies governing the use of the Marks promulgated by the Company from time to time. This right may not be sub-licensed, assigned or mortgaged without the Company's prior written consent. This license shall endure for so long as SDC Inc. is the Manager.

Section 15.7 Addresses and Notices. Any notice consent, demand, or communication required or permitted to be given by any provision of this Agreement will be in writing and may be (i) delivered personally to the Person or to an officer of the Person to whom the same is directed, (ii) sent by facsimile, overnight mail or registered or certified mail, return receipt requested, postage prepaid or (iii) (except to the Company or the Manager) sent by e-mail, with electronic, written or oral confirmation of receipt, in each case to the Company at the address set forth below and to any other recipient and to any Member at such address as indicated by the Company's records, or at such address or to the attention of the other Person as the recipient party has specified by prior written notice to the sending party. Notices will be deemed to have been delivered, given and received hereunder (a) as of the date so delivered, if delivered personally, (b) upon receipt, if sent by facsimile or e-mail (provided confirmation of transmission is received), or (c) on the date of receipt or refusal indicated on the return receipt, if sent by registered or certified mail, return receipt requested, postage and charges prepaid and properly addressed. The Company's address is:

SDC Financial LLC
414 Union Street
Nashville, Davidson County
Tennessee
Attn: General Counsel and Secretary
E-mail: Susan.Greenspon@smiledirectclub.com

with a copy (which copy shall not constitute notice) to:

David J. Goldschmidt
4 Times Square
New York, NY 10036
Attn: David J. Goldschmidt
E-mail: David.Goldschmidt@skadden.com

Section 15.8 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns, whether as Substituted Members or otherwise.

Section 15.9 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of the creditor) at any time as a result of making the loan any direct or indirect interest in Profits, Losses, Distributions, capital or property other than as a secured creditor.

Section 15.10 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

Section 15.11 Counterparts. This Agreement may be executed in any number of counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other parties (including via facsimile or other electronic transmission), it being understood that each party need not sign the same counterpart.

Section 15.12 Governing Law; Venue; Arbitration.

(a) Governing Law. This Agreement and any Dispute, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the Laws of the State of Delaware without regard to principles of conflicts of Law.

(b) Venue. Each party hereto agrees that it shall bring any Proceeding in respect of any Dispute exclusively in the courts of the State of Delaware and the Federal courts of the United States, in each case, located in the City of Wilmington, Delaware (the "**Chosen Courts**"). Solely in connection with claims arising under this Agreement or the transactions contemplated hereby, each party hereto irrevocably and unconditionally (i) submits to the exclusive jurisdiction of the Chosen Courts, (ii) agrees not to commence any such Proceeding except in those courts, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such Proceeding in the Chosen Courts, (iv) waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of the Proceeding and (v) agrees that service of process upon that party in any such Proceeding shall be effective if notice is given in accordance with Section 15.7. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by Law. A final judgment in any such Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. EACH PARTY HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. Notwithstanding anything herein to the contrary, if a demand for arbitration of a Dispute is made pursuant to Section 15.12(c), this Section 15.12(b) shall not pre-empt resolution of the Dispute pursuant to Section 15.12(c).

(c) Arbitration.

(i) Any disputes, claims or controversies arising out of or relating to this Agreement or the transactions contemplated hereby, including any disputes, claims or controversies brought by or on behalf of the Company or a Member or any holder of equity interests (which, for purposes of this Section 15.12(c), shall mean any holder of record or any beneficial owner of equity interests, or any former holder of record or beneficial owner of equity interests) of the Company or a Member, either on his, her or its own behalf, on behalf of the Company or a Member or on behalf of any series or class of equity interests of the Company or a Member or holders of equity interests of the Company or a Member against the Company or any Member or any of their respective trustees, directors, members, officers, managers, agents or employees, including any disputes, claims or controversies relating to the meaning, interpretation, effect, validity, performance or enforcement of this Agreement, including this arbitration agreement or

the governing documents of the Company or any Member (all of which are referred to as "**Disputes**") or relating in any way to such a Dispute or Disputes shall, on the demand of any party to such Dispute or Disputes, be resolved through binding and final arbitration in accordance with the Commercial Arbitration Rules (the "**Rules**") of the American Arbitration Association (the "**AAA**") then in effect, except as those Rules may be modified in this Section 15.12(c). For the avoidance of doubt, and not as a limitation, Disputes are intended to include derivative actions against the trustees, directors, officers or managers of the Company or any Member and class actions by a holder of equity interests against those individuals or entities and the Company or any Member. For the avoidance of doubt, a Dispute shall include a Dispute made derivatively on behalf of one party against another party. For purposes of this Section 15.12(c), the term "equity interest" shall mean, (i) in respect of the Company, any Units and (ii) in respect of a Member, any equity interest in that Member. References to a "Member" in this Section 15.12(c) shall be deemed to include any former Member.

(ii) There shall be three (3) arbitrators. If there are only two (2) parties to the Dispute, each party shall select one (1) arbitrator within fifteen (15) days after receipt by respondent of a copy of the demand for arbitration. The arbitrators may be affiliated or interested persons of the parties. If there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand, shall each select, by the vote of a majority of the claimants or the respondents, as the case may be, one (1) arbitrator within fifteen (15) days after receipt of the demand for arbitration. The arbitrators may be affiliated or interested persons of the claimants or the respondents, as the case may be. If either a claimant (or all claimants) or a respondent (or all respondents) fail(s) to timely select an arbitrator then the party (or parties) who has selected an arbitrator may request the AAA to provide a list of three (3) proposed arbitrators in accordance with the Rules (each of whom shall be neutral, impartial and unaffiliated with any party) and the party (or parties) that failed to timely appoint an arbitrator shall have ten (10) days from the date the AAA provides the list to select one (1) of the three (3) arbitrators proposed by the AAA. If the party (or parties) fail(s) to select the second (2nd) arbitrator by that time, the party (or parties) who have appointed the first (1st) arbitrator shall then have ten (10) days to select one (1) of the three (3) arbitrators proposed by the AAA to be the second (2nd) arbitrator; and, if he/they should fail to select the second (2nd) arbitrator by such time, the AAA shall select, within fifteen (15) days thereafter, one (1) of the three (3) arbitrators it had proposed as the second (2nd) arbitrator. The two (2) arbitrators so appointed shall jointly appoint the third (3rd) and presiding arbitrator (who shall be neutral, impartial and unaffiliated with any party) within fifteen (15) days of the appointment of the second (2nd) arbitrator. If the third (3rd) arbitrator has not been appointed within the time limit specified herein, then the AAA shall provide a list of proposed arbitrators in accordance with the Rules, and the arbitrator shall be appointed by the AAA in accordance with a listing, striking and ranking procedure, with each party having a limited number of strikes, excluding strikes for cause.

(iii) The place of arbitration shall be New York, New York unless otherwise agreed by the parties. There shall be only limited documentary discovery of documents directly related to the issues in dispute, as may be ordered by the arbitrators.

For the avoidance of doubt, it is intended that there shall be no depositions and no other discovery other than limited documentary discovery as described in the preceding sentence.

(iv) In rendering an award or decision (an "**Award**"), the arbitrators shall be required to follow the Laws of the State of Delaware. Any arbitration proceedings or Award rendered hereunder and the validity, effect and interpretation of this arbitration agreement shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. Any Award shall be in writing and shall state the findings of fact and conclusions of Law on which it is based. Any monetary Award shall be made and payable in Dollars free of any tax, deduction or offset. Subject to Section 15.12(c)(vi), each party against which an Award assesses a monetary obligation shall pay that obligation on or before the thirtieth (30th) day following the date of the Award or such other date as the Award may provide.

(v) Except to the extent expressly provided by this Agreement or as otherwise agreed by the parties thereto, each party involved in a Dispute shall bear its own costs and expenses (including attorneys' fees), and the arbitrators shall not render an Award that would include shifting of any such costs or expenses (including attorneys' fees) or, in a derivative case or class action, award any portion of a party's Award to the claimant or the claimant's attorneys. Each party (or, if there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand, respectively) shall bear the costs and expenses of its (or their) selected arbitrator and the parties (or, if there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand) shall equally bear the costs and expenses of the third (3rd) appointed arbitrator.

(vi) Notwithstanding any language to the contrary in this Agreement, any Award, including but not limited to any interim Award, may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules (the "**Appellate Rules**"). An Award shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within thirty (30) days of receipt of an Award by filing a notice of appeal with any AAA office. Following the appeal process, the decision rendered by the appeal tribunal may be entered in any court having jurisdiction thereof. For the avoidance of doubt, and despite any contrary provision of the Appellate Rules, Section 15.12(c)(v) shall apply to any appeal pursuant to this Section 15.12(c)(vi) and the appeal tribunal shall not render an Award that would include shifting of any costs or expenses (including attorneys' fees) of any party.

(vii) Following the expiration of the time for filing the notice of appeal, or the conclusion of the appeal process set forth in Section 15.12(c)(vi), an Award shall be final and binding upon the parties thereto and shall be the sole and exclusive remedy between those parties relating to the Dispute, including any claims, counterclaims, issues or accounting presented to the arbitrators. Judgment upon an Award may be entered in any court having jurisdiction. To the fullest extent permitted by Law, no application or appeal to any court of competent jurisdiction may be made in connection with any question of Law arising in the course of arbitration or with respect to any Award made

except for actions relating to enforcement of this agreement to arbitrate or any arbitral Award issued hereunder and except for actions seeking interim or other provisional relief in aid of arbitration proceedings in any court of competent jurisdiction.

(viii) This Section 15.12(c) is intended to benefit and be enforceable by the Company, each Member (including any former Member) and their respective holders of equity interests, trustees, directors, officers, managers (including the Manager), agents or employees and their respective successors and assigns, shall be binding upon the Company, each Member (including any former Member) and their respective holders of equity interests and be in addition to, and not in substitution for, any other rights to indemnification or contribution that such individuals or entities may have by contract or otherwise.

Section 15.13 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, the invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in that jurisdiction as if the invalid, illegal or unenforceable provision had never been contained herein.

Section 15.14 Further Action. Each of the parties hereto does hereby covenant and agree on behalf of itself, its successors, and its assigns, without further consideration, to prepare, execute, acknowledge, file, record, publish, and deliver such other instruments, documents and statements, and to take such other action as may be required by Law or reasonably necessary to effectively carry out the purposes of this Agreement.

Section 15.15 Delivery by Electronic Transmission. This Agreement and any signed agreement or instrument entered into in connection with this Agreement or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of an electronic transmission, including by a facsimile machine or via email, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of electronic transmission by a facsimile machine or via email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through electronic transmission as a defense to the formation of a contract and each such party forever waives any such defense.

Section 15.16 Right of Offset. Whenever the Company is to pay any sum (other than pursuant to Article IV) to any Member, any amounts that the Member owes to the Company which are not the subject of a good faith dispute may be deducted from that sum before payment. For the avoidance of doubt, the distribution of Units to SDC Inc. shall not be subject to this Section 15.16.

Section 15.17 Entire Agreement. This Agreement, those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

Section 15.18 Interpretation.

