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ACCOUNT NO. : 072100000032

REFERENCE : 837061 4333788

AUTHORIZATION :

COST LIMIT : \$ 70.00

*Patricia Pizate*

ORDER DATE : November 27, 2002

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ORDER NO. : 837061-005

CUSTOMER NO: 4333788

CUSTOMER: Carolyn Varela, Legal Asst  
Locke Liddell & Sapp  
Floor 35th, 600 Travis Street  
3400 Chase Tower, 35th Floor  
Houston, TX 77002-3095

ARTICLES OF MERGER

COMPASS FLORIDA 2002, INC.

INTO

ST. JOHNS INVESTMENT  
MANAGEMENT COMPANY

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

\_\_\_\_ CERTIFIED COPY  
XX PLAIN STAMPED COPY

CONTACT PERSON: Darlene Ward, Ext. 1135

EXAMINER'S INITIALS: \_\_\_\_\_

ARTICLES OF MERGER  
Merger Sheet

MERGING: -----

COMPASS FLORIDA 2002, INC., a Florida corporation, P02000115204

INTO

**ST. JOHNS INVESTMENT MANAGEMENT COMPANY**, a Florida entity,  
G77745.

File date: December 2, 2002

Corporate Specialist: Cheryl Coulliette

Account number: 072100000032

Amount charged: 70.00

**ARTICLES OF MERGER  
MERGING  
COMPASS FLORIDA 2002, INC.  
INTO  
ST. JOHNS INVESTMENT MANAGEMENT COMPANY**

Pursuant to the provisions of the Florida Business Corporation Act, St. Johns Investment Management Company, a Florida corporation ("St. Johns") and Compass Florida 2002, Inc., a Florida corporation ("Compass Florida"), execute these Articles of Merger providing for the merger of Compass Florida into St. Johns (the "Merger"), for the purpose of filing with the Secretary of State of the State of Florida.

1. The name and state of incorporation of each of the constituent corporations of the merger is as follows:

NAME	STATE OF INCORPORATION
St. Johns Investment Management Company	Florida
Compass Florida 2002, Inc.	Florida

2. An Agreement and Plan of Merger (the "Plan of Merger"), merging Compass Florida with and into St. Johns has been approved by written consent of the shareholders of Compass Florida entitled to vote thereon given on November 21, 2002, in accordance with the provisions of Section 607.0704 of the Florida Business Corporation Act (the "Act"), and as approved and adopted by written consent of the shareholders of St. Johns entitled to vote thereon given on November 20, 2002, in accordance with the provisions of Section 607.0704 of the Act. A copy of the Plan of Merger is attached to these Articles of Merger.

3. St. Johns will continue its existence as the surviving corporation under its present name pursuant to the provisions of the Act.

4. The merger of Compass Florida into St. Johns shall be effective upon the filing of the Articles of Merger with the Secretary of State of the State of Florida.

*[Signature Page Follows]*

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**SECRETARY OF STATE**  
**TALLAHASSEE, FLORIDA**

IN WITNESS WHEREOF, these Articles of Merger have been executed this 22<sup>nd</sup> day of  
November, 2002.

**St. Johns Investment Management  
Company, a Florida corporation**  
(the Surviving Corporation)

By: Dave Albano  
Printed Name: David T Albano  
Title: CEO

**Compass Florida 2002, Inc.,**  
a Florida corporation

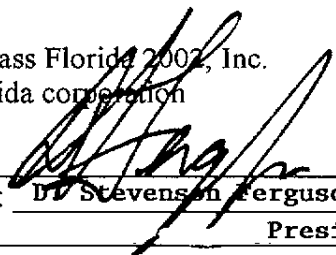
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, these Articles of Merger have been executed this 22<sup>nd</sup> day of  
November, 2002.

St. Johns Investment Management Company  
a Florida corporation  
(the Surviving Corporation)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Compass Florida 2002, Inc.  
a Florida corporation

By:  \_\_\_\_\_  
Name: Dr. Stevenson Ferguson, Jr.  
Title: President

---

AGREEMENT AND PLAN OF MERGER

BY AND AMONG

COMPASS BANCSHARES, INC.,

COMPASS FLORIDA 2002, INC.,

ST. JOHNS INVESTMENT MANAGEMENT COMPANY

AND

THE SHAREHOLDERS

OF

ST. JOHNS INVESTMENT MANAGEMENT COMPANY

Dated as of November 1, 2002

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## ATTACHMENTS

### EXHIBITS

- A. Illustration of Calculation of Additional Merger Consideration
- B. Allocation of Additional Merger Consideration
- C. Non-Competition Agreement
- D. Opinion of Counsel to the Company
- E. List of Officers with Knowledge

## **AGREEMENT AND PLAN OF MERGER**

AGREEMENT AND PLAN OF MERGER ("Agreement") dated as of November 1, 2002, by and among Compass Bancshares, Inc., a Delaware corporation ("Compass"), Compass Florida 2002, Inc., a Florida corporation ("Merger Sub"), St. Johns Investment Management Company, a Florida corporation ("Company"), and the shareholders of the Company who are signatories hereto (the "Shareholders").

WHEREAS, Compass, Merger Sub and the Company believe that the Merger (as defined herein) of the Company with Merger Sub and subject to the terms and conditions set forth in, this Agreement and all exhibits, schedules and supplements hereto is desirable and in the best interests of their respective companies and shareholders; and

WHEREAS, Compass, Merger Sub and the Company intend the Merger to qualify as a reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations thereunder;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

### **ARTICLE I. THE MERGER**

SECTION 1.1 The Merger. Upon the terms and subject to the conditions hereof, and in accordance with the Florida Business Corporation Act (the "FBCA"), Merger Sub shall be merged with and into the Company (the "Merger"). Following the Merger, the Company shall continue as the surviving corporation (the "Surviving Corporation") and the separate corporate existence of Merger Sub shall cease. Compass shall not be deemed a party to the Merger for the purposes of s. 607.1106 of the FBCA.

SECTION 1.2 Effective Time. The Merger shall be consummated by the filing by the Florida Department of State of Articles of Merger, in the form required by and executed in accordance with the relevant provisions of the FBCA. (The date of such issuance and filing or such other time and date as may be specified in the Articles and Certificate of Merger shall be the "Effective Time").

SECTION 1.3 Certain Effects of the Merger. The Merger shall have the effects set forth in s. 607.1106 of the FBCA.

SECTION 1.4 Articles of Incorporation and By-Laws. The Articles of Incorporation and the By-Laws of the Company, in each case as in effect at the Effective Time, shall be the Articles of Incorporation and By-Laws of the Surviving Corporation.

SECTION 1.5 Directors and Officers. The directors and officers of Merger Sub at the Effective Time shall be the directors and officers of the Surviving Corporation and shall hold

office from the Effective Time until their respective successors are duly elected or appointed and qualified in the manner provided in the Articles of Incorporation and By-Laws of the Surviving Corporation, or as otherwise provided by law.

#### SECTION 1.6 Conversion of Shares.

(a) Of the Company:

(i) The shares of the Company's common stock, par value \$1.00 per share ("Company Stock" or "Stock"), issued and outstanding immediately prior to the Effective Time, shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and represent the right to receive the consideration payable as set forth below (the "Merger Consideration") to the holders of record thereof, without interest thereon, upon surrender of the certificates representing such Stock. For the purposes of determining the number of shares issued and outstanding, the number of shares issued and outstanding shall be increased by the number and class of shares that may be acquired upon exercise or conversion of any warrant, option, convertible debenture or other security entitling the holder thereof to acquire shares of Company Stock which is in effect or outstanding prior to the Effective Time. Compass will issue to the holders of the Company Stock an aggregate number of shares of its common stock, par value \$2.00 per share which is quoted under the symbol "CBSS" on the NASDAQ National Market System ("Compass Common Stock"), which is equal to \$1,650,000 divided by the average closing sale price (the "Closing Date Average Share Price") of the Compass Common Stock as reported by the NASDAQ National Market System for the twenty days of trading prior to the fifth business day prior to the Closing, as defined below.

(ii) Compass will not issue any certificates for any fractional shares of Compass Common Stock otherwise issuable pursuant to the Merger. In lieu of issuing such fractional shares, Compass shall pay cash to any holder of Company Stock otherwise entitled to receive such fractional share equal to the Closing Date Average Share Price times the fraction of the share.

(iii) Immediately after the Effective Time, the stock transfer ledger of the Company shall be closed and there shall be no transfers on the stock transfer books of the Company of the Company Stock which were outstanding immediately prior to such time of filing.

(b) Of the Merger Sub:

(i) Each share of capital stock of Merger Sub issued and outstanding immediately before the Effective Time shall be converted into a number of shares and class of shares of the Surviving Corporation equal to the number of shares and class of capital stock of the Company issued and outstanding immediately prior to the Effective Time.

#### SECTION 1.7 Additional Merger Consideration.

(a) Upon the attainment of the annual thresholds described below and subject to the provisions of this Section 1.7, an aggregate of \$1,650,000 ("Additional Merger Consideration") shall be payable to the holders of Company Stock at the Effective Time and which shall be payable in the shares of Compass Stock ("Earn-Out Shares") in respect of operations of the Company for calendar years 2003, 2004, 2005 and 2006 ("Earn-Out Period"). Payments under this Section 1.7, if any, due in respect of a particular calendar year shall be paid to the Shareholders on or before the last day in February in each succeeding calendar year.

(b) The aggregate number of shares payable to holders of Company Stock at the Effective Time in respect of any one calendar year shall be equal to (i) 65% times one-half of the Company's Available Revenue, divided by (ii) the Compass EPS Hurdle.

(c) For purposes of this Section 1.7,

(i) the "Company's Available Revenue" shall mean the income of the Company after operating expenses during the applicable calendar year, less the amortization of identifiable intangibles and less the Parity of Earnings.