(a) Generally. Unless the context otherwise requires, as used in this Agreement: (a) "or", "either" and "any" are not exclusive; (b) "including" and its variants mean "including, without limitation" and its variants; (c) words defined in the singular have the parallel meaning in the plural and vice versa; (d) references to "written," "in writing" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form; (e) words of one gender shall be construed to apply to each gender; (f) all pronouns and any variations thereof refer to the masculine, feminine or neuter as the context may require; (g) "Articles," "Sections," "Exhibits" and "Schedules" refer to Articles, Sections, Exhibits and Schedules of this Agreement unless otherwise specified; (h) "hereof", "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement; (i) "Dollars" and "$" mean U.S. Dollars; and (j) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends and such phrase shall not mean simply "if."

(b) Additional Interpretive Provisions. The headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. Any capitalized term used in any Exhibit or Schedule to this Agreement, but not otherwise defined therein, shall have the meaning as defined in this Agreement. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. References to any statute shall be deemed to refer to such statute as amended from time to time and to any rules or regulations promulgated thereunder and any successor statute or statutory provision. References to any agreement are to that agreement as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. Reference to any agreement, document or instrument means the agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Without limiting the generality of the immediately preceding sentence, no amendment or other modification to any agreement, document or instrument that requires the consent of any Person pursuant to the terms of this Agreement or any other agreement will be given effect hereunder unless the Person has consented in writing to the amendment or modification. Wherever required by the context, references to a Fiscal Year or Taxable Year shall refer to a portion thereof.

(c) Joint Drafting. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

(d) Conflicts. Wherever a conflict exists between this Agreement and any other agreement, this Agreement shall control but solely to the extent of the conflict.

Section 15.19 Consent by Spouse. Each Member who is a natural person and is married (and not formally separated with an agreed-upon division of assets) and is subject to the community property Laws of any state shall deliver a duly executed Consent by Spouse, in the form prescribed in Exhibit D attached hereto, and at the time of execution of this Agreement. Each such Member shall also have such Consent by Spouse executed by any spouse married to him or her at any time subsequent thereto while such natural person is a Member. Each Member agrees and acknowledges that compliance with the requirements of this Section 15.19 by each other Member constitutes an essential part of the consideration for his or her execution of this Agreement.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

SMILEDIRECTCLUB, INC.

By: /s/ David Katzman
Name: David Katzman
Title: Chief Executive Officer

[Signature Page to SDC Financial LLC Seventh A&R LLC Agreement]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

SDC FINANCIAL LLC

By: /s/ David Katzman
Name: David Katzman
Title: Chief Executive Officer

[Signature Page to SDC Financial LLC Seventh A&R LLC Agreement]

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DANTE LLC

By: /s/ Mitchell Wayne
Name: Mitchell Wayne
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ David Hall

DAVID HALL

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DAVID J. HALL LIVING TRUST

By: /s/ David Hall
Name: David Hall
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DAVID KATZMAN 2009 FAMILY TRUST

By: /s/ Steven Katzman
Name: Steven Katzman
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ELLIOT BAUM REVOCABLE TRUST

By: /s/ Elliot Baum
Name: Elliot Baum
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Aaron Baum

AARON BAUM

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

RICHARD MINKIN REVOCABLE LIVING TRUST

By: /s/ Richard Minkin
Name: Richard Minkin
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Bradley Belen

BRADLEY BELEN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Howard Hemstreet

HOWARD HEMSTREET

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Heather Katzman

HEATHER KATZMAN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

HOME RUN HOLDINGS, LLC

By: /s/ Daniel Sillman
Name: Daniel Sillman
Title: Principal

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Richard Mark

RICHARD MARK

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jeffrey Klein

JEFFREY KLEIN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Steven Katzman

STEVEN KATZMAN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

STEVEN D. CICUREL LIVING TRUST

By: /s/ Steven D. Cicurel
Name: Steven D. Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

MARGARET STERN CICUREL IRREVOCABLE TRUST

By: /s/ Margaret Stern Cicurel
Name: Margaret Stern Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

STEVEN DAVID CICUREL IRREVOCABLE TRUST

By: /s/ Steven D. Cicurel
Name: Steven D. Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

PYETT FAMILY TRUST

By: /s/ Nicholas Pyett
Name: Nicholas Pyett
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

JORDAN KATZMAN REVOCABLE TRUST

By: /s/ Jordan Katzman
Name: Jordan Katzman
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

JM KATZMAN INVESTMENTS LLC

By: /s/ Jordan Katzman
Name: Jordan Katzman
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Nancy Katzman

NANCY KATZMAN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ALEXANDER FENKELL REVOCABLE TRUST

By: /s/ Alex Fenkell
Name: Alexander Fenkell
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ALEXANDER J. FENKELL 2018 IRREVOCABLE TRUST

By: /s/ Alex Fenkell
Name: Alexander Fenkell
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Doug Hudson

DOUG HUDSON

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jessica Cicurel

JESSICA CICUREL

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

J. CICUREL 2019 TRUST

By: /s/ Jessica Cicurel
Name: Jessica Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Robert Sims

ROBERT SIMS

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jonathan Epstein

JONATHAN EPSTEIN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Susan Greenspon

SUSAN GREENSPON

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ANTOS LONG TERM TRUST

By: /s/ Valerie A. Leebove
Name: Valerie A. Leebove
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jane Kushner

JANE KUSHNER

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

HOME RUN HOLDINGS 2, LLC

By: /s/ Daniel Sillman
Name: Daniel Sillman
Title: Principal

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Shawn Mendes

SHAWN MENDES

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jordan Wolosky

JORDAN WOLOSKY

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Andrew Gertler

ANDREW GERTLER

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

SPARK CAPITAL GROWTH FOUNDERS' FUND II, L.P.

By: Spark Growth Management Partners II, LLC, its general partner

By: /s/ Paul J. Conway
Name: Paul J. Conway
Title: CFO, Managing Member

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

3L CAPITAL I AIV C, LLC

By: 3L Capital GP, LLC, its manager

By: /s/ David L. Leyrer
Name: David L. Leyrer
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

3L CAPITAL SDC, LLC

By: 3L Capital SDC Manager, LLC, its manager
By: 3L Capital GP, LLC, its manager

By: /s/ David L. Leyrer
Name: David L. Leyrer
Title: Manager

EXHIBIT A: EXAMPLES REGARDING ADJUSTMENT FACTOR

For purposes of the following examples, it is assumed that (a) the Adjustment Factor in effect on December 31, 2018 is 1.0 and (b) on January 1, 2019 (the "**Company Record Date**" for purposes of these examples), prior to the events described in the examples, there are 100 Class A Shares issued and outstanding.

Example 1

On the Company Record Date, SDC Inc. declares a dividend on its outstanding Class A Shares in Class A Shares. The amount of the dividend is one Class A Share paid in respect of each Class A Share owned. Pursuant to Paragraph (a) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Company Record Date, effective immediately after the stock dividend is declared, as follows:

1.0 * 200/100 = 2.0

Accordingly, the Adjustment Factor after the stock dividend is declared is 2.0.

Example 2

On the Company Record Date, SDC Inc. distributes options to purchase Class A Shares to all holders of its Class A Shares. The amount of the distribution is one option to acquire one Class A Share in respect of each Class A Share owned. The strike price is $4.00 a share. The Value of a Class A Share on the Company Record Date is $5.00 per share. Pursuant to Paragraph (b) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Company Record Date, effective immediately after the options are distributed, as follows:

1.0 * (100 + 100)/(100 + [100 * $4.00/$5.00]) = 1.1111

Accordingly, the Adjustment Factor after the options are distributed is 1.1111. If the options expire or become no longer exercisable, then the retroactive adjustment specified in Paragraph (b) of the definition of "Adjustment Factor" shall apply.

Example 3

On the Company Record Date, SDC Inc. distributes assets to all holders of its Class A Shares. The amount of the distribution is one asset with a fair market value (as determined by the Manager, whose determination shall be conclusive) of $1.00 in respect of each Class A Share owned. It is also assumed that the assets do not relate to assets received by SDC Inc. or its Subsidiaries pursuant to a pro rata distribution by the Company. The Value of a Class A Share on the Company Record Date is $5.00 a share. Pursuant to Paragraph (c) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Company Record Date, effective immediately after the assets are distributed, as follows:

1.0 * $5.00/($5.00 – $1.00) = 1.25

Accordingly, the Adjustment Factor after the assets are distributed is 1.25.

EXHIBIT B: FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT, dated as of , 20 (this "**Joinder**"), is delivered pursuant to that certain Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial LLC, a Delaware limited liability company (the "**Company**"), dated as of September 13, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**LLC Agreement**"), by and among the Members from time to time party thereto. Capitalized terms used but not otherwise defined herein have the respective meanings set forth in the LLC Agreement.

1. Joinder to the LLC Agreement. Upon the execution of this Joinder by the undersigned and delivery hereof to SDC Inc., the undersigned hereby is and hereafter will be a Member under the LLC Agreement and a party thereto, with all the rights, privileges and responsibilities of a Member thereunder. The undersigned hereby agrees that it shall comply with and be fully bound by the terms of the LLC Agreement as if it had been a signatory thereto as of the date thereof.

2. Incorporation by Reference. All terms and conditions of the LLC Agreement are hereby incorporated by reference in this Joinder as if set forth herein in full.

3. Address. All notices under the LLC Agreement to the undersigned shall be directed to:

_____
Name

_____
Street Address

_____
City, State and Zip Code

_____
Attention:

_____
Fax

_____
E-mail

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Joinder as of the date first above written.

[NAME OF NEW MEMBER]

By: _____
Name:
Title:

Acknowledged and agreed as of the date first set forth above:

SDC FINANCIAL LLC

By: SMILEDIRECTCLUB, INC., its managing member

By: _____
Name:
Title:

EXHIBIT C: NOTICE OF REDEMPTION

SmileDirectClub, Inc.
414 Union Street
Nashville, Tennessee 37219

The undersigned Member or Assignee of SDC Financial LLC, a Delaware limited liability company ("**SDC Financial**"), hereby irrevocably tenders for Redemption Common Units of SDC Financial in accordance with the terms of that certain Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial, dated as of September 13, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**LLC Agreement**"), and the Redemption rights referred to therein in Section 11.1(a). All capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed to them in the LLC Agreement. The undersigned Member or Assignee:

(a) undertakes to surrender such Common Units at the closing of the Redemption and to furnish to SDC Inc., prior to the Specified Redemption Date, the documentation, instruments and information required under Section 11.1 of the LLC Agreement;

(b) directs that the certified check representing or, at the Managers discretion, a wire transfer of the Cash Amount, and/or the Class A Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address or bank account, as applicable, specified below;

(c) represents, warrants, certifies and agrees (i) that the undersigned Member or Assignee (1) is a Qualifying Party; (2) has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such Common Units, free and clear of the rights or interests of any other person or entity; (3) has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Common Units as provided herein; and (4) has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and (ii) the undersigned Member or Assignee, and the tender and surrender of such Common Units for Redemption as provided herein complies with all conditions and requirements for redemption of Common Units set forth in the LLC Agreement;

(d) acknowledges that the undersigned Member or Assignee will continue to own such Common Units unless and until either (i) such Common Units are acquired by SDC Inc. pursuant to Section 11.1(b) of the LLC Agreement or (ii) such Redemption closes.

Dated: _____

Name of Member or Assignee

Signature of Member or Assignee

Street Address

City, State and Zip Code

Social security or identifying number

Signature Medallion Guaranteed by*

Issue Check Payable to (or shares in the name of)

Bank Account Details:

* Required unless waived by the Manager or Transfer Agent.