(ii) "Compass EPS Hurdle" shall mean the earnings per share results of Compass for calendar year 2002 compounded at the rate of 10% per annum for each year for which the Company's Available Revenue is determined.

(iii) "Parity of Earnings" shall mean the number resulting from (A) the sum of (1) the number of shares of Compass Common Stock issued pursuant to Section 1.6 hereof times the number of days in the calendar year such stock was outstanding divided by 365, plus (2) the Earn-Out Shares outstanding for the calendar year being measured times the number of days in the calendar year such stock was outstanding divided by 365, times (B) the Compass EPS Hurdle, divided by (C) 0.65.

(iv) in the event the Company's existence ceases or the Company is combined or consolidated with another entity prior to January 1, 2007, "Company" shall mean the cost centers and/or consolidating cost centers on accounting systems maintained and determined by Compass, to approximate the assets, liabilities, and business of the corporate entity formerly constituting the Company at the Effective Time, and except as provided in this Subsection (iv), in no event shall Company include any entity or the assets, liabilities or revenues of any entity combined or consolidated with the Company after the Effective Time. In the event of a subsequent acquisition by Compass of a financial advisory or asset management company in the Jacksonville, Florida Region, as such region is defined from time to time by Compass (the "Region"), the income of the Company after operating expenses during an applicable calendar year shall be the portion of the income after operating expenses of the combined entity that is allocated to the Company based on the Company's budgeted percent of the combined income after operating expenses ("Budgeted Percent"). The Shareholders agree that the Budgeted Percent will be that percent that is mutually agreeable to a majority in interest of the Shareholders based on their respective percentages in the Earn-Out Shares and Compass.

(v) revenues, operating expenses and intangibles shall be determined in accordance with GAAP,

(A) except for such deviations from GAAP as set forth on Schedule 2.5 hereto;

(B) provided that annual income shall include the cross-sale revenue from Compass' asset management group for the Jacksonville, Florida Region as from time to time defined by Compass;

(C) provided that, for purposes of the Earn-Out calculation, identifiable intangibles to be amortized shall be no more than \$495,000 which shall be amortized straight line over 20 years;

(D) Subject to Section 5.6, Compass (or any of its Affiliates (as defined in Section 9.13(p) hereof)) may contribute funds to the Company for the purposes of retirement of the Company's debts, contributions of capital to cause the Company to have positive equity capital, or for other corporate purposes ("Additional Capital"). When calculating the amounts of Additional Merger Consideration that may be payable from time to time in accordance with this Section 1.7, the net earnings of the Company shall be adjusted by a charge equal to the Compass Bank prime rate in effect at the time of each respective contribution, if any, applied on a simple interest basis to each respective contribution, if any;

(E) provided that expenses shall not include Losses (as defined in Section 9.13(h) hereof) to the extent such Losses have been indemnified by the Shareholders under Article VIII hereof; and

(F) provided that, for purposes of the Earn-Out calculation, no additional operating expenses of Compass or any of its Subsidiaries, other than the Company and its Subsidiaries, if any, shall be included in the Company's operating expenses.

(d) Attached as Exhibit A is an illustration of the calculation of the Additional Merger Consideration payable to the Shareholders. In the event of any conflict between the illustration and the foregoing provisions of this Section 1.7, the foregoing provision of this Section 1.7 shall control.

(e) In lieu of issuing fractional shares in respect of the Additional Merger Consideration, Compass shall pay cash to any Shareholder otherwise entitled to receive such fractional share based on the average closing share price of Compass Common Stock as reported by the NASDAQ National Market System for the month of December of each such calendar year during the Earn-Out Period ("Average Share Price").

(f) Notwithstanding anything to the contrary contained in this Section 1.7, in no event shall Compass be required to issue more than \$1,650,000 in the aggregate in Earn-Out Shares, which shall be determined based on the total number of Earn-Out Shares issued times the Average Share Price for the appropriate calendar year in respect of the Earn-Out Period.

(g) Set forth on Exhibit B hereto opposite each holder of Company Stock is the portion of the Additional Merger Consideration allocable to each such holder for each applicable calendar year.

(h) Compass and the Company agree that the Company shall be operated after the date hereof in a manner which shall be intended to maximize the long-term best interests of the Company and shall not be operated in a manner intended to increase the likelihood of the payment of Additional Merger Consideration to the detriment of the long term best interests of the Company; provided that operations in the Ordinary Course of Business (as defined in Section 9.13(l)) shall not be construed to manifest such intention.

(i) In the event that the Compass Common Stock shall be changed into another kind of capital stock after the Effective Time (otherwise than through a subdivision or combination of shares) or shall represent the right to receive some other security or property, as a result of any capital reorganization, reclassification or any merger or consolidation with another corporation in which Compass is not the surviving corporation, each Earn-Out Share shall thereafter entitle the Shareholder entitled to acquire such Earn-Out Share to the kind and number of shares of stock or other securities or property to which such Shareholder would have been entitled if such Shareholder had held the Earn-Out Share immediately prior to such capital reorganization, reclassification, merger or consolidation.

SECTION 1.8 Closing. Upon the terms and subject to the conditions hereof, within ten business days after the satisfaction or waiver, if permissible, of the conditions set forth in Article VI hereof, unless otherwise agreed in writing, the transactions contemplated by this Agreement (the "Closing") and all such other and further actions as may be required by law to make the merger effective shall take place by facsimile and overnight courier (or in such other manner as the parties may agree). (The date of the Closing shall be the "Closing Date.")

#### SECTION 1.9 Closing Deliveries.

(a) At the Closing the Company shall deliver to Compass:

(i) the minute books and stock books of the Company;

(ii) executed Articles of Merger;

(iii) a list, dated as of the Closing Date, showing (A) the name of each bank or institution where the Company has accounts or safe deposit boxes, (B) the name(s) in which such accounts or boxes are held and (C) the name of each person authorized to draw thereon or have access thereto;

(iv) a list, dated as of the Closing Date, showing all liabilities and obligations of the Company, except those arising in the ordinary course of its business, incurred since

the Balance Sheet Date (as defined in Section 2.6, hereof), certified by an officer of the Company;

(v) a written representation from holders of the Company's capital stock receiving at least 50% of the total Merger Consideration that they have no present plan or intention to sell or otherwise dispose of (A) shares of the Company prior to and in connection with the Merger to the Company, Compass or any party related to the Company or Compass and (B) shares of Compass Common Stock received pursuant to the Merger to Compass or any party related to Compass;

(vi) non-competition agreements executed by the Shareholders in the form of Exhibit C hereto (the "Non-Competition Agreements");

(vii) employment agreements executed by the Shareholders in a form mutually satisfactory to Compass and the Shareholders (the "Employment Agreements");

(viii) an opinion of counsel to the Company substantially in the form of Exhibit D (the "Opinion");

(ix) letters of transmittal in a form satisfactory to Compass executed by the Shareholders, together with the certificates representing the Company Stock issued to the Shareholders;

(x) all consents, including those identified in the Schedules but not including consents in respect of Investment Contracts (as defined in Section 9.13(o)), as are required to enable Compass to continue to enjoy the benefit of any governmental authorization, lease, license, permit, contract or other agreement or instrument to or of which the Company is a party or a beneficiary ("Consents"); and

(xi) such other documents, including officers' certificates and opinions of counsel, as may be required by this Agreement or reasonably requested by Compass.

(b) As soon as practicable after the Effective Time, Compass shall deliver to the holders of Company Stock, the Merger Consideration as set forth in Section 1.6 hereof.

**SECTION 1.10 Tax Consequences.** It is intended by the parties hereto that the Merger shall constitute a reorganization within the meaning of Section 368(a) of the Code, and the parties hereto hereby adopt this Agreement as a "plan of reorganization" within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the United States Treasury Regulations.

## **ARTICLE II. REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

The Company hereby makes the representations and warranties set forth in this Article II to Compass. The Company has delivered to Compass the Schedules referred to in this Article II prior to the date hereof.



SECTION 2.1 Organization and Qualification. The Company is a Florida corporation and is duly organized, validly existing and in good standing under the laws of the State of Florida. The Company has all requisite corporate power and authority to carry on its business as now being conducted and to own, lease and operate its properties and assets as now owned, leased or operated. The Company does not own or control or have any equity ownership in any other Person (as defined in Section 9.13(j)). True and correct copies of the Articles of Incorporation and Bylaws of the Company, with all amendments thereto through the date of this Agreement, have been delivered to Compass. The Company is duly qualified to do business or licensed as a foreign corporation and is in good standing under the laws of each state or other jurisdiction in which the properties and assets owned or leased and operated by it or the nature of the business conducted by it make such qualification or license necessary. Each such jurisdiction in which the Company or any of its agents are so qualified or licensed is listed on Schedule 2.1.

SECTION 2.2 Company Capitalization.

(a) The authorized capital stock of the Company consists solely of 7,500 shares of Company Stock, of which 2,008 shares are issued and outstanding, and none of which are held in treasury. Schedule 2.2 accurately describes the ownership of the Company's capital stock. There are no outstanding subscriptions, options, employee stock options, convertible securities, rights, warrants, calls, or other agreements or commitments of any kind issued or granted by, or binding upon, the Company to purchase or otherwise acquire any security of or equity interest in the Company or obligating the Company to issue any shares or other equity interest of the Company, or to the Knowledge of the Company, irrevocable proxies or any agreements restricting the transfer of or otherwise relating to shares of its capital stock of any class. All of the outstanding shares of capital stock of the Company have been duly authorized, validly issued and are fully paid and non-assessable, and are free of preemptive rights. There are no restrictions applicable to the payment of dividends or distributions on the capital stock of the Company except pursuant to the FBCA and all dividends or distributions declared prior to the date hereof have been paid. All issuances of securities by the Company were exempt from any registration requirements under all applicable securities laws.