EXHIBIT D: CONSENT BY SPOUSE

I acknowledge that I have read the Seventh Amended and Restated Limited Liability Company Agreement of SDC Financial LLC, a Delaware limited liability company (the "**Company**"), dated as of September 13, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**LLC Agreement**"), and that I know its contents. I am aware that by its provisions, my spouse agrees to sell, convert, dispose of, or otherwise transfer his or her interest in the Company, including any property or other interest that I have or acquire therein, under certain circumstances. I hereby consent to such sale, conversion, disposition or other transfer; and approve of the provisions of the LLC Agreement and any action hereafter taken by my spouse thereunder with respect to his or her interest, and I agree to be bound thereby.

I further agree that in the event of my death or a dissolution of marriage or legal separation, my spouse shall have the absolute right to have my interest, if any, in the Company set apart to him or her, whether through a will, a trust, a property settlement agreement or by decree of court, or otherwise, and that if he or she be required by the terms of such will, trust, settlement or decree, or otherwise, to compensate me for said interest, that the price shall be an amount equal to: (i) the then-current balance of the Capital Account relating to said interest; multiplied by (ii) my percentage of ownership in such interest (all without regard to the effect of any vesting provisions in the LLC Agreement related thereto).

This consent, including its existence, validity, construction, and operating effect, and the rights of each of the parties hereto, shall be governed by and construed in accordance with the laws of the [ ]* without regard to otherwise governing principles of choice of law or conflicts of law.

Dated: _____

Name: _____

* Insert jurisdiction of residence of Partner and Spouse.

Exhibit 10.2

TAX RECEIVABLE AGREEMENT

This TAX RECEIVABLE AGREEMENT (as amended from time to time, this "Agreement"), dated as of September 13, 2019, is hereby entered into by and among SmileDirectClub, Inc., a Delaware corporation (the "Corporation"), SDC Financial LLC, a Delaware limited liability company (the "Company"), and each of the Members (as defined herein).

RECITALS

WHEREAS, the Members hold Common Units (as defined herein) in the Company, which is treated as a partnership for United States federal income tax purposes;

WHEREAS, the Corporation will become the managing member of, and will hold managing member units in, the Company;

WHEREAS, the Common Units are exchangeable with the Corporation in certain circumstances for Class A shares (the "Class A Shares") in the Corporation and/or cash pursuant to the LLC Operating Agreement;

WHEREAS, certain of the Members will be treated for U.S. federal income tax purposes as selling all or a portion of Common Units (the "Initial Sale") to the Corporation pursuant to the transactions described in the registration statement on Form S-1 initially publicly filed with the Securities and Exchange Commission on August 16, 2019 (Registration No. 333-233315), as amended prior to the date hereof, for the initial public offering of Class A Shares by the Corporation (the "IPO");

WHEREAS, the Company and each of its direct and indirect Subsidiaries that are treated as partnerships for United States federal income tax purposes will have in effect an election under section 754 of the Internal Revenue Code of 1986, as amended (the "Code"), for the Taxable Year of the IPO Date and for each other Taxable Year in which an exchange by a Member of Common Units for Class A Shares and/or cash occurs, which election is intended to result in an adjustment to the tax basis of the assets owned by the Company and such Subsidiaries, solely with respect to the Corporation, at the time of an exchange by a Member of Common Units for Class A Shares and/or cash or any other acquisition of Common Units for cash or otherwise, (collectively, an "Exchange") (such time, the "Exchange Date") (such assets and any asset whose tax basis is determined, in whole or in part, by reference to the adjusted basis of any such asset, the "Adjusted Assets") by reason of such Exchange and the receipt of payments under this Agreement;

WHEREAS, the income, gain, loss, expense, and other Tax items of (i) the Company and such Subsidiaries allocable to the Corporation may be affected by the Basis Adjustment (defined below) with respect to the Adjusted Assets and (ii) the Corporation may be affected by the Imputed Interest (as defined below);

WHEREAS, the parties to this Agreement desire to make certain arrangements with respect to the effect of the Basis Adjustment and Imputed Interest on the actual liability for Taxes of the Corporation.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, and intending to be legally bound hereby, the undersigned parties agree as follows:

ARTICLE I

DEFINITIONS

As used in this Agreement, the terms set forth in this Article I shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined).

"Actual Tax Liability" means, for a Taxable Year, the sum of (i) the actual liability for federal income Taxes of the Corporation (or the Company, but only with respect to federal income Taxes imposed on the Company and allocable to the Corporation for such Taxable Year) and (ii) the product of (x) the amount of the United States federal income or gain of the Corporation and (y) the Blended Rate.

"Adjusted Asset" is defined in the recitals of this Agreement.

"Advisory Firm" means any "big four" accounting firm or any law firm that is nationally recognized as being expert in Tax matters and that is agreed to by the Board.

"Advisory Firm Letter" means a letter from the Advisory Firm stating that the relevant schedule, notice, or other information to be provided by the Corporation to the Applicable Member and all supporting schedules and work papers were prepared in a manner consistent with the terms of this Agreement and, to the extent not expressly provided in this Agreement, on a reasonable basis in light of the facts and law in existence on the date such schedule, notice, or other information is delivered to the Applicable Member.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person.

"Agreed Rate" means LIBOR plus 100 basis points. If LIBOR ceases to be published in accordance with the definition thereof, the Corporation and the Company shall work together in good faith to select an Agreed Rate with similar characteristics that gives due consideration to the prevailing market conventions for determining rates of interest in the United States at such time.

"Agreement" is defined in the preamble of this Agreement.

"Amended Schedule" is defined in Section 2.03(b) of this Agreement.

"Amount Realized" means, in respect of an Exchange by an Applicable Member, the amount that is deemed for purposes of this Agreement to be the amount realized by the Applicable Member on the Exchange, which shall be the sum of (i) the Market Value of the Class A Shares, the amount of cash, and the amount or fair market value of other consideration transferred to the

Exchanging Member in the Exchange, and (ii) the Share of Liabilities attributable to the Common Units Exchanged.

"Applicable Member" means any Member to whom any portion of a Realized Tax Benefit is Attributable hereunder.

"Attributable": The portion of any Realized Tax Benefit of the Corporation that is Attributable to any Member shall be determined by reference to (i) the assets from which arise the depreciation, amortization, or other similar deductions for recovery of cost or basis ("Depreciation") and with respect to increased basis upon a disposition of an asset, or (ii) Imputed Interest or payment that produces the Realized Tax Benefit, under the following principles:

(i) Any Realized Tax Benefit arising from a deduction to the Corporation with respect to a Taxable Year for Depreciation arising in respect of a Basis Adjustment to an Adjusted Asset is Attributable to the Applicable Member to the extent that the ratio of all Depreciation for the Taxable Year in respect of Basis Adjustments resulting from all Exchanges by the Applicable Member bears to the aggregate of all Depreciation for the Taxable Year in respect of Basis Adjustments resulting from all Exchanges by all Members.

(ii) Any Realized Tax Benefit arising from the disposition of an asset is Attributable to the Applicable Member to the extent that the ratio of all Basis Adjustments resulting from all Exchanges by the Applicable Member with respect to such asset bears to the aggregate of all Basis Adjustments resulting from all Exchanges with respect to such asset.

(iii) Any Realized Tax Benefit arising from a deduction to the Corporation with respect to a Taxable Year in respect of Imputed Interest is Attributable to the Applicable Member that is required to include the Imputed Interest in income (without regard to whether such Member is actually subject to tax thereon).

(iv) For the avoidance of doubt, in the case of a Basis Adjustment arising with respect to an Exchange, depreciation, amortization or other similar deductions for recovery of cost or basis shall constitute Depreciation only to the extent that such depreciation, amortization or other similar deductions may produce a Realized Tax Benefit (and not to the extent that such depreciation, amortization or other similar deductions may be for the benefit of a Person other than the Corporation), as reasonably determined by the Corporation.

"Basis Adjustment" means the adjustment to the Tax basis of an Adjusted Asset under section 732 of the Code (in situations where, as a result of one or more Exchanges, the Company becomes an entity that is disregarded as separate from its owner for tax purposes) or sections 704(c)(1)(B), 734(b), 737(c)(2), 743(b), 754, 755 and 1012 of the Code (including in situations where, following an Exchange, the Company remains in existence as an entity for Tax purposes) and, in each case, comparable sections of state and local Tax laws as a result of an Exchange and the payments made pursuant to this Agreement, other than a payment of Imputed Interest. Notwithstanding any other provision of this Agreement, the amount of any Basis

Adjustment resulting from an Exchange of one or more Common Units shall be determined without regard to any Pre-Exchange Transfer and as if any such Pre-Exchange Transfer had not occurred.

"Beneficial Owner" of a security means a Person who directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares: (i) voting power, which includes the power to vote, or to direct the voting of, such security and/or (ii) investment power, which includes the power to dispose, or to direct the disposition of, such security. The terms "Beneficially Own" and "Beneficial Ownership" shall have correlative meanings.

"Blended Rate" means, with respect to any Taxable Year, the sum of the effective rates of Tax imposed on the aggregate net income of the Corporate Taxpayer in each state or local jurisdiction in which the Corporation files Tax Returns for such Taxable Year, with the maximum effective rate in any state or local jurisdiction being equal to the product of (i) the apportionment factor on the income or franchise Corporation Return in such jurisdiction for such Taxable Year and (ii) the maximum applicable corporate Tax rate in effect in such jurisdiction in such Taxable Year. As an illustration of the calculation of Blended Rate for a Taxable Year, if the Corporation solely files Tax Returns in State 1 and State 2 in a Taxable Year, the maximum applicable corporate Tax rates in effect in such states in such Taxable Year are 6.5% and 5.5%, respectively, and the apportionment factors for such states in such Taxable Year are 55% and 45% respectively, then the Blended Rate for such Taxable Year is equal to 6.05% (i.e., 6.5% multiplied by 55% plus 5.5% multiplied by 45%).

"Board" means the board of directors of the Corporation.

"Business Day" means any day other than (i) a Saturday or a Sunday and (ii) a day on which banks in the State of New York are authorized or obligated by law, governmental decree, or executive order to be closed.

"Change of Control" means the occurrence of any of the following events:

(i) any Person or any group of Persons acting together which would constitute a "group" for purposes of section 13(d) of the Securities and Exchange Act of 1934, or any successor provisions thereto, excluding a group of Persons, which, if it includes any Member or any of his Affiliates, includes all Members then employed by the Corporation or any of its Affiliates, is or becomes the Beneficial Owner, directly or indirectly, of securities of the Corporation representing more than fifty percent (50%) of the combined voting power of the Corporation's then outstanding voting securities; or

(ii) the following individuals cease for any reason to constitute a majority of the number of directors of the Corporation then serving: individuals who, on the IPO Date, constitute the members of the Board and any new director (other than a director whose initial assumption of office is in connection with an actual or threatened election contest, including but not limited to a consent solicitation, relating to the election of directors of the Corporation) whose appointment or election by the Board or nomination for election by the Corporation's shareholders was approved or recommended by a vote of at least two-thirds (2/3) of the directors then still in office who either were

directors on the IPO Date or whose appointment, election, or nomination for election was previously so approved or recommended by the directors referred to in this clause (ii); or

(iii) there is consummated a merger or consolidation of the Corporation or any direct or indirect subsidiary of the Corporation with any other corporation or other entity, and, immediately after the consummation of such merger or consolidation, either (x) the members of the Board immediately prior to the merger or consolidation do not constitute at least a majority of the board of directors of the company surviving the merger or, if the surviving company is a subsidiary, the ultimate parent thereof, or (y) all of the Persons who were the respective Beneficial Owners of the voting securities of the Corporation immediately prior to such merger or consolidation do not Beneficially Own, directly or indirectly, more than fifty percent (50%) of the combined voting power of the then outstanding voting securities of the Person resulting from such merger or consolidation; or

(iv) the shareholders of the Corporation approve a plan of complete liquidation or dissolution of the Corporation or there is consummated an agreement or series of related agreements for the sale or other disposition, directly or indirectly, by the Corporation of all or substantially all of the Corporation's assets, other than the sale or other disposition by the Corporation of all or substantially all of the Corporation's assets to an entity, at least fifty percent (50%) of the combined voting power of the voting securities of which are Beneficially Owned by shareholders of the Corporation in substantially the same proportions as their Beneficial Ownership of such securities of the Corporation immediately prior to such sale.

Notwithstanding the foregoing, except with respect to clause (ii) and clause (iii)(x) above, a "Change of Control" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the shares of the Corporation immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in an entity which owns all or substantially all of the assets of the Corporation immediately following such transaction or series of transactions. The entering into, and modification of, voting agreements among the Beneficial Owners will not be deemed a Change of Control.

"Class A Shares" is defined in the recitals of this Agreement.

"Code" is defined in the recitals of this Agreement.

"Common Units" has the meaning set forth in the LLC Operating Agreement.

"Company" is defined in the preamble of this Agreement.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract, or otherwise.

"Corporate Entity" means any direct Subsidiary of the Corporation which is classified as a corporation for U.S. federal income tax purposes.

"Corporation" is defined in the preamble of this Agreement.

"Corporation Return" means the U.S. federal Tax Return and/or state and/or local Tax Return, as applicable, of the Corporation filed with respect to Taxes of any Taxable Year.

"Cumulative Net Realized Tax Benefit" for a Taxable Year means the cumulative amount of Realized Tax Benefits for all Taxable Years of the Corporation, up to and including such Taxable Year, net of the cumulative amount of Realized Tax Detriments for the same period. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be determined based on the most recent Tax Benefit Schedule or Amended Schedule, if any, in existence at the time of such determination.

"Default Rate" means the Agreed Rate plus 500 basis points.

"Determination" has the meaning ascribed to such term in section 1313(a) of the Code or similar provision of state and local tax law, as applicable, or any other event (including the execution of a Form 870-AD) that finally and conclusively establishes the amount of any liability for Tax.

"Dispute" is defined in Section 7.08(a) of this Agreement.

"Early Termination Date" means the date of an Early Termination Notice for purposes of determining the Early Termination Payment.

"Early Termination Notice" is defined in Section 4.02 of this Agreement.

"Early Termination Payment" is defined in Section 4.03(b) of this Agreement.

"Early Termination Rate" means the lesser of (i) 6.5% and (ii) the Agreed Rate.

"Early Termination Schedule" is defined in Section 4.02 of this Agreement.

"Exchange" is defined in the recitals of this Agreement, and "Exchanged" and "Exchanging" shall have correlative meanings.

"Exchange Basis Schedule" is defined in Section 2.01 of this Agreement.

"Exchange Date" is defined in the recitals of this Agreement.

"Exchange Payment" is defined in Section 5.01 of this Agreement.

"Excluded Assets" is defined in Section 7.11(b) of this Agreement.

"Expert" is defined in Section 7.09 of this Agreement.

"Hypothetical Tax Liability" means, with respect to any Taxable Year, the sum of (i) the liability for federal income Taxes of the Corporation (or the Company, but only with respect to federal income Taxes imposed on the Company and allocable to the Corporation for such Taxable Year) using the same methods, elections, conventions and similar practices used on the relevant Corporation Return but using the Non-Stepped Up Tax Basis instead of the tax basis reflecting the Basis Adjustments of the Adjusted Assets, excluding any deduction or other Tax benefit attributable to Imputed Interest or attributable to making a payment pursuant to this Agreement, and (ii) the product of (x) the amount of the United States federal income or gain of the Corporation using the method described in clause (i) and (y) the Blended Rate.

"Imputed Interest" means any interest imputed under section 1272, 1274 or 483 or other provision of the Code and any similar provision of state, local, and foreign tax law with respect to a Corporation's payment obligations under this Agreement.

"Independent Directors" means the members of the Board who are "independent" under the standards set forth in Rule 10A-3 promulgated under the U.S. Securities Exchange Act of 1933, as amended, and the corresponding rules of the applicable exchange, if any, on which the Class A Shares is traded or quoted.

"Initial Sale" is defined in the recitals of this Agreement.

"IPO" is defined in the recitals of this Agreement.

"IPO Date" means the date on which Class A Shares in the Corporation are distributed to public shareholders.

"IRS" means the United States Internal Revenue Service.

"Law" has the meaning set forth in the LLC Operating Agreement.

"LIBOR" means for each month (or portion thereof) during any period, an interest rate per annum equal to the rate per annum reported, on the date two Business Days prior to the first Business Day of such month, as published on the applicable Bloomberg screen page (or other commercially available source providing quotations of LIBOR) for London interbank offered rates for U.S. dollar deposits for such month (or portion thereof).

"LLC Operating Agreement" means the Seventh Amended and Restated Limited Liability Company Operating Agreement of the Company, as such is from time to time amended or restated.

"Market Value" means the closing price of the Class A Shares on the applicable Exchange Date on the national securities exchange or interdealer quotation system on which such Class A Shares are then traded or listed, as reported by the *Wall Street Journal*; provided that if the closing price is not reported by the *Wall Street Journal* for the applicable Exchange Date, then the Market Value shall mean the closing price of the Class A Shares on the Business Day immediately preceding such Exchange Date on the national securities exchange or interdealer quotation system on which such Class A Shares are then traded or listed, as reported by the *Wall Street Journal*; provided, further, that if the Class A Shares are not then listed on a National Securities Exchange or

Interdealer Quotation System, "Market Value" shall mean the cash consideration paid for Class A Shares, or the fair market value of the other property delivered for Class A Shares, as determined by the Board in good faith.

"Material Objection Notice" is defined in Section 4.02 of this Agreement.

"Member" means each party hereto (other than the Corporation and the Company), and each other Person who from time to time executes a joinder to this Agreement in form and substance reasonably satisfactory to the Corporation.

"Net Tax Benefit" is defined in Section 3.01(b) of this Agreement.

"Non-Stepped Up Tax Basis" means, with respect to any asset at any time, the tax basis that such asset would have had at such time if no Basis Adjustment had been made, provided that any Basis Adjustment made under section 734(b) of the Code will take into account any amortization of such Basis Adjustment that is allocated to the Corporation prior to an Exchange.

"Objection Notice" is defined in Section 2.03(a) of this Agreement.

"Payment Date" means any date on which a payment is required to be made pursuant to this Agreement.

"Person" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity, or other entity.

"Pre-Exchange Transfer" means any transfer (including upon the death of a Member) of one or more Common Units or any distribution (i) that occurs prior to an Exchange and (ii) to which either section 734(b) or section 743(b) of the Code applies.

"Realized Tax Benefit" means, for a Taxable Year and for all Taxes collectively, the net excess, if any, of the Hypothetical Tax Liability over the Actual Tax Liability. If all or a portion of the Actual Tax Liability for such Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit unless and until there has been a Determination.

"Realized Tax Detriment" means, for a Taxable Year and for all Taxes collectively, the net excess, if any, of the Actual Tax Liability over the Hypothetical Tax Liability for such Taxable Year. If all or a portion of the Actual Tax Liability for such Taxable Year arises as a result of an audit by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until there has been a Determination.

"Reconciliation Dispute" is defined in Section 7.09 of this Agreement.

"Reconciliation Procedures" means those procedures set forth in Section 7.09 of this Agreement.

"Schedule" means any Exchange Basis Schedule, Tax Benefit Schedule or Early Termination Schedule.

"Senior Obligations" is defined in Section 5.01 of this Agreement.

"Share of Liabilities" means, as to any Common Unit at the time of an exchange, the portion of the relevant Company's "liabilities" (as such term is defined in section 752 and section 1001 of the Code) allocated to that Common Unit pursuant to section 752 of the Code and the applicable Treasury Regulations.

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

"Tax" or "Taxes" means any and all U.S. federal, state, local and foreign taxes, assessments or similar charges that are based on or measured with respect to net income or profits, whether on an exclusive or on an alternative basis, and any interest related to such Tax.

"Tax Benefit Payment" is defined in Section 3.01(b) of this Agreement.

"Tax Benefit Schedule" is defined in Section 2.02 of this Agreement.

"Tax Return" means any return, declaration, report, or similar statement required to be filed with respect to Taxes (including any attached schedules), including, without limitation, any information return, claim for refund, amended return, and declaration of estimated Tax.

"Taxable Year" means a taxable year as defined in section 441(b) of the Code or comparable section of state or local tax law, as applicable, (and, therefore, for the avoidance of doubt, may include a period of less than 12 months for which a Tax Return is made) ending on or after an Exchange Date in which there is a Basis Adjustment due to an Exchange.

"Taxing Authority" means any domestic, foreign, federal, national, state, county, or municipal or other local government, any subdivision, agency, commission, or authority thereof, or any quasi-governmental body exercising any taxing authority or any other authority exercising Tax regulatory authority.

"Treasury Regulations" means the final, temporary, and proposed regulations under the Code promulgated from time to time (including corresponding provisions and succeeding provisions) as in effect for the relevant taxable period.

"Valuation Assumptions" means, as of an Early Termination Date, the assumptions that: (1) in each Taxable Year ending on or after such Early Termination Date, the Corporation will have taxable income sufficient to fully utilize the deductions arising from the Basis Adjustment and the Imputed Interest during such Taxable Year; (2) the federal, state and local income tax rates that will be in effect for each such Taxable Year will be those specified for each such Taxable Year by the Code and other law as in effect on the Early Termination Date, and the Blended Rate will be calculated based on such rates and the apportionment factor applicable in such Taxable Year;

(3) any loss carryovers generated by the Basis Adjustment or the Imputed Interest and available as of the date of the Early Termination Schedule will be utilized by the Corporation on a pro rata basis from the date of the Early Termination Schedule through the scheduled expiration date of such loss carryovers or, if there is no such scheduled expiration date, over the 15-year period after such carryforwards were generated; (4) any non-amortizable assets are deemed to be disposed of on the earlier of the Early Termination Date or the fifteenth (15^{th}) anniversary of the applicable Basis Adjustment; and (5) if, at the Early Termination Date, there are Units that have not been Exchanged, then each such Unit shall be deemed to be Exchanged for the Market Value of the Class A Shares and the amount of cash that would be transferred if the Exchange occurred on the Early Termination Date.

"Voting Group" means the persons and entities defined as "Stockholders" under that certain Voting Agreement, dated the date hereof, by and among the Corporation and the Stockholders identified therein.

ARTICLE II

DETERMINATION OF REALIZED TAX BENEFIT

Section 2.01 Exchange Basis Schedule. Within 180 calendar days after the filing of the U.S. federal income tax return of the Corporation for each Taxable Year in which any Exchange has been effected, the Corporation shall deliver to the Applicable Member a schedule (the "Exchange Basis Schedule") that shows, in reasonable detail, for purposes of Taxes, (i) the actual unadjusted tax basis of the Adjusted Assets as of each applicable Exchange Date, (ii) the Basis Adjustment with respect to the Adjusted Assets as a result of the Exchanges effected in such Taxable Year and all prior Taxable Years, calculated (a) in the aggregate and (b) solely with respect to Exchanges by the Applicable Member, (iii) the period or periods, if any, over which the Adjusted Assets are amortizable and/or depreciable, and (iv) the period or periods, if any, over which each Basis Adjustment is amortizable and/or depreciable.