SECTION 2.3 Authority Relative to the Agreement. The Company has full corporate power and authority, and no further proceedings on the part of the Company are necessary, to execute and deliver this Agreement and to consummate the transactions contemplated hereby which have been duly and validly authorized by its shareholders and Board of Directors. This Agreement has been duly executed and delivered by the Company and is a duly authorized, valid, legally binding and enforceable obligation of the Company, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to creditors' rights generally and general equitable principles. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby will not conflict with, or result in any violation or breach of or default under the Articles of Incorporation or By-Laws of the Company.

SECTION 2.4 No Violation; Consents and Approvals. Neither the execution, delivery nor performance of this Agreement in its entirety, nor the consummation of all of the transactions contemplated hereby will (i) violate (with or without the giving of notice or the passage of time), any law, order, writ, judgment, injunction, award, decree, rule, statute, ordinance or regulation

applicable to the Shareholders or the Company or (ii) except for Investment Contracts for which consent to the assignment resulting from the Merger has not been received, be in conflict with, result in a breach or termination of any provision of, cause the acceleration of the maturity of any debt or obligation pursuant to, constitute a default (or give rise to any right of termination, cancellation or acceleration) under, or result in the creation of any Encumbrance upon any property or assets of the Company or the Stock pursuant to, any terms, conditions or provisions of any note, license, instrument, indenture, mortgage, deed of trust or other agreement or understanding or any other restriction of any kind or character, to which the Company is a party or by which any of its assets or properties are subject or bound. The corporate existence, business organization, assets, licenses, permits, authorizations, and all other contracts and agreements of the Company will not be terminated or impaired by reason of the execution, delivery or performance by the Company of this Agreement or consummation by the Company of the transactions contemplated hereby, other than with respect to the Investment Contracts for which consent to the assignment resulting from the Merger has not been received. No prior consent, approval or authorization of, or declaration, filing or registration with any Person, domestic or foreign, is required of the Company in connection with the execution, delivery and performance by the Company of this Agreement and the transactions contemplated hereby, except with respect to the Investment Contracts.

#### SECTION 2.5 Financial Statements.

(a) The Company has provided Compass with a true and complete copy of the statements of assets and liabilities, profit and loss budget versus actual, and statements of cash receipts and disbursements of the Company as of September 30, 2002 and December 31, 2001 (collectively, the "Financial Statements").

(b) Except as set forth on Schedule 2.5, the Financial Statements fairly present the financial position of the Company as of the date thereof and the results of operations and changes in consolidated financial position of the Company for the periods then ended, in conformity with Generally Accepted Accounting Principles ("GAAP") (subject, in the case of the unaudited interim financial statements, to normal year-end adjustments and the fact that they do not contain all of the footnote disclosures required by GAAP), except as otherwise noted therein, and the accounting records underlying the Financial Statements accurately and fairly reflect in all material respects the transactions of the Company.

(c) The Company has no liabilities or obligations of a type which should be included in or reflected on the Financial Statements if prepared in accordance with GAAP, whether related to tax or non-tax matters, accrued or contingent, due or not yet due, liquidated or unliquidated, or otherwise, except as and to the extent disclosed or reflected in the Financial Statements. The Company will provide Compass with the unaudited statements of financial position of the Company as of the end of each month hereafter, prepared in accordance with GAAP. The Company has no off balance sheet liabilities associated with financial derivative products or potential liabilities associated with financial derivative products.

(d) The equity of the Company as determined on a modified cash basis as of the date of this Agreement is not less than \$(265,000).

SECTION 2.6 Absence of Certain Changes. Except as and to the extent set forth on Schedule 2.6, since September 30, 2002 (the "Balance Sheet Date") the Company has not:

- (a) made any amendment to its Articles of Incorporation or Bylaws or changed the character of its business in any material manner;
- (b) suffered any Material Adverse Effect (as defined in Section 9.13(b));
- (c) entered into any agreement, commitment or transaction except in the Ordinary Course of Business;
- (d) incurred, assumed or become subject to, whether directly or by way of any guarantee or otherwise, any obligations or liabilities (absolute, accrued, contingent or otherwise);
- (e) permitted or allowed any of its property or assets to be subject to any Encumbrance (other than statutory liens not yet delinquent);
- (f) except in the Ordinary Course of Business, canceled any debts, waived any claims or rights, or sold, transferred, or otherwise disposed of any of its properties or assets;
- (g) except in the Ordinary Course of Business granted any increase in compensation or paid or agreed to pay or accrue any bonus, percentage compensation, service award, severance payment or like benefit to or for the credit of any director, officer, employee or agent;
- (h) entered into any employment or consulting contract or other agreement with any director, officer or employee or adopted, amended or terminated any pension, employee welfare, retirement, stock purchase, stock option, stock appreciation rights, termination, severance, income protection, golden parachute, savings or profit-sharing plan (including trust agreements and insurance contracts embodying such plans), any deferred compensation, or collective bargaining agreement, any group insurance contract or any other incentive, welfare or employee benefit plan, program or agreement maintained by the Company for the directors, employees or former employees of the Company ("Employee Benefit Plan");
- (i) directly or indirectly declared, set aside or paid any dividend or made any distribution in respect to its capital stock or redeemed, purchased or otherwise acquired, or arranged for the redemption, purchase or acquisition of, any shares of its capital stock or other of its securities;
- (j) organized or acquired any capital stock or other equity securities or acquired any equity or ownership interest in any Person;
- (k) issued, reserved for issuance, granted, sold or authorized the issuance of any shares of its capital stock or subscriptions, options, warrants, calls, rights or commitments of any kind relating to the issuance or sale of or conversion into shares of its capital stock;
- (l) made any or acquiesced with any change in any accounting methods, principles or practices except changes required by changes in GAAP or regulatory requirements;

(m) experienced any material adverse change in relations with customers or clients of the Company;

(n) except as permitted hereunder, entered into any transaction, or entered into, modified or amended any contract or commitment, other than in the Ordinary Course of Business; or

(o) agreed, whether in writing or otherwise, to take any action the performance of which would change the representations contained in this Section 2.6 in the future so that any such representation would not be true in all material respects as of the Closing.

**SECTION 2.7 Company Indebtedness.** The Company has delivered to Compass true and complete copies of all loan documents ("Company Loan Documents") related to indebtedness of the Company (excluding trade payables, rent, commissions, and taxes) ("Company Indebtedness") and made available to Compass all material correspondence concerning the status of Company Indebtedness. Schedule 2.7 sets forth (a) a list of all Company Indebtedness and (b) a list of all indebtedness of any Person to the Company.

**SECTION 2.8 Litigation; Regulatory Actions.** There are no actions, suits, claims, investigations, reviews or other proceedings pending or, to the Knowledge of the Company, threatened against the Company or involving the Stock or any of its properties or assets, at law or in equity or before or by any foreign, federal, state, municipal, or other governmental court, department, commission, board, bureau, agency, or other instrumentality or Person or any board of arbitration or similar entity ("Proceeding"). The Company is not subject to a formal or informal agreement, memorandum of understanding, enforcement action with or any type of financial assistance by any regulatory authority having jurisdiction over it.

**SECTION 2.9 Tax Matters.** The Company has duly filed all tax returns that it was required to file (the "Filed Returns"). All such Filed Returns were correct and complete in all respects. The Company has paid, or has established adequate reserves for the payment of, all taxes (whether or not shown on any tax return). The Company currently is not the beneficiary of any extension of time within which to file any tax return. There are no liens for any taxes on any assets of the Company except for liens for taxes not yet due or for taxes being contested in good faith and for which adequate reserves have been established in accordance with GAAP. The Company has not entered into any tax sharing agreement or other agreement regarding the allocation of the tax liability of the Company. The Company has delivered to Compass prior to the date hereof true, correct and complete copies of each Filed Return relating to periods beginning on and after January 1, 1999 and each amended return filed for any period for which statutory periods of limitation have not expired. There are no pending questions raised in writing by the IRS or other taxing authority for taxes or assessments of the Company, nor are there any outstanding agreements or waivers extending the statutory period of limitation applicable to any tax assessment or deficiency against the Company for any period. The Company has withheld and paid over all taxes required to be so withheld and paid over in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party. Neither the Company nor any of its affiliates have obligated to make any payments nor is it a party to any agreement that under certain circumstances could obligate it to make any payments that will not be deductible under Section 280G of the Code. Neither the Company nor any of its

affiliates has, with regard to any assets held, acquired or to be acquired, filed a consent to the application of Section 341(f) of the Code. The Company has not been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code. The Company (i) has not been a member of an affiliated group filing a consolidated federal income tax return (other than a group the common parent of which was the Company) and (ii) has no liability for the taxes of any Person (other than the Company) under Reg. Section 1.1502-6 (or any similar provision of state, local, or foreign law), as a transferee or successor, by contract, or otherwise. The Company does not have any reason to believe that any conditions exist that might prevent or impede the Merger from qualifying as a reorganization within the meaning of Section 368(a) of the Code. The Company (and any predecessor of the Company) has been a validly electing S corporation within the meaning of Sections 1361 and 1362 of the Code at all times since January 1, 1999, and the Company has been an S corporation up to and including the day before the Closing Date. Schedule 2.9 sets forth the Company's Liability under Section 1374 of the Code if its assets were sold for their fair market value as of the Closing Date. The Company has not in the past ten years, (i) acquired assets from any corporation in a transaction in which the Company's tax basis for the acquired assets was determined, in whole or in part, by reference to the tax basis of the acquired assets (or any other property) in the hands of the transferor or (ii) acquired the stock of any corporation which is a qualified subchapter S subsidiary. For purposes of this Agreement, the term "tax" means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not. For purposes of this Agreement, the term "tax returns" shall mean any return, report, form or similar statement required to be filed with respect to any tax (including any attached schedules), including, without limitation, any information, return, claim for refund, amended return or declaration of estimated tax.