Section 2.02 Tax Benefit Schedule. Within 180 calendar days after the filing of the U.S. federal income tax return of the Corporation for any Taxable Year in which there is a Realized Tax Benefit or Realized Tax Detriment, the Corporation shall provide to the Applicable Member a schedule showing, in reasonable detail, the calculation of the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year (a "Tax Benefit Schedule"). The Schedule will become final as provided in Section 2.03(a) of this Agreement and may be amended as provided in Section 2.03(b) of this Agreement.

Section 2.03 Procedures, Amendments

(a) Procedure. Every time the Corporation delivers to the Applicable Member an applicable Schedule under this Agreement, including any Amended Schedule delivered pursuant to Section 2.03(b) and any Early Termination Schedule or amended Early Termination Schedule delivered pursuant to Section 4.02, the Corporation shall also (x) deliver to the Applicable Member schedules and work papers providing reasonable detail regarding the preparation of the Schedule and an Advisory Firm Letter supporting such Schedule, provided that an Advisory Firm Letter shall not be required at any time during which the Voting Group Beneficially Owns, directly

or indirectly, securities of the Corporation representing more than fifty percent (50%) of the combined voting power of the Corporation's then-outstanding voting securities, and (y) allow the Applicable Member reasonable access at no cost to the appropriate representatives of the Corporation and the Advisory Firm in connection with a review of such Schedule. The applicable Schedule shall become final and binding on all parties unless the Applicable Member, within thirty (30) calendar days after receiving an Exchange Basis Schedule or amendment thereto or within thirty (30) calendar days after receiving a Tax Benefit Schedule or amendment thereto, provides the Corporation with notice of a material objection to such Schedule ("Objection Notice") made in good faith. If the parties, for any reason, are unable to successfully resolve the issues raised in an Objection Notice within thirty (30) calendar days of receipt by the Corporation of such Notice, the Corporation and the Applicable Member shall employ the reconciliation procedures as described in Section 7.09 of this Agreement (the "Reconciliation Procedures").

(b) Amended Schedule. The applicable Schedule for any Taxable Year shall be amended from time to time by the Corporation (i) in connection with a Determination affecting such Schedule, (ii) to correct material inaccuracies in the Schedule identified as a result of the receipt of additional factual information relating to a Taxable Year after the date the Schedule was provided to the Applicable Member, (iii) to correct computational errors set forth in such Schedule, (iv) to comply with the Expert's determination under the Reconciliation Procedures, (v) to reflect a material change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to a carryback or carryforward of a loss or other tax item to such Taxable Year, (vi) to reflect a material change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to an amended Tax Return filed for such Taxable Year, or (vii) to adjust the Exchange Basis Schedule to take into account payments made pursuant to this Agreement (such Schedule, an "Amended Schedule").

ARTICLE III

TAX BENEFIT PAYMENTS

Section 3.01 Payments

(a) Within five (5) Business Days of a Tax Benefit Schedule delivered to an Applicable Member becoming final in accordance with Section 2.03(a), or earlier in the Corporation's discretion, the Corporation shall pay to the Applicable Member for such Taxable Year the Tax Benefit Payment determined pursuant to Section 3.01(b) in the amount Attributable to the Applicable Member. Each such Tax Benefit Payment shall be made by wire transfer of immediately available funds to a bank account of the Applicable Member previously designated by such Member to the Corporation. For the avoidance of doubt, no Tax Benefit Payment shall be made in respect of estimated tax payments, including, without limitation, federal income tax payments.

(b) A "Tax Benefit Payment" means an amount, not less than zero, equal to the sum of the Net Tax Benefit and the Interest Amount. The "Net Tax Benefit" for each Taxable Year shall be an amount equal to the excess, if any, of 85% of the Cumulative Net Realized Tax Benefit as of the end of such Taxable Year over the total amount of payments previously made under this Section 3.01, excluding payments attributable to the Interest Amount; provided, however,

that for the avoidance of doubt, no Member shall be required to return any portion of any previously made Tax Benefit Payment. The "Interest Amount" for a given Taxable Year shall equal the interest on the Net Tax Benefit for such Taxable Year calculated at the Agreed Rate from the due date (without extensions) for filing the Corporation Return with respect to Taxes for the most recently ended Taxable Year until the Payment Date. In the case of a Tax Benefit Payment made in respect of an Amended Schedule, the "Interest Amount" shall equal the interest on the Net Tax Benefit for such Taxable Year calculated at the Agreed Rate from the date of such Amended Schedule becoming final in accordance with Section 2.03(a) until the Payment Date. The Net Tax Benefit and the Interest Amount shall be determined separately with respect to each separate Exchange, on a Common Unit-by-Common Unit basis by reference to the Amount Realized by the Applicable Member on the Exchange of a Common Unit and the resulting Basis Adjustment to the Corporation.

Section 3.02 No Duplicative Payments. It is intended that the provisions of this Agreement will not result in duplicative payment of any amount (including interest) required under this Agreement. It is also intended that the provisions of this Agreement will result in 85% of the Corporation's Cumulative Net Realized Tax Benefit, and the Interest Amount thereon, being paid to the Members pursuant to this Agreement. The provisions of this Agreement shall be construed in the appropriate manner so that these fundamental results are achieved.

Section 3.03 Pro Rata Payments. For the avoidance of doubt, to the extent (i) the Corporation's deductions with respect to any Basis Adjustment or Imputed Interest are limited in a particular Taxable Year or (ii) the Corporation lacks sufficient funds to satisfy its obligations to make all Tax Benefit Payments due in a particular Taxable Year, the limitation on the deductions, or the Tax Benefit Payments that may be made, as the case may be, shall be taken into account or made for the Applicable Member in the same proportion as Tax Benefit Payments would have been made absent the limitations set forth in clauses (i) and (ii) of this paragraph, as applicable.

ARTICLE IV

TERMINATION

Section 4.01 Early Termination and Breach of Agreement.

(a) With the written approval of a majority of the Independent Directors, the Corporation may terminate this Agreement with respect to all of the Common Units held (or previously held and exchanged) by all Members at any time by paying to all of the Members the Early Termination Payment; provided, however, that this Agreement shall only terminate upon the receipt of the Early Termination Payment by all Members, and provided, further, that the Corporation may withdraw any notice to execute its termination rights under this Section 4.01(a) prior to the time at which any Early Termination Payment has been paid. Upon payment of the Early Termination Payment by the Corporation, neither the Applicable Members nor the Corporation shall have any further payment obligations under this Agreement in respect of such Members, other than for any (a) Tax Benefit Payment agreed to by the Corporation and an Applicable Member as due and payable but unpaid as of the Early Termination Notice and (b) Tax Benefit Payment due for the Taxable Year ending with or including the date of the Early Termination Notice (except to the extent that the amount described in clause (b) is included in the Early Termination Payment). For the avoidance of doubt, if an Exchange occurs after the

Corporation makes the Early Termination Payment with respect to all Members, the Corporation shall have no obligations under this Agreement with respect to such Exchange, and its only obligations under this Agreement in such case shall be its obligations to all Members under Section 4.03(a).

(b) In the event of a Change of Control, all payment obligations hereunder shall be accelerated and calculated as if an Early Termination Notice had been delivered on the effective date of the Change of Control, using the Valuation Assumptions and by substituting, in each case, the term "the closing date of a Change of Control" for the term "Early Termination Date." Such payment obligations shall include, but not be limited to, (i) payment of the Early Termination Payment calculated as if an Early Termination Notice had been delivered on the effective date of a Change of Control, (ii) payment of any Tax Benefit Payment previously due and payable but unpaid as of the Early Termination Notice, and (iii) except to the extent included in the Early Termination Payment or if included as a payment under clause (ii) of this Section 4.01(b), payment of any Tax Benefit Payment due for any Taxable Year ending prior to, with or including the effective date of a Change of Control. Sections 4.02 and 4.03 shall apply to a Change of Control *mutadis mutandi*.

(c) In the event that the Corporation breaches any of its material obligations under this Agreement, whether as a result of failure to make any payment when due, failure to honor any other material obligation required hereunder or by operation of law as a result of the rejection of this Agreement in a case commenced under the Bankruptcy Code or otherwise, and does not cure such breach within ninety (90) days of receipt of notice of such breach from such Member, then all obligations hereunder shall be accelerated and such obligations shall be calculated as if an Early Termination Notice had been delivered on the date of such breach and shall include, but not be limited to, (1) the Early Termination Payment calculated as if an Early Termination Notice had been delivered on the date of a breach, (2) any Tax Benefit Payment agreed to by the Corporation and any Members as due and payable but unpaid as of the date of a breach, and (3) any Tax Benefit Payment due for the Taxable Year ending with or including the date of a breach. Notwithstanding the foregoing, in the event that the Corporation breaches this Agreement, the Members shall be entitled to elect to receive the amounts set forth in clauses (1), (2), and (3), above or to seek specific performance of the terms hereof. The parties agree that the failure to make any payment due pursuant to this Agreement within three months of the date such payment is due shall be deemed to be a breach of a material obligation under this Agreement for all purposes of this Agreement, and that it will not be considered to be a breach of a material obligation under this Agreement to make a payment due pursuant to this Agreement within three months of the date such payment is due. Notwithstanding anything in this Agreement to the contrary, it shall not be a breach of a material obligation under this Agreement if the Corporation fails to make any Tax Benefit Payment when due to the extent that the Corporation has insufficient funds, and cannot take commercially reasonable actions to obtain sufficient funds, to make such payment; provided that the interest provisions of Section 5.02 shall apply to such late payment (unless the Corporation does not have sufficient cash to make such payment as a result of limitations imposed by and Senior Obligations, in which case, Section 5.02 shall apply, but the Default Rate shall be replaced by the Agreed Rate).

(d) The undersigned parties hereby acknowledge and agree that the timing, amounts and aggregate value of Tax Benefit Payments pursuant to this Agreement are not reasonably ascertainable.

Section 4.02 Early Termination Notice. If the Corporation chooses to exercise its right of early termination under Section 4.01 above, the Corporation shall deliver to each Member notice of such intention to exercise such right ("Early Termination Notice") and a schedule (the "Early Termination Schedule") specifying the Corporation's intention to exercise such right and showing in reasonable detail the calculation of the Early Termination Payment. The applicable Early Termination Schedule shall become final and binding on all parties unless the Applicable Member, within thirty (30) calendar days after receiving the Early Termination Schedule thereto provides the Corporation with notice of a material objection to such Schedule made in good faith ("Material Objection Notice"). If the parties, for any reason, are unable to successfully resolve the issues raised in such notice within thirty (30) calendar days after receipt by the Corporation of the Material Objection Notice, the Corporation and the Applicable Member shall employ the Reconciliation Procedures as described in Section 7.09 of this Agreement.

Section 4.03 Payment upon Early Termination.

(a) Within three (3) Business Days after agreement between the Applicable Member and the Corporation of the Early Termination Schedule, the Corporation shall pay to the Applicable Member an amount equal to the Early Termination Payment. Such payment shall be made by wire transfer of immediately available funds to a bank account designated by the Applicable Member.

(b) The "Early Termination Payment" as of the date of the delivery of an Early Termination Schedule shall equal with respect to the Applicable Member the present value, discounted at the Early Termination Rate as of such date, of all Tax Benefit Payments that would be required to be paid by the Corporation to the Applicable Member beginning on the Early Termination Date and assuming that the Valuation Assumptions are applied.

ARTICLE V

SUBORDINATION AND LATE PAYMENTS

Section 5.01 Subordination. Notwithstanding any other provision of this Agreement to the contrary, any Tax Benefit Payment or Early Termination Payment required to be made by the Corporation to a Member or to the Members under this Agreement (an "Exchange Payment") shall rank subordinate and junior in right of payment to any principal, interest, or other amounts due and payable in respect of any obligations in respect of indebtedness for borrowed money of the Corporation and its Subsidiaries ("Senior Obligations") and shall rank pari passu with all current or future unsecured obligations of the Corporation that are not Senior Obligations.

Section 5.02 Late Payments by the Corporation. The amount of all or any portion of any Exchange Payment not made to any Member when due under the terms of this Agreement shall be payable together with any interest thereon, computed at the Default Rate and commencing on the date on which such Exchange Payment was due and payable.

ARTICLE VI

NO DISPUTES; CONSISTENCY; COOPERATION

Section 6.01 Member Participation in the Corporation's and Company's Tax Matters. Except as otherwise provided herein, the Corporation shall have full responsibility for, and sole discretion over, all Tax matters concerning the Corporation and the Company, including without limitation the preparation, filing, or amending of any Tax Return and defending, contesting, or settling any issue pertaining to Taxes. Notwithstanding the foregoing, the Corporation shall notify the Members of, and keep the Members reasonably informed with respect to, the portion of any audit of the Corporation and the Company by a Taxing Authority the outcome of which is reasonably expected to materially affect the Members' rights and obligations under this Agreement, and shall provide to the Members reasonable opportunity to provide information and other input to the Corporation, the Company and their respective advisors concerning the conduct of any such portion of such audit; provided, however, that the Corporation and the Company shall not be required to take any action that is inconsistent with any provision of the LLC Operating Agreement.

Section 6.02 Consistency. Unless there is a Determination or the opinion of an Advisory Firm that is reasonably acceptable to the Corporation, the Corporation and the Members agree to report and cause to be reported for all purposes, including federal, state, local and foreign Tax purposes and financial reporting purposes, all Tax-related items (including without limitation the Basis Adjustment and each Tax Benefit Payment) in a manner consistent with that specified by the Corporation in any Schedule required to be provided by or on behalf of the Corporation under this Agreement. Any Dispute concerning such advice shall be subject to the terms of Section 7.09. In the event that an Advisory Firm is replaced with another Advisory Firm, such replacement Advisory Firm shall perform its services under this Agreement using procedures and methodologies consistent with the previous Advisory Firm, unless otherwise required by law or unless the Corporation and the Members agree to the use of other procedures and methodologies.

Section 6.03 Cooperation. The Members shall each (a) furnish to the Corporation in a timely manner such information, documents and other materials as the Corporation may reasonably request for purposes of making any determination or computation necessary or appropriate under this Agreement, preparing any Tax Return or contesting or defending any audit, examination or controversy with any Taxing Authority, (b) make itself available to the Corporation and its representatives to provide explanations of documents and materials and such other information as the Corporation or its representatives may reasonably request in connection with any of the matters described in clause (a) above, and (c) reasonably cooperate in connection with any such matter, and the Corporation shall reimburse each Member for any reasonable third-party costs and expenses incurred pursuant to this Section.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Addresses and Notices. Any notice, consent, request, claim, demand and other communication required or permitted to be given by any provision of this Agreement shall be in writing and may be (i) delivered personally to the Person or to an officer of the Person to

whome the same is directed, (ii) sent by faccimile, overnight mail or registered or certified mail, return receipt requested, postage prepaid or (iii) (except to the Company or the Corporation) sent by e-mail, with electronic, written or oral confirmation of receipt, in each case to the Company or the Corporation, as applicable, at the address set forth below and to any other recipient and to any Member at such address as indicated by the Company's records, or at such address or to the attention of the other Person as the recipient party has specified by prior written notice to the sending party. Notices will be deemed to have been delivered, given and received hereunder (a) as of the date so delivered, if delivered personally, (b) upon receipt, if sent by facsimile or e-mail (provided confirmation of transmission is received) or (c) on the date of receipt or refusal indicated on the return receipt, if sent by registered or certified mail, return receipt requested, postage and charges prepaid and properly addressed.

The Company's address is:

SDC Financial LLC
414 Union Street
Nashville, Tennessee 37219
Attn: General Counsel

with a copy (which copy shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attn: David Goldschmidt
David Polster
Email: david.goldschmidt@skadden.com
david.polster@skadden.com

The Corporation's address is:

SmileDirectClub, Inc.
414 Union Street
Nashville, Tennessee 37219
Attn: General Counsel

with a copy (which copy shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attn: David Goldschmidt
David Polster
Email: david.goldschmidt@skadden.com
david.polster@skadden.com

Any party may change its address, e-mail or facsimile number by giving the other party written notice of its new address, e-mail or facsimile number in the manner set forth above.

Section 7.02 Counterparts. This Agreement may be executed in any number of counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties (including via facsimile or other electronic transmission), it being understood that all parties need not sign the same counterpart.

Section 7.03 Entire Agreement; No Third Party Beneficiaries. This Agreement, those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter in any way. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 7.04 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the conflicts of laws principles thereof that would mandate the application of the laws of another jurisdiction.

Section 7.05 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, the invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in that jurisdiction as if the invalid, illegal or unenforceable provision had never been contained herein.

Section 7.06 Successors; Assignment; Amendments; Waivers.

(a) No Member may assign this Agreement to any person without the prior written consent of the Corporation; provided, however, that (i) to the extent Common Units are effectively transferred in accordance with the terms of the LLC Operating Agreement, and any other agreements the Members may have entered into with each other, or a Member may have entered into with the Corporation and/or the Company, the transferring Member shall assign to the transferee of such Common Units the transferring Member's rights under this Agreement with respect to such transferred Common Units, as long as such transferee has executed and delivered, or, in connection with such transfer, executes and delivers, a joinder to this Agreement, in form and substance reasonably satisfactory to the Corporation, agreeing to become a "Member" for all purposes of this Agreement, except as otherwise provided in such joinder, and (ii) that, once an Exchange has occurred, any and all payments that may become payable to a Member pursuant to this Agreement with respect to such Exchange may be assigned to any Person or Persons, as long as any such Person has executed and delivered, or, in connection with such assignment, executes and delivers, a joinder to this Agreement, in form and substance reasonably satisfactory to the Corporation, agreeing to be bound by Section 7.12 and acknowledging specifically the second

paragraph in this Section 7.06. For the avoidance of doubt, to the extent a Member or other Person transfers Common Units to a Member as may be permitted by any agreement to which the Company is a party, the Member receiving such Common Units shall have all rights under this Agreement with respect to such transferred Common Units as such Member has, under this Agreement, with respect to the other Common Units held by him.

(b) Notwithstanding the foregoing provisions of this Section 7.06, no transferee described in clause (i) of the immediately preceding paragraph shall have the right to enforce the provisions of Section 2.03, 4.02, 6.01 or 6.02 of this Agreement, and no assignee described in clause (ii) of the immediately preceding paragraph shall have any rights under this Agreement except for the right to enforce its right to receive payments under this Agreement.

(c) No provision of this Agreement may be amended unless such amendment is approved in writing by each of the Corporation and the Company, and by Members who would be entitled to receive at least two-thirds of the Early Termination Payment payable to all Members hereunder if the Corporation had exercised its right of early termination on the date of the most recent Exchange prior to such amendment (excluding, for purposes of this sentence, all payments made to any Member pursuant to this Agreement since the date of such most recent Exchange); provided that no such amendment shall be effective if such amendment will have a disproportionate adverse effect on the payments certain Members will or may receive under this Agreement unless (i) such disproportionate effect is a result of tax laws imposed by government authorities in non-U.S. jurisdictions or (ii) all such Members disproportionately affected consent in writing to such amendment. No provision of this Agreement may be waived unless such waiver is in writing and signed by the party against whom the waiver is to be effective.

(d) All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and their respective successors, assigns, heirs, executors, administrators and legal representatives. The Corporation shall require and cause any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Corporation, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Corporation would be required to perform if no such succession had taken place.

Section 7.07 Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.08 Submission to Jurisdiction; Dispute Resolution.

(a) Any and all disputes which are not governed by Section 7.09, including but not limited to any ancillary claims of any party, arising out of, relating to or in connection with the validity, negotiation, execution, performance or non-performance of this Agreement (including the validity, scope and enforceability of this arbitration provision) (each a "Dispute") shall be finally settled by arbitration conducted by a single arbitrator in New York, New York in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, except as such rules may be modified in this Section 7.08. If the parties to the Dispute fail to agree

on the selection of an arbitrator within ten (10) days of the receipt of the request for arbitration, the International Chamber of Commerce shall make the appointment. The arbitrator shall be a lawyer admitted to the practice of law in the State of New York and shall conduct the proceedings in the English language. Performance under this Agreement shall continue if reasonably possible during any arbitration proceedings. In addition to monetary damages, the arbitrator shall be empowered to award equitable relief, including, but not limited to, an injunction and specific performance of any obligation under this Agreement. The arbitrator is not empowered to award damages in excess of compensatory damages, and each party hereby irrevocably waives any right to recover punitive, exemplary, or similar damages with respect to any Dispute. The award shall be final and binding upon the parties as from the date rendered, and shall be the sole and exclusive remedy between the parties regarding any claims, counterclaims, issues, or accounting presented to the arbitral tribunal. Judgment upon any award may be entered and enforced in any court having jurisdiction over a party or any of its assets. Notwithstanding the foregoing, any Dispute as to the interpretation of this Agreement shall be resolved by the Corporation in its sole discretion, provided that such resolution shall reflect a reasonable interpretation of the provisions of this Agreement and that such resolution shall not be inconsistent with the fundamental results described in Section 3.02 of this Agreement.

(b) Notwithstanding the provisions of paragraph (a), the Corporation may bring an action or special proceeding in any court of competent jurisdiction for the purpose of compelling a party to arbitrate, seeking temporary or preliminary relief in aid of an arbitration hereunder, and/or enforcing an arbitration award and, for the purposes of this paragraph (b), each Member (i) expressly consents to the application of paragraph (c) of this Section 7.08 to any such action or proceeding, (ii) agrees that proof shall not be required that monetary damages for breach of the provisions of this Agreement would be difficult to calculate and that remedies at law would be inadequate, and (iii) irrevocably appoints the Corporation as such Member's agent for service of process in connection with any such action or proceeding and agrees that service of process upon such agent, who shall promptly advise such Member of any such service of process, shall be deemed in every respect effective service of process upon the Member in any such action or proceeding.]

(c) EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF COURTS LOCATED IN DELAWARE FOR THE PURPOSE OF ANY JUDICIAL PROCEEDING BROUGHT IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS Section 7.08, OR ANY JUDICIAL PROCEEDING ANCILLARY TO AN ARBITRATION OR CONTEMPLATED ARBITRATION ARISING OUT OF OR RELATING TO OR CONCERNING THIS AGREEMENT. Such ancillary judicial proceedings include any suit, action or proceeding to compel arbitration, to obtain temporary or preliminary judicial relief in aid of arbitration, or to confirm an arbitration award. The parties acknowledge that the forum designated by this paragraph (c) have a reasonable relation to this Agreement, and to the parties' relationship with one another;

(i) The parties hereby waive, to the fullest extent permitted by applicable law, any objection which they now or hereafter may have to personal jurisdiction or to the laying of venue of any such ancillary suit, action or proceeding brought in any court referred to in paragraph (c) of this Section 7.08 and such parties agree not to plead or claim the same; and

(ii) The parties hereby waive in connection with any Dispute any and all rights to a jury trial.