**SECTION 2.10 Employee Benefit Plans.** With respect to all employee benefit plans and programs in which employees of the Company participate the following are true and correct:

(a) Schedule 2.10(a) lists each "employee benefit plan" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")); all related trusts and other funding instruments and any other related employee benefit plans, programs, arrangements, fringe benefits and other employee benefit practices maintained by the Company or any entity which is a member of a controlled group or affiliated service group with the Company under ERISA Section 4001 or Section 414 of the Code (collectively, "ERISA Affiliates") or to which the Company or ERISA Affiliates contribute or are required to contribute ("Pension Benefit Plans"), and sets forth the amount of any liability of the Company or ERISA Affiliates for contributions more than thirty days past due with respect to each Pension Benefit Plan as of the date hereof and as of the end of any subsequent month ending prior to the Closing. No welfare benefit plan (as defined in Section 3(1) of ERISA) provides for continuing benefits or coverage for any participant, beneficiary or former employee after such participant's or former employee's termination of employment except as may be required by Section 4980B of the Code and Sections 601-608 of ERISA;

(b) All of the Pension Benefit Plans comply currently, in all material respects, and have complied in all material respects in the past, both as to form and operation, with the provisions of ERISA, the Code and with all other applicable laws, rules and regulations; all reports and disclosures that are required have been timely made and filed; and with respect to each Pension Benefit Plan that is intended to be tax-qualified, a favorable determination letter as to the qualification under the Code of each such Pension Benefit Plan and each material amendment thereto has been issued by the Internal Revenue Service (and nothing has occurred since the date of the last such determination letter which resulted in, or is likely to result in the revocation of such determination);

(c) Neither the Company nor, to the Knowledge of the Company, any plan fiduciary of any Pension Benefit Plan has engaged in any transaction in violation of Section 406 of ERISA or in any "prohibited transaction" as defined in Section 4975(c)(1) of the Code;

(d) Neither the Company nor any ERISA Affiliate is, or has been, a contributing sponsor or has maintained or participated in any Pension Benefit Plan subject to the provisions of Title IV of ERISA. In addition, neither the Company nor any ERISA Affiliate (i) is a party to a collective bargaining agreement, or (ii) has maintained or contributed to, or has participated in or agreed to participate in, a multiemployer plan (as defined in Section 3(37) of ERISA);

(e) True and complete copies of each Pension Benefit Plan, related trust agreements, annuity contracts (or any other funding instruments), summary plan descriptions, the most recent determination letter issued by the Internal Revenue Service with respect to each Pension Benefit Plan, and Annual Reports on Form 5500 Series filed for each Pension Benefit Plan for the three most recent plan years, have been furnished to Compass;

(f) All Pension Benefit Plans and related trust agreements (or any other funding instruments), are legally valid and binding and in full force and effect and there are no promised increases in benefits (whether expressed, implied, oral or written) under any of these plans nor any obligations, commitments or understandings to continue any of these plans, (whether expressed, implied, oral or written) except as required by Section 4980B of the Code and Sections 601-608 of ERISA;

(g) There are no claims pending with respect to, or under, any Pension Benefit Plan, other than routine claims for plan benefits, and there are no disputes or litigation pending or, to the Knowledge of the Company, threatened with respect to any such plans;

(h) No action has been taken, nor has there been a failure to take any action that would subject any Person to any liability for any income, excise or other tax or penalty in connection with any Pension Benefit Plan, other than for income taxes due with respect to benefits paid;

(i) Except as set forth on Schedule 2.10(i), the Company is not obligated to pay deferred compensation to any current or former employee, independent contractor, Shareholder, or any other Person based on the business, sales or revenue produced by such employee, independent contractor, Shareholder or Person; and

(j) Except as otherwise set forth in Schedule 2.10(j), neither the execution and delivery of this Agreement nor the consummation of the transaction contemplated hereby will (i) result in any payment to be made by the Company or any ERISA Affiliate (including, without limitation, severance, unemployment compensation, golden parachute (defined in Section 280G of the Code), or otherwise) becoming due to any employee, director or consultant, or (ii) increase any benefits otherwise payable under any Pension Benefit Plan.

SECTION 2.11 Employment Matters. The Company is not a party to any oral or written contracts or agreements granting benefits or rights to employees or any collective bargaining agreement or to any conciliation agreement with the Department of Labor, the Equal Employment Opportunity Commission or any federal, state or local agency which requires equal employment opportunities or affirmative action in employment. There are no unfair labor practice complaints pending against the Company or similar claims pending before any similar state, local or foreign agency. To the Knowledge of the Company, there is no activity or proceeding of any labor organization (or representative thereof) or employee group to organize any employees of the Company, nor of any strikes, slowdowns, work stoppages, lockouts, or threats thereof, by or with respect to any such employees.

SECTION 2.12 Leases, Contracts and Agreements. Schedule 2.12 sets forth an accurate and complete description of (i) all leases, subleases, licenses, contracts, instruments, and agreements to which the Company is a party or by which the Company is bound which obligate or may obligate the Company for an amount in excess of \$15,000 per lease, sublease, license, contract, instrument, or agreement over the entire term of any such agreement, (ii) any leases, subleases, licenses, contracts, instruments, or agreements with a current term of one year or longer, and (iii) each employment agreement and each other contract, agreement or commitment to which the Company is a party or is obligated or bound and/or to which any employee, consultant or contractor of the Company is bound which in any manner purports to (A) restrict the Company and/or such employer's, consultant's or contractor's freedom to engage in any line of business or to compete with, or solicit employees or customers of, any other Person, (B) assign to any other Person such employee's, consultant's or contractor's or the Company's right to any invention, improvement or discovery, or (C) keep any information confidential or secret (the "Contracts"). The Company has delivered to Compass true and correct copies of all Contracts. All of the Contracts are legal, valid and binding obligations of the parties to the Contracts enforceable in accordance with their terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to creditors' rights generally and to general equitable principles, and are in full force and effect. All rent and other payments by the Company under the Contracts are current, there are no existing defaults by the Company under the Contracts and no termination, condition or other event has occurred which (whether with or without notice, lapse of time or the happening or occurrence of any other event) would constitute a default. The Company has a good and valid leasehold interest in each parcel of real property leased by it free and clear of all Encumbrances. Schedule 2.12 sets forth a complete and accurate description of all termination fees and penalties for all Contracts and the amount of all termination fees and penalties for all Contracts in the event such Contracts are terminated as of November 30, 2002 by the Company.

SECTION 2.13 Related Company Transactions. There are no agreements, instruments, commitments, extensions of credit, tax sharing or allocation agreements or other contractual

agreements of any kind between or among the Company, whether on its own behalf or in its capacity as trustee or custodian for the funds of any employee benefit plan (as defined in ERISA), and any of its Affiliates.

SECTION 2.14 Compliance with Laws. The Company is not in default in respect to or is not in violation of (i) any judgment, order, writ, injunction or decree of any court or (ii) in any material respect, any statute, law, ordinance, rule, order or regulation of any governmental department, commission, board, bureau, agency or instrumentality, federal, state or local and the consummation of the transactions by the Company and the Shareholders contemplated by this Agreement will not constitute such a default or violation as to the Company.

SECTION 2.15 Insurance. The Company has in effect the insurance coverage (including fidelity bonds) described in Schedule 2.15 and has had similar insurance in force for the last 5 years. There have been no claims under such policies within the last 5 years and the Company is not aware of any facts which would form the basis of a claim under such policies. The Company has no reason to believe that the existing fidelity coverage would not be renewed by the Company's carrier on substantially the same terms. The Company has delivered to Compass true and accurate copies of the policies and declaration pages evidencing such insurance coverage.

SECTION 2.16 Patents, Trademarks and Copyrights. Except for the use of expirations and customer lists, the Company does not require the use of any material patent, patent application, invention, process, trademark (whether registered or unregistered), trademark application, trade name, service mark, copyright, or any material trade secret for the business or operations of the Company.

SECTION 2.17 Environmental Compliance. Except as set forth in Schedule 2.17:

(a) The Company and any Property owned or operated by it has been and is in compliance with all applicable Environmental Laws (as defined in Section 9.13(c)). There is no past or present event, condition or circumstance that could (1) interfere with the conduct of the business of the Company in the manner now conducted relating to its compliance with Environmental Laws, (2) constitute a violation of, or serve as the basis of liability pursuant to, any Environmental Law or (3) which could have a Material Adverse Effect upon the Company;

(b) The Company and its Properties have not been, and are not now subject to any actual or, to the Knowledge of the Company, any potential or threatened Proceeding pursuant to any Environmental Law and the Company has not received any notice (whether from any regulatory body or private Person) of any actual or alleged violation of, or liability pursuant to, any Environmental Law;

(c) There is no Property for which the Company is or was required to obtain any permit, license, or other authorization under RCRA, FWPCA, TSCA, CAA, or any state or local counterparts to any of the foregoing;

(d) The Company has not generated any Hazardous Substances for which it was required under an Environmental Law to execute any hazardous waste disposal manifest;



(e) There are no underground or above ground storage tanks on or under any Property nor any Hazardous Substances (except for asbestos containing material ("ACM")), at, in, on, under or emanating from any Property in any quantity or concentration exceeding any standard or limit established pursuant to any Environmental Law;

(f) There is no ACM present in any Property except non-friable ACM which can be managed in place in compliance with Environmental Laws without air monitoring, removal or encapsulation and which is managed under and in compliance with an operations and maintenance program;

(g) For purposes of this Section 2.17 "Property" includes any property (whether real or personal) which the Company currently or in the past has leased, operated or owned or managed in any manner. With respect to any Property formerly leased, operated, owned or managed by the Company, the representations of this Section 2.17 shall be construed to relate to conditions, events, facts or circumstances which existed, occurred or commenced prior to the latest date of any leasehold interest, operation, ownership or management of such Property by the Company.

SECTION 2.18 Title to Properties; Encumbrances. Except as set forth on Schedule 2.18, the Company has unencumbered, good, legal, and indefeasible title to all its properties and assets, real and personal, including, without limitation, all the properties and assets reflected in the Financial Statements and has good and legal title or good and valid leasehold rights to all assets that are necessary for it to conduct its business as it is currently being conducted. The Company owns all furniture, equipment, art and other property used to transact business presently located on its premises.