Section 7.09 Reconciliation. In the event that the Corporation and an Applicable Member are unable to resolve a disagreement with respect to the matters governed by Sections 2.04, 4.02, and 6.02 within the relevant period designated in this Agreement ("Reconciliation Dispute"), the Reconciliation Dispute shall be submitted for determination to a nationally recognized expert (the "Expert") in the particular area of disagreement mutually acceptable to both parties. The Expert shall be a partner in a nationally recognized accounting firm or a law firm (other than the Advisory Firm), and the Expert shall not, and the firm that employs the Expert shall not, have any material relationship with either the Corporation or the Applicable Member or other actual or potential conflict of interest. If the parties are unable to agree on an Expert within fifteen (15) calendar days of receipt by the respondent(s) of written notice of a Reconciliation Dispute, the Expert shall be appointed by the International Chamber of Commerce Centre for Expertise. The Expert shall resolve any matter relating to the Exchange Basis Schedule or an amendment thereto or the Early Termination Schedule or an amendment thereto within thirty (30) calendar days and shall resolve any matter relating to a Tax Benefit Schedule or an amendment thereto within fifteen (15) calendar days or as soon thereafter as is reasonably practicable, in each case after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not resolved before the date any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, such payment shall be paid on the date such payment would be due and such Tax Return may be filed as prepared by the Corporation, subject to adjustment or amendment upon resolution. The costs and expenses relating to the engagement of such Expert or amending any Tax Return shall be borne by the Corporation; except as provided in the next sentence. The Corporation and each Applicable Member shall bear their own costs and expenses of such proceeding, unless the Applicable Member has a prevailing position that is more than ten percent (10%) of the payment at issue, in which case the Corporation shall reimburse such Applicable Member for any reasonable out-of-pocket costs and expenses in such proceeding. Any dispute as to whether a dispute is a Reconciliation Dispute within the meaning of this Section 7.09 shall be decided by the Expert. The Expert shall finally determine any Reconciliation Dispute and the determinations of the Expert pursuant to this Section 7.09 shall be binding on the Corporation and the Applicable Member and may be entered and enforced in any court having jurisdiction.

Section 7.10 Withholding. The Corporation shall be entitled to deduct and withhold from any payment payable pursuant to this Agreement such amounts as the Corporation is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of state, local, or foreign Tax law. To the extent that amounts are so withheld and paid over to the appropriate Taxing Authority by the Corporation, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Applicable Member.

Section 7.11 Admission of the Corporation into a Consolidated Group; Transfers of Corporate Assets.

(a) If the Corporation becomes a member of an affiliated or consolidated group of corporations that files a consolidated income tax return pursuant to sections 1501 et seq. of the Code or any corresponding provisions of state, local or foreign law, then: (i) the provisions of

this Agreement shall be applied with respect to the group as a whole; and (ii) Tax Benefit Payments, Early Termination Payments, and other applicable items hereunder shall be computed with reference to the consolidated taxable income of the group as a whole.

(b) Notwithstanding any other provision of this Agreement, if the Corporation acquires one or more assets that, as of an Exchange Date, have not been contributed to the Company (other than the Corporation's interests in the Company) (such assets, "Excluded Assets"), then all Tax Benefit Payments due hereunder shall be computed as if such assets had been contributed to the Company on the date such assets were first acquired by the Corporation; provided, however, that if an Excluded Asset consists of stock in a corporation, then, for purposes of this Section 7.11(b), such corporation (and any corporation Controlled by such corporation) shall be deemed to have contributed its assets to the Company on the date on which the Corporation acquired stock of such corporation.

(c) If any entity that is obligated to make an Exchange Payment hereunder transfers one or more assets to a corporation with which such entity does not file a consolidated tax return pursuant to section 1501 of the Code, such entity, for purposes of calculating the amount of any Exchange Payment (e.g., calculating the gross income of the entity and determining the Realized Tax Benefit of such entity) due hereunder, shall be treated as having disposed of such asset in a fully taxable transaction on the date of such contribution. The consideration deemed to be received by such entity shall be equal to the fair market value of the contributed asset (as reasonably determined by the governing body, or the Person responsible for management, of such entity acting in good faith), plus (i) the amount of debt to which such asset is subject, in the case of a contribution of an encumbered asset or (ii) the amount of debt allocated to such asset, in the case of a contribution of a partnership interest.

Section 7.12 Confidentiality.

(a) Each Member and assignee acknowledges and agrees that the information of the Corporation is confidential and, except in the course of performing any duties as necessary for the Corporation and its Affiliates, as required by law or legal process or to enforce the terms of this Agreement, shall keep and retain in the strictest confidence and not disclose to any Person any confidential matters, acquired pursuant to this Agreement, of the Corporation, its Affiliates and successors and the other Members, confidential information concerning the Corporation, its Affiliates and successors, and the other Members, including marketing, investment, performance data, credit and financial information, and other business affairs of the Corporation, its Affiliates and successors, and the other Members learned of by the Member heretofore or hereafter. This Section 7.12 shall not apply to (i) any information that has been made publicly available by the Corporation or any of its Affiliates, becomes public knowledge (except as a result of an act of such Member in violation of this Agreement) or is generally known to the business community and (ii) the disclosure of information to the extent necessary for a Member to prepare and file his or her tax returns, to respond to any inquiries regarding the same from any taxing authority or to prosecute or defend any action, proceeding or audit by any taxing authority with respect to such returns. Notwithstanding anything to the contrary herein, each Member and assignee (and each employee, representative, or other agent of such Member or assignee, as applicable) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of (x) the Corporation, the Company, the Members, and their Affiliates and (y) any of their transactions, and all materials

of any kind (including opinions or other tax analyses) that are provided to the Members relating to such tax treatment and tax structure.

(b) If a Member or assignee commits a breach, or threatens to commit a breach, of any of the provisions of this Section 7.12, the Corporation shall have the right and remedy to have the provisions of this Section 7.12 specifically enforced by injunctive relief or otherwise by any court of competent jurisdiction without the need to post any bond or other security, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to the Corporation or any of its Affiliates or the other Members and that money damages alone shall not provide an adequate remedy to such Persons. Such rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies available at law or in equity.

Section 7.13 LLC Operating Agreement. To the extent this Agreement imposes obligations upon the Company or a managing member of the Company, this Agreement shall be treated as part of the LLC Operating Agreement for tax purposes as described in section 761(c) of the Code and sections 1.704-1(b)(2)(ii)(h) and 1.761-1(c) of the Treasury Regulations.

Section 7.14 Joinder. The Corporation hereby agrees that, to the extent it acquires a general partnership interest, managing member interest or similar interest in any Person after the date hereof, it shall cause such Person to execute and deliver a joinder to this Agreement promptly upon acquisition of such interest, and such person shall be treated in the same manner as the Company for all purposes of this Agreement. The Corporation hereby agrees to cause any Corporate Entity that acquires an interest in the Company (or any entity described in the foregoing sentence) to execute a joinder to this Agreement (to the extent such Person is not already a party hereto) promptly upon such acquisition, and such Corporate Entity shall be treated in the same manner as the Corporation for all purposes of this Agreement. The Company shall have the power and authority (but not the obligation) to permit any Person who becomes a member of the Company to execute and deliver a joinder to this Agreement promptly upon acquisition of membership interests in the Company by such Person, and such Person shall be treated as a "Member" for all purposes of this Agreement.

Section 7.15 Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

[Signature page follows]

IN WITNESS WHEREOF, the Corporation, the Company, and each Member have duly executed this Agreement as of the date first written above.

SMILEDIRECTCLUB, INC.

By: /s/ David Katzman
Name: David Katzman
Title: Chief Executive Officer

SDC FINANCIAL LLC

By: /s/ David Katzman
Name: David Katzman
Title: Chief Executive Officer

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DAVID KATZMAN REVOCABLE TRUST

By: /s/ David Katzman
Name: David Katzman
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DBK INVESTMENTS LLC

By: /s/ David Katzman
Name: David Katzman
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DANTE LLC

By: /s/ Mitchell Wayne
Name: Mitchell Wayne
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ David Hall

DAVID HALL

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DAVID J. HALL LIVING TRUST

By: /s/ David Hall
Name: David Hall
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

DAVID KATZMAN 2009 FAMILY TRUST

By: /s/ Steven Katzman
Name: Steven Katzman
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ELLIOT BAUM REVOCABLE TRUST

By: /s/ Elliot Baum
Name: Elliot Baum
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Aaron Baum

AARON BAUM

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

RICHARD MINKIN REVOCABLE LIVING TRUST

By: /s/ Richard Minkin
Name: Richard Minkin
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Bradley Belen

BRADLEY BELEN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Howard Hemstreet

HOWARD HEMSTREET

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Heather Katzman

HEATHER KATZMAN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

HOME RUN HOLDINGS, LLC

By: /s/ Daniel Sillman
Name: Daniel Sillman
Title: Principal

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Richard Mark

RICHARD MARK

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jeffrey Klein

JEFFREY KLEIN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Steven Katzman

STEVEN KATZMAN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

STEVEN D. CICUREL LIVING TRUST

By: /s/ Steven D. Cicurel
Name: Steven D. Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

MARGARET STERN CICUREL IRREVOCABLE TRUST

By: /s/ Margaret Stern Cicurel
Name: Margaret Stern Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

STEVEN DAVID CICUREL IRREVOCABLE TRUST

By: /s/ Steven D. Cicurel
Name: Steven D. Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

PYETT FAMILY TRUST

By: /s/ Nicholas Pyett
Name: Nicholas Pyett
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

JORDAN KATZMAN REVOCABLE TRUST

By: /s/ Jordan Katzman
Name: Jordan Katzman
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

JM KATZMAN INVESTMENTS LLC

By: /s/ Jordan Katzman
Name: Jordan Katzman
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Nancy Katzman

NANCY KATZMAN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ALEXANDER FENKELL REVOCABLE TRUST

By: /s/ Alex Fenkell
Name: Alexander Fenkell
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ALEXANDER J. FENKELL 2018 IRREVOCABLE TRUST

By: /s/ Alex Fenkell
Name: Alexander Fenkell
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Doug Hudson

DOUG HUDSON

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jessica Cicurel

JESSICA CICUREL

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

J. CICUREL 2019 TRUST

By: /s/ Jessica Cicurel
Name: Jessica Cicurel
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Robert Sims

ROBERT SIMS

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jonathan Epstein

JONATHAN EPSTEIN

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Susan Greenspon

SUSAN GREENSPON

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

ANTOS LONG TERM TRUST

By: /s/ Valerie A. Leebove
Name: Valerie A. Leebove
Title: Trustee

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jane Kushner

JANE KUSHNER

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

HOME RUN HOLDINGS 2, LLC

By: /s/ Daniel Sillman
Name: Daniel Sillman
Title: Principal

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Shawn Mendes

SHAWN MENDES

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Jordan Wolosky

JORDAN WOLOSKY

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

/s/ Andrew Gertler

ANDREW GERTLER

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

SPARK CAPITAL GROWTH FOUNDERS' FUND II, L.P.

By: Spark Growth Management Partners II, LLC, its general partner

By: /s/ Paul J. Conway
Name: Paul J. Conway
Title: CFO, Managing Member

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

3L CAPITAL I AIV C, LLC

By: 3L Capital GP, LLC, its manager

By: /s/ David L. Leyrer
Name: David L. Leyrer
Title: Manager

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed on its behalf as of the date first written above.

3L CAPITAL SDC, LLC

By: 3L Capital SDC Manager, LLC, its manager
By: 3L Capital GP, LLC, its manager

By: /s/ David L. Leyrer
Name: David L. Leyrer
Title: Manager

Exhibit 10.3

VOTING AGREEMENT

THIS VOTING AGREEMENT (this "Agreement") is made as of September 13, 2019, by and among SmileDirectClub, Inc., a Delaware corporation (the "Company") and the persons and entities listed on the signature pages hereto (each, together with its successors, a "Stockholder" and collectively, the "Stockholders").

As used herein, the term "Majority Holder" shall mean David B. Katzman, in his individual capacity; and in the event David B. Katzman becomes unwilling or unable to continue to fulfill his obligations hereunder, as determined in good faith by the Company's board of directors, unless David B. Katzman is actively contesting such determination, Majority Holder shall mean Steven B. Katzman, in his individual capacity.

RECITALS

A. The Company and the Stockholders desire to secure a continuity of the management and business policies of the Company.

B. The Stockholders are holders of shares of Class A common stock, $0.0001 par value, and Class B common stock, $0.0001 par value, of the Company (the "Holder Common Shares").

C. This Agreement, among other things, requires the Stockholders to vote all Holder Common Shares and all shares of capital stock of the Company that a Stockholder hereafter acquires or as to which a Stockholder hereafter acquires the right to exercise voting power (together, all such Holder Common Shares and other shares of capital stock of the Company referred to in this sentence, the "Shares") in the manner set forth herein.

D. This Agreement is being entered into in exchange for a payment of U.S. $100 in cash from the Majority Holder to each Stockholder and for other good and valuable consideration, the sufficiency of which is hereby acknowledged and agreed.

NOW, THEREFORE, in consideration of the mutual promises herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Voting Arrangements. The Stockholders hereby agree that, on all matters properly submitted to a vote of stockholders of the Company at a meeting of the stockholders of the Company or through the solicitation of a written consent of the stockholders of the Company (whether of any individual class of stock or of multiple classes of stock voting together, and whether arising under the Company's certificate of incorporation or bylaws (as the same may be amended, restated or amended and restated and in effect from time to time), the Delaware General Corporation Law (or any successor thereto) or otherwise), the Stockholders shall vote such Shares or grant a proxy with respect to such Shares as determined by the Majority Holder in his sole discretion.

2. Illustrative Examples. Matters to which the voting arrangements described in Section 1 of this Agreement are applicable include, but are not limited to, the following, which are presented here solely by way of example:

(a) Election, replacement or removal of any or all directors of the Company (each, a "Director");

(b) Sale, lease, exchange or other disposition of all or substantially all of the Company's assets, *provided*, that any distribution to the stockholders of the Company of the proceeds of such sale or disposition are made in accordance with the Company's certificate of incorporation, as then in effect;

(c) Mergers of, or acquisitions by, the Company or its subsidiaries that are submitted for approval by stockholders of the Company; and

(d) Adoption by the Company of a rights plan or similar takeover defensive arrangements, or amendments thereof, or approval or ratification by the Company's stockholders of any such plan or amendment adopted by the Company upon the approval of its board of directors.

3. Manner of Voting. The Stockholders each agree to hold all Shares registered in their respective names or beneficially owned by them as of the date hereof and any and all other securities of the Company legally or beneficially acquired by each of the Investors after the date hereof (to the extent any Stockholder holds voting power with respect thereto) subject to, and to vote the Shares in accordance with, the provisions of this Agreement. The voting of Shares pursuant to this Agreement may be effected in person, by proxy, by written consent, or in any other manner permitted by applicable law. All of the Stockholders agree to execute any proxies or written consents required to perform their obligations under this Agreement.

4. Stock Splits, Dividends, Etc. In the event of any issuance of shares of the Company's voting securities hereafter to a Stockholder as a result of such Stockholder's ownership of Shares (including, without limitation, in connection with any stock split, stock dividend, recapitalization, reorganization, or the like), such shares shall automatically be deemed "Shares" hereunder.

5. Specific Enforcement. It is agreed and understood that monetary damages would not adequately compensate an injured party for the breach of this Agreement by any party, that this Agreement shall be specifically enforceable, and that any breach or threatened breach of this Agreement shall be the proper subject of a temporary or permanent injunction or restraining order. Further, each party hereto waives any claim or defense that there is an adequate remedy at law for such breach or threatened breach.

6. Securities Laws, Rules and Regulations. The Stockholders, the Company and the Majority Holder agree and understand that the Stockholders, the Company and/or the Majority Holder may become subject to the registration and/or reporting requirements, rules and regulations of the Securities Exchange Act of 1934, as amended (the "Exchange Act"),

the Securities Act of 1933, as amended (the "Securities Act") and/or any state and federal securities laws (collectively with the Exchange Act and the Securities Act, the "Securities Laws"). The Stockholders, the Company and the Majority Holder agree to use their respective commercially reasonable efforts to comply with the Securities Laws and to reasonably assist each other in complying with the Securities Laws in a timely and prompt manner. Such compliance may include, for example and without limiting the foregoing, the filing and updating and maintaining of Schedule 13G and/or Schedule 13D under the Exchange Act. In furtherance thereof, the Stockholders shall notify the Majority Holder at least three business days prior to any transaction (including purchase, sale, pledge or hedge) with respect to the Shares.

7. Majority Holder's Liability. The Majority Holder shall not be liable for any error of judgment nor for any act done or omitted, nor for any mistake of fact or law nor for anything which the Majority Holder may do or refrain from doing in good faith, nor shall the Majority Holder have any accountability hereunder, except for his own bad faith, gross negligence or willful misconduct. Furthermore, upon any judicial or other inquiry or investigation of or concerning the Majority Holder's acts pursuant to his rights and powers as the Majority Holder, such acts shall be deemed reasonable and in the best interests of the Stockholders unless proved to the contrary by clear and convincing evidence.

8. Consideration. In connection with this Agreement and as consideration for the obligations of the Stockholders hereunder, the Majority Holder shall pay (by check, cash or other valid consideration) to each Stockholder the sum of U.S. $100.

9. Termination. This Agreement shall terminate:

(a) upon the liquidation, dissolution or winding up of the business operations of the Company;

(b) upon the execution by the Company of a general assignment for the benefit of creditors or the appointment of a receiver or trustee to take possession of the property and assets of the Company;

(c) in the sole discretion of the Majority Holder, upon the express written consent of the Majority Holder (which he shall be under no obligation to provide); or

(d) Upon the earlier of (i) the ten-year anniversary of the consummation of an initial public offering of shares of the Company's Class A common stock or (ii) the date on which the shares of Class B common stock held by the Stockholders and their permitted transferees represent less than 15% of the Class B common stock held by the Stockholders and their permitted transferees as of immediately following the consummation of an initial public offering of shares of the Company's Class A common stock.

10. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Company, the Stockholders and the Majority Holder. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or the respective successors and

assigns of the Company, the Stockholders and the Majority Holder any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. Except for an assignment by the Company (i) by operation of law, or (ii) in connection with an acquisition, consolidation or merger of the Company or sale of all or substantially all of the Company's assets (which shall be permitted with only the written consent and notice of the Company), this Agreement may not be assigned without the written consent of the Majority Holder, the Company and the Stockholders.

11. Amendments and Waivers. Any term hereof may be amended or waived only with the written consent of the Stockholders holding a majority of the Shares held by the Stockholders and the Majority Holder, except where such amendment or waiver shall materially negatively alter the rights or obligations of the Company hereunder, in which case any such amendment or waiver shall also require the written consent of the Company. Any amendment or waiver effected in accordance with this Section 12 shall be binding upon the Company, the Majority Holder and the Stockholders, and each of the respective successors and assigns to the Company or the Majority Holder.

12. Notices. Notwithstanding anything to the contrary contained herein, any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient and received on the earlier of (a) the date of delivery, when delivered personally, by overnight mail, courier or sent by electronic mail (e-mail) or fax, or (b) forty-eight hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, and addressed to the party to be notified at such party's address, e-mail address or fax number as set forth on Annex A hereto, or as subsequently modified by written notice. Any electronic mail (e-mail) communication shall be deemed to be "in writing" for purposes of this Agreement.

13. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded, and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

14. Governing Law; Jurisdiction; Venue.

(a) This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to conflict of law principles. In addition, each of the parties hereto (i) consents to submit itself to the exclusive jurisdiction of the courts of the State of Delaware in the event any dispute arises out of this Agreement or any of the transactions contemplated by this Agreement, (ii) agrees that it will not attempt to deny or defeat such jurisdiction by motion or other request for leave from such court, (iii) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the courts of the State of Delaware, and (iv) hereby waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject to the jurisdiction of the above-named

courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

(b) Each party hereto hereby consents to service of process being made through the notice procedures set forth in Section 12 of this Agreement and agrees that, to the fullest extent permitted by law, service of any process, summons, notice or document by U.S. registered mail to the parties' respective addresses set forth on the signature page hereto shall be effective service of process for any suit or proceeding in connection with this Agreement or the transactions contemplated hereby.

15. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. Executed signatures to this Agreement may be delivered by any electronic means and any such electronically delivered signatures shall be deemed equivalent to manually executed signatures.

16. Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have executed this Voting Agreement as of the day and year written above.

The Company

SmileDirectClub, Inc.

By: /s/ David B. Katzman
David B. Katzman
Chief Executive Officer and Chairman

Stockholders

David B. Katzman

By: /s/ David B. Katzman
David B. Katzman

DBK Investments, LLC

By: /s/ David B. Katzman
David B. Katzman
Manager

David B. Katzman 2018 Irrevocable Trust

By: /s/ Tammy Sommervold, Trust Officer
South Dakota Trust Company LLC
Trustee

David B. Katzman 2009 Family Trust

By: /s/ Steven B. Katzman
Steven B. Katzman
Trustee

Jordan M. Katzman 2018 Irrevocable Trust

By: /s/ Tammy Sommervold, Trust Officer
South Dakota Trust Company LLC
Trustee

Jordan M. Katzman Revocable Trust

By: /s/ Jordan M. Katzman
Jordan M. Katzman
Trustee

JM Katzman Investments, LLC

By: /s/ Jordan M. Katzman
Jordan M. Katzman
Manager

Jordan M. Katzman

By: /s/ Jordan M. Katzman
Jordan M. Katzman

Alexander J. Fenkell 2018 Irrevocable Trust

By: /s/ Alexander J. Fenkell
Alexander J. Fenkell
Trustee

Alexander Fenkell Revocable Trust

By: /s/ Alexander J. Fenkell
Alexander J. Fenkell
Trustee

Alexander J. Fenkell

By: /s/ Alexander J. Fenkell
Alexander J. Fenkell

Steven B. Katzman

By: /s/ Steven B. Katzman
Steven B. Katzman

David Katzman Revocable Trust

By: /s/ David B. Katzman
David B. Katzman
Trustee

Annex A
Notice Information

[To come.]