SECTION 2.19 Books and Records. The books of account, minute books, stock record books and other records of the Company, all of which have been made available to Compass, are complete and correct and have been maintained in accordance with sound business practices, including, but not limited to, the maintenance of an adequate system of internal controls. No meeting of shareholders or the board of directors has been held for which minutes have not been prepared and are not contained in such minute books.

SECTION 2.20 Advisory Business.

(a) The Company is (and all relevant times was) duly licensed to conduct an investment advisory and management business presently (and formerly) conducted by it under the Investment Advisers Act of 1940, as amended (the "Advisers Act"), and the laws of the jurisdictions set forth on Schedule 2.20 in the capacity and subject to the limitations set forth opposite each such jurisdiction so listed. The Company has (and at all relevant times had) all franchises, grants, authorizations, licenses, permits, consents, certificates, approvals and orders (the "Permits") of any governmental authority necessary to conduct its business in the manner and in the areas in which its business is (and has been) conducted and all such Permits are (and at all relevant times have been) valid and in full force and effect. The Company is not (and at all relevant times has not) engaged in any activity that would cause revocation or suspension of any such Permit and no action or Proceeding relating to the revocation or suspension of any such

Permit is (or was) pending, or to the Knowledge of the Company, threatened by any governmental authority.

(b) The Company has filed or otherwise provided all reports, including without limitation all Uniform Application for Investment Adviser Registrations ("Form ADVs") and all amendments thereto, data, other information and applications required to be filed with or otherwise provided to the federal and state securities regulatory authorities of its domiciliary jurisdiction and all other applicable governmental authorities, and all governmental authorizations in respect thereof as are necessary to conduct its business as presently conducted are (and at all relevant times have been) in full force and effect. All such reports, data, information and applications were prepared in all material respects in accordance with the requirements of applicable laws and regulations, including without limitation the Advisers Act and the regulations promulgated thereunder, and do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein in light of circumstances under which they were made, not misleading. There are no material pending disputes or controversies with, or, to the Knowledge of the Company, investigations undertaken by such regulatory authorities relating to the Company. The Company has made available to Compass complete and correct copies of all reports of examinations (whether financial, market conduct or other) issued by regulatory authorities with respect to the Company since December 31, 1997; no deficiencies material to the financial condition or operation of the Company are presently being asserted (or at any relevant time have been asserted) by any regulatory authority with respect to any reports or filings made by the Company since December 31, 1997; and the Company has made available to Compass copies of all written responses submitted by the Company from and after December 31, 1997 in respect of any report of examination (whether financial, market conduct or other) of the Company made by any insurance regulatory authority. The Company has made available to Compass copies of all files of the Company relating to correspondence with federal, state and foreign securities authorities during the past three (3) years.

(c) There is no license, permit or other governmental authorization that by its terms or applicable law expires, terminates or is otherwise rendered invalid upon the transfer of the Stock to a valid holder of such license, permit or authorization and is required in order for the business of the Company to continue to be conducted following the transfer of the Stock in the same manner as conducted previously.

(d) Each director, officer, agent or employee of the Company who is required to be registered as principal, representative, adviser or agent with the securities commission of any state or self regulatory organization is duly registered as such and such registration is in full force and effect and each such registered representative or principal has at least the minimum series license for the activities which such person performs.

(e) The Company has provided to Compass each Form ADV filed by the Company in the three year period prior to the date of this Agreement.

(f) The Company is in compliance in all material respects with the applicable requirements of ERISA with respect to the operation and provision of its services.

(g) The Company is not required to be registered as a broker or dealer, an investment company, commodity trading adviser, commodity pool operator, futures commission merchant, insurance agent, or transfer agent under any United States federal, state, local or foreign statutes, laws, rules, regulations or orders.

(h) Neither the Company nor any "associated person", as defined in the Advisers Act is ineligible pursuant to Section 203 of the Advisers Act to serve as an investment adviser or as an associated person to a registered investment adviser. The Company does not provide investment advisory, subadvisory, or management services to or through (i) any issuer or other person that is an investment company (within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations thereunder ("Investment Company Act")), (ii) any issuer or other person that would be an investment company (within the meaning of the Investment Company Act) but for the exemptions contained in Section 3(c)(1), Section 3(c)(7), the final clause of Section 3(c)(3), or the third or fourth clauses of Section 3(c)(11) of the Investment Company Act, or (iii) any issuer or other person that is or is required to be registered under the laws of the appropriate securities regulatory authority in the jurisdiction in which the issuer is domiciled (other than the United States or the states thereof), which is or holds itself out as engaged primarily in the business of investing, reinvesting, or trading in securities.

**SECTION 2.21 Account Administration.** All accounts represented by Investment Contracts ("Accounts") have been properly administered in all material respects in conformity with the terms of the applicable governing documents and with the governing law (including applicable standards of fiduciary conduct). All material information and records demonstrating the correctness of the foregoing representation are maintained by the Company in its normal files at the Company's premises. In connection with the performance of services related to the Accounts, the Company has not made any guarantee or assurance to any Person concerning a rate of return, marketability or quality of the assets managed by the Company. The Investment Contracts under which Seller is serving in an advisory capacity are in full force and effect and provide the Company with the requisite authority to act as an adviser. The Company does not have possession and does not act as a custodian for any assets managed by the Company. The Company is not required to be licensed as a bank or trust company and acts only in an advisory capacity.

**SECTION 2.22 Fees.** All portfolio management fees of the Company that are reflected on the Financial Statements or on the Company's accounting records as of the Closing Date represent or will represent valid obligations arising from services rendered in the Ordinary Course of Business. All fees being collected by the Company are due and payable to the Company, subject to the fact that portions of fees are paid in advance of services rendered and are earned over the calendar quarter.

**SECTION 2.23 Shareholder List.** Schedule 2.23 sets forth a list of the holders of Company Stock and the holders of any outstanding warrant, option, convertible debenture or other security entitling the holder thereof to acquire Company Stock as of the date of this Agreement containing the names, addresses and number of shares or such other securities held of record, which is accurate in all respects.

SECTION 2.24 Representations Not Misleading. No representation or warranty by the Shareholders in this Agreement, nor any exhibit or schedule furnished to Compass by the Shareholders or the Company under and pursuant to this Agreement, contains or will contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they were made, not misleading.

### **ARTICLE III. REPRESENTATIONS AND WARRANTIES OF COMPASS**

Compass hereby makes the representations and warranties set forth in this Article III to the Company and the Shareholders.

SECTION 3.1 Organization and Authority. Compass is a Delaware corporation duly incorporated, validly existing, and in good standing under the laws of the State of Delaware.

SECTION 3.2 Authority Relative to Agreement. Compass has full corporate power and authority and no further corporate proceedings on the part of Compass are necessary to execute and deliver this Agreement and to consummate the transactions contemplated hereby, all of which have been duly and validly authorized by Compass' Board of Directors. This Agreement has been duly executed and delivered by Compass and is a duly authorized, valid, legally binding and enforceable obligation of Compass, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to creditors' rights generally and general equitable principles. Except as set forth on Schedule 3.2, neither the execution, delivery nor performance of this Agreement in its entirety, nor the consummation of all the transactions contemplated hereby, will (i) violate (with or without the giving of notice or passage of time), any law, order, writ, judgment, injunction, award, decree, rule, statute, ordinance or regulation applicable to Compass, or (ii) be in conflict with, result in a breach or termination of any provision of, cause the acceleration of the maturity of any debt or obligation pursuant to, constitute a default (or give rise to any right of termination, cancellation or acceleration) under, or result in the creation of any Encumbrance upon any property or assets of Compass pursuant to, any terms, conditions or provisions of any note, license, instrument, indenture, mortgage, deed of trust or other agreement or understanding or any other restriction of any kind or character, to which Compass is a party or by which any of its assets or properties are bound.

SECTION 3.3 Financial Reports. Compass has previously furnished the Company a true and complete copy of (i) the 2001 Annual Report to Shareholders, which report (the "Compass 2001 Annual Report") includes, among other things, consolidated balance sheets of Compass and its Subsidiaries as of December 31, 2001 and 2000, the related consolidated statements of income, shareholders' equity and cash flows for the years ended December 31, 2001, 2000 and 1999 and (ii) Compass' quarterly report on Form 10-Q for the quarters ended March 31 and June 30, 2002 (the "Quarterly Reports") which reports include among other things unaudited balance sheets of Compass and its Subsidiaries as of March 31 and June 30, 2002 and 2001, respectively, and the related unaudited consolidated statements of income and cash flows for the six-month periods ending March 31 and June 30, 2002 and 2001. The financial statements contained in the Compass 2001 Annual Report and such Quarterly Reports have been prepared in conformity with GAAP applied on a basis consistent with prior periods. The consolidated balance sheets of

Compass and its subsidiaries as of December 31, 2001 and 2000 contained in the Compass 2001 Annual Report fairly present the consolidated financial condition of Compass and its Subsidiaries as of the dates thereof, and the related consolidated statements of income, shareholders' equity and cash flows of Compass and its Subsidiaries contained therein fairly present the results of operations and cash flows thereof for the fiscal years then ended. The unaudited consolidated financial statements of Compass and its Subsidiaries as of March 31 and June 30, 2002 and 2001, contained in Compass' Quarterly Reports, fairly present the financial condition, the results of operations and changes in cash flows thereof as of such dates and for the periods indicated. For the purposes of this Agreement, all financial statements referred to in this Section 3.3 shall be deemed to include any notes to such financial statements. Compass has made all filings required to be made in compliance with the Exchange Act. None of the information contained in the Compass 2001 Annual Report or Compass' Quarterly Reports is false or misleading with respect to any material fact, or omits to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

SECTION 3.4 Capitalization. The shares of Compass Common Stock to be issued pursuant to this Agreement, when so issued, will be duly and validly authorized and issued, fully paid and nonassessable, and not issued in violation of any preemptive rights. As of July 31, 2002, Compass had 128,779,958 shares of common stock, \$2.00 per share par value, issued and outstanding. None of the shares of Compass Common Stock to be issued pursuant to this Agreement will be subject to any lien, charge, encumbrance, claim, rights of others, mortgage, pledge or security interest, and none will be subject to any agreements or understandings among any persons with respect to the voting or transfer of such shares of Compass Common Stock except as contemplated hereby.

SECTION 3.5 Registration of Compass Common Stock. The Compass Common Stock to be issued to the Shareholders of the Company upon consummation of the Merger is registered under the Securities Act of 1933, as amended, pursuant to a Registration Statement on Form S-4 and will be transferable in accordance with Rule 145 of the Securities Act.

SECTION 3.6 Representations Not Misleading. No representation or warranty by Compass in this Agreement, nor exhibits furnished to the Company or the Shareholders under and pursuant to this Agreement, contains or will contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they were made, not misleading.

#### **ARTICLE IV. COVENANTS**

SECTION 4.1 Affirmative Covenants of the Company. For so long as this Agreement is in effect, the Company, from the date of this Agreement to the Closing, except as specifically contemplated by this Agreement shall:

- (a) operate and conduct its business in the Ordinary Course of Business;

(b) preserve intact its corporate existence, business organization, assets, licenses, permits, authorizations, and business opportunities;

(c) comply with all material contractual obligations applicable to the Company's operations;

(d) maintain all its properties in good repair, order and condition, reasonable wear and tear excepted, and maintain the insurance coverages described in Schedule 2.15 or obtain comparable insurance coverages from reputable insurers which, in respect to amounts, types and risks insured, are adequate for the business conducted by the Company and consistent with the existing insurance coverages;

(e) in good faith and in a timely manner (i) cooperate with Compass in satisfying the conditions in this Agreement, (ii) obtain as promptly as possible all consents, approvals, authorizations and rulings, whether regulatory, corporate or otherwise, as are necessary for Compass and the Company to carry out and consummate the transactions contemplated by this Agreement, including all consents, approvals and authorizations required by any agreement or understanding existing at the Closing between the Company and any governmental agency or other Person, (iii) furnish information not previously provided to Compass required for inclusion in any filings or applications that may be necessary in that regard, and (iv) perform all acts and execute and deliver all documents reasonably necessary to cause the transactions contemplated by this Agreement to be consummated at the earliest possible date;

(f) timely file all financial statements and other reports required to be filed by the Company and to the extent permitted by applicable law, promptly thereafter deliver to Compass copies of all financial statements and other reports required to be so filed;

(g) comply in all material respects with all applicable laws and regulations including, without limitation, applicable securities laws, domestic and foreign;

(h) promptly notify Compass upon obtaining Knowledge of any default, event of default or condition with which the passage of time or giving of notice would constitute a default or an event of default under the Company Loan Documents and promptly notify and provide copies to Compass of any material written communications concerning the Company Loan Documents.

(i) between the date of this Agreement and Closing, promptly give written notice to Compass upon obtaining Knowledge of any event or fact that would cause any of the representations or warranties of the Company contained in or referred to in this Agreement to be untrue or misleading in any material respect;

(j) promptly notify Compass of any material change or inaccuracies in any data previously given or made available to Compass pursuant to this Agreement; and

(k) promptly advise Compass in writing of the loss by the Company of any material customer, solicitor, the loss of a significant business line, the termination of the employment of any employee of the Company whose rate of current annual compensation is \$40,000 or more, or any other Material Adverse Effect.

(l) provide access, to the extent that the Company has the right to provide access, to any or all Property (as defined in Section 2.17) so as to enable Compass to physically inspect any structure or components of any structure on such Property, including without limitation surface and subsurface testing and analyses.

SECTION 4.2 Negative Covenants of the Company. Except with the prior written consent of Compass or as otherwise specifically permitted or required by this Agreement, the Company will not from the date of this Agreement to the Closing:

- (a) make any amendment to its Articles of Incorporation or Bylaws;
- (b) make any change in the methods used by the Company in allocating and charging costs, except as may be required by applicable law, regulation or GAAP and after notice to Compass;
- (c) make any change in the number of shares of the capital stock issued and outstanding, or issue, reserve for issuance, grant, sell or authorize the issuance of any shares of the Company's capital stock or subscriptions, options, warrants, calls, rights or commitments of any kind relating to the issuance or sale of or conversion into shares of the Company's capital stock;
- (d) contract to create any obligation or liability (absolute, accrued, contingent or otherwise), except in the Ordinary Course of Business;
- (e) contract to create any Encumbrances (other than statutory liens for which the obligations secured thereby shall not become delinquent);
- (f) cancel any debts, waive any claims or rights of value or sell, transfer, or otherwise dispose of any of the Company's material properties or assets, except in the Ordinary Course of Business;
- (g) dispose of or permit to lapse any rights to the use of any material trademark, service mark, trade name or copyright, or dispose of or disclose to any Person other than the Company's employees any material trade secret not theretofore a matter of public knowledge;
- (h) except in the Ordinary Course of Business grant any increase in compensation or directors' fees, or pay or agree to pay or accrue any bonus or like benefit to or for the credit of any director, officer, employee or other person
- (i) enter into any employment, consulting or severance agreement or other agreement with any director, officer or employee, or adopt, amend or terminate any Employee Benefit Plan or change or modify the period of vesting or retirement age for any participant of such a plan;
- (j) acquire the capital stock or other equity securities or interest of any Person or acquire or establish any Subsidiary;
- (k) make any capital expenditure or series of capital expenditures in excess of \$5,000 in the aggregate;

(l) make any income tax or franchise tax election, including without limitation, electing to discontinue as a Subchapter S corporation, or settle or compromise any federal, state, local or foreign income tax or franchise tax liability, or, except in the Ordinary Course of Business, make any other tax election or settle or compromise any other federal, state, local or foreign tax liability;

(m) except for negotiations and discussions between the parties hereto relating to the transactions contemplated by this Agreement or as otherwise permitted hereunder, enter into any transaction, or enter into, modify or amend any contract or commitment other than in the Ordinary Course of Business;

(n) except as contemplated by this Agreement, adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization, or other reorganization or business combination of the Company;

(o) make any investments except in the Ordinary Course of Business;

(p) sell or contract to sell or sublease or contract to sublease any part of the Company's premises;

(q) change any fiscal year or the length thereof;

(r) acquire any fee or leasehold interest in real estate or modify, amend, restate or extend any real estate lease of the Company; or

(s) enter into any agreement, understanding or commitment, written or oral, with any other Person which is in any manner inconsistent with the obligations of the Shareholders or the Company and its directors under this Agreement or any related written agreement. Nothing contained in this Section 4.2 or in Section 4.1 is intended to influence the general management or overall operations of the Company in a manner not permitted by applicable law and the provisions thereof shall automatically be reduced in compliance therewith.

## **ARTICLE V. ADDITIONAL AGREEMENTS**

**SECTION 5.1 Access To, and Information Concerning, Properties and Records.** During the pendency of the transactions contemplated hereby, the Company shall, to the extent permitted by law, give Compass, its legal counsel, accountants and other representatives full access, during normal business hours, throughout the period prior to the Closing, to all of the Company's properties, books, contracts, commitments and records, permit Compass to make such inspections (including without limitation physical inspection of the surface and subsurface, of any property thereof and any structure thereon) as they may require and furnish to Compass during such period all such information concerning the Company and its affairs as Compass may reasonably request. All information disclosed by the Company to Compass which is confidential and is so identified to Compass as confidential shall be held confidential by Compass and its representatives, except to the extent counsel to Compass has advised the Company such information is required to or should be disclosed in filings with regulatory agencies or governmental authorities. In the event this Agreement is terminated pursuant to the provisions of



Article VII, upon the written request of the Company, Compass agrees to destroy or return to the Company all copies of such confidential information.

SECTION 5.2 Public Announcement. Subject to written advice of counsel with respect to legal requirements relating to public disclosure of matters related to the subject matter of this Agreement, the timing and content of any announcements, press releases or other public statements concerning the proposal contained herein will occur upon, and be determined by, the mutual consent of the Company and Compass.

SECTION 5.3 Bonus Pool. In the first calendar year following the earlier to occur of (i) the conclusion of the Earn-Out Period or (ii) the year in which the Earn-Out Shares are fully earned, senior managers of the Company, as selected jointly by the chief executive officer of the Company at such time and the chief executive officer of the Compass Bank asset management group, will be eligible to participate in executive incentive plans. Such plans will be designed so that levels of incentive pay will be earned based upon the individual executive and the Company each achieving budgeted levels of production, investment performance, revenues, expenses, profitability and other such measures deemed important in determining the overall business performance of the executive and the Company. Maximum incentive levels as a percentage of base salary for each participating executive will be set at levels determined by the chief executive officer of the Compass Bank asset management group to be competitive with employees of the Compass Bank asset management group with similar levels of responsibility and with the general market for professionals within the industry served by the Company with similar levels of responsibility.

SECTION 5.4 Certain Tax Matters.

(a) Tax Periods ending on or before the Closing Date. The Shareholders shall have the Company file its final S corporation return that will cover the period beginning January 1, 2002 and ending on the Closing Date. To the extent permitted or required by applicable law, the Shareholders shall include any income, gain, loss, deduction or other tax items for such periods on their respective individual tax returns in a manner consistent with the Schedule K-1s prepared by the Company for such period. The final S corporation return will be filed using consistent elections and accounting methods and no tax elections or accounting changes will be made which may adversely affect any tax period during which an S election was in effect.

(b) Cooperation on Tax Matters. Compass and the Shareholders agree to give prompt notice to each other of any proposed adjustment to taxes for any Pre-Closing Taxable Period (as defined in Section 9.13(m)). Compass and the Shareholders shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the filing of tax returns pursuant to this Section 5.4 and any audit, litigation, or other proceeding with respect to taxes. Such cooperation shall include the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Shareholders agree to control the conduct of any audit, litigation or other proceeding for any Pre-Closing Taxable Period of the Company and to keep Compass apprised of all material developments with respect to any such audit, litigation or other proceeding. The Shareholders further agree to cause the

Company (i) to retain all books and records with respect to tax matters relevant to the Company relating to any Pre-Closing Taxable Period until the expiration of the statute of limitations (and, to the extent notified by Compass or the Shareholders, any extensions thereof) of the respective Pre-Closing Taxable Periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests, the Company or the Shareholders, as the case may be, shall allow the other party to take possession of such books and records. Compass and the Shareholders further agree, upon request, to use their best efforts to obtain any certificate or other document from any governmental authority or any other Person as may be necessary to mitigate, reduce or eliminate any tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby).

(c) Tax Sharing Agreements. All tax sharing agreements or similar agreements with respect to or involving the Company shall be terminated as of the Closing Date, and, after the Closing Date, the Company shall not be bound thereby or have any liability thereunder, except that the Shareholders shall be entitled to tax distributions for any Company income that is taxable to them up to the Closing Date under Section 1366 of the Code (other than any income or gain that may be triggered (i) from the transactions contemplated by this Agreement or (ii) under Section 1374 of the Code.

(d) Certain Taxes. All transfer, documentary, sales, use, stamp, registration and other such taxes and fees (including any penalties and interest) incurred in connection with this Agreement (including any corporate-level gains tax triggered by the transactions contemplated by this Agreement), shall be paid by the Shareholders when due, and the Shareholders will, at their own expense, file all necessary tax returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other taxes and fees, and, if required by applicable law, Compass will, and will cause its affiliates to, join in the execution of any such tax returns and other documentation.

SECTION 5.5 Notice of Assignment; Amendment of Form ADV. No later than the twentieth (20<sup>th</sup>) day prior to the Closing Date, the Company shall provide notice of assignment in form and substance mutually satisfactory to Compass and the Company to each Person who is a party to an Investment Contract, requesting consent to the assignment of such Person's contract pursuant to the terms of the transaction contemplated by this Agreement and shall use its commercially reasonable efforts to obtain such Person's consent. The Company shall file an amendment to its Form ADV within the time required by the Adviser's Act and the regulations promulgated thereunder.

SECTION 5.6 Debt Repayment. At Closing, Compass agrees to pay or cause to be paid, subject to an aggregate cap of \$300,000, the following debt as shown on the balance sheet of the Company: (i) SouthTrust Bank line of credit; (ii) Florida Bank line of Credit; (iii) term note payable to SouthTrust Bank; (iv) term note payable to Florida Bank; and (v) debt payable to David Albanese and the Company. The Company agrees to cause the repayment of the remainder of all such debts. The Company and the Shareholders agree that the foregoing indebtedness, together with interest accruing thereon at the Compass Bank prime rate for the Region, shall be repaid to Compass from the earnings of the Company as they become available

and the interest expense shall be an adjustment to the net earnings of the Company for purposes of calculating the Earn-Out Shares.

SECTION 5.7 Exclusivity. During the term of this Agreement, the Company and the Shareholders shall not solicit, entertain or negotiate with respect to any offer to acquire the Company from any other Person. During the term of this Agreement, the Company and the Shareholders shall not provide information to any other Person in connection with a possible acquisition of the Company. During the term of this Agreement, immediately upon receipt of any such unsolicited offer, the Company will communicate to Compass the terms of any proposal or request for information and the identity of parties involved.

## **ARTICLE VI. CONDITIONS TO CONSUMMATION OF THE MERGER**

SECTION 6.1 Conditions to Each Party's Obligations. The respective obligations of each party to consummate the transactions contemplated hereby are subject to the satisfaction or waiver of the following conditions prior to the Closing Date:

(a) the receipt of regulatory approvals and the expiration or early termination of all waiting periods, which approvals shall not have imposed any condition or requirement which in the judgment of Compass would adversely impact the economic or business benefits of the transactions contemplated by this Agreement or otherwise would in the judgment of Compass be so burdensome as to render inadvisable the consummation of the transactions contemplated by this Agreement; and

(b) the Closing will not violate any injunction, order or decree of any court or governmental body having competent jurisdiction.

### SECTION 6.2 Conditions to the Obligations of Compass.

The obligations of Compass to consummate the transactions contemplated hereby are subject to the satisfaction or waiver of the following conditions prior to the Closing Date:

(a) all representations and warranties of the Company shall be true and correct in all material respects as of the date hereof and at and as of the Closing, with the same force and effect as though made on and as of the Closing;

(b) the Company shall have performed in all material respects all obligations and agreements and in all material respects complied with all covenants and conditions, contained in this Agreement to be performed or complied with by it prior to the Closing Date;

(c) there shall not have occurred a Material Adverse Effect with respect to the Company;

(d) Compass shall have received the Non-Competition Agreements, the Employment Agreements, the Consents and the Opinion;

(e) there shall be no Company Indebtedness except for the amount to be paid by Compass pursuant to the provisions of Section 5.6 hereof;

(f) the Company shall have caused the Company to have accrued or paid prior to the Closing Date all professional fees relating to the transactions contemplated by this Agreement;

(g) the Company shall have received consents, in form and substance satisfactory to Compass, to the assignment of the Investment Contracts which consents represent at least 50% of all of the assets under management by the Company as of the date of this Agreement, which such 50% of all assets under management shall have been derived from the 70 largest customers of the Company;

(h) the equity of the Company shall not be less than \$(265,000);

(i) the Company shall have purchased tail coverage or shall have confirmed the continuation of the Company's current errors and omissions insurance policies after the Effective Time;

(j) David T. Albanese shall have divested his interest in, and shall have resigned all positions with, Financial Planning Partners, LLC;

(k) the Company shall have received comfort letters satisfactory to Compass from Financial Planning Partners, LLC and Richard D. Brock as to the continuation of the Solicitor Agreements between such entities and the Company;

(l) the Company shall have terminated its profit sharing plan;

(m) the Deferred Compensation Agreements dated August 15, 2001 between the Company and each of the Shareholders shall have been terminated without cost to the Company;

(n) the Company shall have assets under management as of the Closing Date equal to or in excess of \$225,000,000;

(o) the Shareholders Agreement dated August 15, 2001 among the Company, the Shareholders and Albert J. Toole, III shall have been terminated;

(p) Compass shall have received an opinion of counsel satisfactory to it on the basis of certain facts, representations, and opinions set forth in such opinion to the effect that the Merger will qualify as a reorganization under Section 368(a) of the Code. In rendering such opinion, such counsel may require and rely upon and may incorporate by reference representations and covenants, including those contained in certificates of officers and/or directors of Compass, Merger Sub, the Company and others; and

(q) Compass shall have received certificates dated the Closing Date executed by the Company certifying in such reasonable detail as Compass may reasonably request, to the effect described in Sections 6.2(a), (b), (c), (e), (f) and (h).

SECTION 6.3 Conditions to the Obligations of the Company. The obligations of the Company to effect the transactions contemplated hereby are subject to the satisfaction or waiver of the following conditions prior to the Closing Date:

(a) all representations and warranties of Compass shall be true and correct in all material respects as of the date hereof and at and as of the Closing, with the same force and effect as though made on and as of the Closing;

(b) Compass shall have performed in all material respects all obligations and agreements and in all material respects complied with all covenants and conditions contained in this Agreement to be performed or complied with by it prior to the Closing Date; and

(c) the Company shall have received a certificate dated the Closing Date, executed by an appropriate officer of Compass certifying, in such detail as the Company may reasonably request, to the effect described in Sections 6.3(a) and (b).

#### **ARTICLE VII. TERMINATION; AMENDMENT; WAIVER**

SECTION 7.1 Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date:

(a) by mutual written consent duly authorized by the Board of Directors of Compass and the Company;

(b) by Compass

(i) if Compass learns or becomes aware of a state of facts or breach or inaccuracy of any representation or warranty of the Company contained in Article II which constitutes a Material Adverse Effect;

(ii) the factual substance of any warranties set forth in Section 2.17 is not true and accurate irrespective of the Knowledge or lack of Knowledge of the Company which constitutes a Material Adverse Effect; or

(iii) if any of the conditions to Closing contained in Section 6.1 or 6.2 are not satisfied or waived by writing by Compass.

(c) by the Company if the conditions to Closing contained in Section 6.1 or 6.3 are not satisfied or waived in writing by the Company;

(d) by Compass or the Company if the Closing Date shall not have occurred on or before the expiration of thirty calendar days from the date of this Agreement or such later date agreed to in writing by Compass and the Company; or

(e) by Compass or the Company if any court of competent jurisdiction in the United States or other United States (federal or state) governmental body shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the

transactions and such order, decree, ruling or other action shall have been final and nonappealable.

SECTION 7.2 Effect of Termination. In the event of the termination and abandonment of this Agreement pursuant to Section 7.1 hereof, this Agreement shall forthwith become void and have no effect, without any liability on the part of any party or its directors, officers or shareholders, other than the provisions of Sections 7.2, 9.1 and 9.8. Nothing contained in this Section 7.2 shall relieve any party from liability for any breach of this Agreement.

SECTION 7.3 Extension; Waiver. At any time prior to the Closing Date, the parties may (i) extend the time for the performance of any of the obligations or other acts of the other parties hereto, (ii) waive any inaccuracies in the representations and warranties contained herein or in any document, certificate or writing delivered pursuant hereto, or (iii) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of any party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

## **ARTICLE VIII. SURVIVAL; INDEMNIFICATION**

SECTION 8.1 Survival of Representations and Warranties. All of the representations and warranties contained in this Agreement shall survive until and including February 28, 2007. The covenants and other agreements contained herein shall survive in accordance with their respective terms.

SECTION 8.2 Indemnification by the Shareholders. The Shareholders, severally and not jointly, unconditionally, absolutely and irrevocably agree to and shall defend, indemnify and hold harmless Compass and its Subsidiaries, shareholders, affiliates, officers, directors, employees, counsel, agents, contractors, successors and assigns (collectively referred to as "Compass' Indemnified Persons"), from and against, and shall reimburse Compass' Indemnified Persons for, each and every Loss, including, without limitation, those Losses arising out of the strict liability of any party, including Compass' Indemnified Persons, paid, imposed on or incurred by Compass' Indemnified Persons, directly or indirectly, relating to, resulting from or arising out of, or any allegation by any third party of: (a) any inaccuracy in any representation or warranty of the Company under this Agreement, the schedules hereto or any agreement, certificate or other document attached as an exhibit hereto which is delivered or to be delivered by the Company pursuant hereto in any respect, whether or not Compass' Indemnified Persons relied thereon or had Knowledge thereof, and determined without regard to any materiality or knowledge qualifications contained in or otherwise applicable to such representation or warranty, or any breach or nonfulfillment of any covenant, agreement or other obligation of the Company under this Agreement or any agreement or document delivered pursuant hereto; (b) any undisclosed liabilities, even if not required to be disclosed on a balance sheet in accordance with GAAP; (c) the business of the Company or the occupancy, condition, management, operation or use of its assets on or prior to the Closing Date; or (d) any taxes the Company or any Shareholder may owe or be deemed to owe for Pre-Closing Taxable Periods, including, without limitation,

taxes made or brought against the Shareholders or the Company by reason of the agreements or transactions contemplated hereby.

SECTION 8.3 Indemnification by Compass. Compass unconditionally, absolutely and irrevocably agrees to and shall defend, indemnify and hold harmless the Shareholders and their Affiliates, counsel, agents, assigns, heirs and legal and personal representatives (the Shareholders and such persons are collectively referred to as the "Shareholders' Indemnified Persons," it being acknowledged by the parties that the Company shall not be Shareholders' Indemnified Persons) from and against, and shall reimburse the Shareholders' Indemnified Persons for, each and every Loss, including, without limitation, those Losses arising out of the strict liability of any party, including the Shareholders' Indemnified Persons, paid, imposed on or incurred by the Shareholders' Indemnified Persons, directly or indirectly, relating to, resulting from or arising out of (a) any inaccuracy in any representation or warranty of Compass under this Agreement or any agreement, certificate or other document attached as an exhibit hereto which is delivered or to be delivered by Compass pursuant hereto in any respect, whether or not the Shareholders' Indemnified Persons relied thereon or had Knowledge thereof, and determined without regard to any materiality or knowledge qualifications contained in or otherwise applicable to such representation or warranty, (b) any breach or nonfulfillment of any covenant, agreement or other obligation of Compass under this Agreement or any agreement or document delivered pursuant hereto, or (c) the business of the Company, or the occupancy, condition, management, operation or use of its assets after the Closing Date, except to the extent that any such Loss, relates to periods on or prior to the Closing Date.

#### SECTION 8.4 Limitations.

(a) An Indemnifying Person shall have no defense, indemnification, hold harmless and other obligations pursuant to this Article ("Indemnity Obligations") with respect to (i) any inaccuracy in any representation or warranty of the Indemnifying Person under this Agreement or any agreement, certificate or other document delivered or to be delivered by the Indemnifying Person pursuant hereto or (ii) any breach or nonfulfillment of any covenant, agreement or other obligation of the Indemnifying Person under this Agreement or any agreement or document delivered pursuant hereto, which covenant, agreement or other obligation was to be performed on or before the Closing Date (the "Limited Indemnity Matters"), unless notice of a claim for indemnity, or notice of facts as to which an indemnifiable Loss is expected to be incurred, shall have been on or before February 28, 2007; *provided, however*, that Compass may give notice of and may make a claim relating to (A) the payment of federal or state taxes, (B) any environmental claim or the violation of any requirements of environmental law, (C) compliance with or obligations under ERISA, (D) any undisclosed liabilities, (E) any errors or omissions, whether or not insured, with respect to the advisory operations of the Company on the part of the Company or any of its officers, directors, employees, agents or representatives, (F) any fines or penalties resulting from, relating to or arising out of, in whole or in part, the actions or omissions of the Company on or prior to the Closing Date and incurred in connection with any audits, reviews or market conduct reviews conducted by or on behalf of any securities regulatory agency or (G) the business of the Company or the occupancy, condition, management, operation or use of its assets on or prior to the Closing Date, at any time prior to ninety (90) days after the expiration of the appropriate statute of limitation, if any, with respect thereto, as the same may be tolled or extended from time to time by Compass or any other Person, and except that Compass

may give notice of and may make a claim relating to the outstanding capital stock of the Company or the ownership thereof at any time.

(b) No party shall have any Indemnity Obligations with respect to Losses until the aggregate amount of such Losses exceeds \$25,000 (the "Loss Threshold"). Upon reaching the Loss Threshold, the party shall be liable for all amounts up to and in excess of the Loss Threshold.

(c) Each Shareholder's indemnity obligation with respect to any Losses shall be limited to 133% of each such Shareholder's ownership percentage in the Company set forth opposite such Shareholder's name on Exhibit B attached hereto; provided, however, that the Shareholders' aggregate indemnity obligation shall not exceed the total amount of such Losses, plus any interest in respect of such Losses pursuant to Section 8.8(b) hereof.

(d) In the event Compass does not renew the Company's current errors and omissions insurance policies ("Current Policy") or the level of coverage under any successor policy constitutes a reduction from the Company's Current Policy, the Shareholders shall not have an Indemnity Obligation for the amount which would have been covered under the Current Policy, but which is not covered under the successor policy. Notwithstanding the foregoing, this Section 8.4(d) shall not have applicability unless the Company's Current Policy is capable of being renewed by the Company with its current insurance carriers at market rates.

SECTION 8.5 Notice of Matters Not Involving Third Parties. With respect to matters not involving Proceedings brought or asserted by third parties, within ten (10) days after notification from an indemnified party or any successor thereto (the "Indemnified Person") supported by reasonable documentation setting forth the nature of the circumstances entitling the Indemnified Person to indemnity under this Article from an indemnifying person (the "Indemnifying Person"), the Indemnifying Person, at no cost or expense to the Indemnified Person, shall diligently commence resolution of such matters in a manner reasonably acceptable to the Indemnified Person and shall diligently and timely prosecute such resolution to completion. If the Indemnifying Person, within ten (10) days after notice, fails to diligently commence resolution of such matters in a manner reasonably acceptable to the Indemnified Person, the Indemnified Person shall have the right to undertake the resolution of such matters at the sole expense of the Indemnifying Person, subject to the right of the Indemnifying Person to assume the defense of the Proceeding with counsel reasonably satisfactory to the Indemnifying Person at any time prior to the settlement, compromise or final determination thereof. With respect to those claims that may be satisfied by payment of a liquidated sum of money, including, without limitation, claims for reimbursement of expenses incurred in connection with any circumstances entitling the Indemnified Person to indemnity hereunder, the Indemnifying Person shall pay the full amount so claimed to the extent supported by reasonable documentation within fifteen (15) days of such resolution. If the Indemnifying Person disputes its Liability in connection with such claim, it shall pay any undisputed part of such Liability, and the Indemnified Person and the Indemnifying Person shall have thirty (30) days to resolve any remaining dispute. If litigation or any other Proceeding is commenced between the Indemnifying Person and any Indemnifying Person, the prevailing party in such litigation or other Proceeding shall be entitled to recover all reasonable costs and expenses incurred in connection with such litigation or other Proceeding, including, without limitation, attorneys'



fees. If litigation or any other Proceeding is commenced or threatened by any third party for which the Indemnified Person is entitled to indemnification under this Section 8.5, the provisions of Section 8.6 shall control.

**SECTION 8.6 Notice and Defense of Third-Party Indemnity Claims.** If any Proceeding shall be brought or asserted under this Article against an Indemnified Person in respect of which indemnity may be sought under this Article from an Indemnifying Person, the Indemnified Person shall give prompt written notice of such Proceeding to the Indemnifying Person who shall assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Person and the payment of all expenses; provided, that any delay or failure so to notify the Indemnifying Person shall relieve the Indemnifying Person of its obligations hereunder only to the extent, if at all, that it is prejudiced by reason of such delay or failure. In no event shall any Indemnified Person be required to make any expenditure or bring any cause of action to enforce the Indemnifying Person's obligations and liability under and pursuant to the indemnifications set forth in this Article. In addition, actual or threatened action by a governmental authority or other Person is not a condition or prerequisite to the Indemnifying Person's obligations under this Article. The Indemnified Person shall have the right to employ separate counsel in any of the foregoing Proceedings and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the Indemnified Person unless the Indemnified Person shall reasonably determine that there exist actual or potential conflicts of interest which make representation by the same counsel inappropriate. The Indemnified Person's right to participate in the defense or response to any Proceeding shall not be deemed to limit or otherwise modify its obligations under this Article. In the event that the Indemnifying Person, within five (5) days after notice of any such Proceeding, fails to assume the defense thereof, the Indemnified Person shall have the right to undertake the defense, compromise or settlement of such Proceeding for the account of the Indemnifying Person, subject to the right of the Indemnifying Person to assume the defense of such Proceeding with counsel reasonably satisfactory to the Indemnified Person at any time prior to the settlement, compromise or final determination thereof. Anything in this Article to the contrary notwithstanding, the Indemnifying Person shall not, without the Indemnified Person's prior written consent, settle or compromise any Proceeding or consent to the entry of any judgment with respect to any Proceeding for anything other than money damages paid by the Indemnifying Person. The Indemnifying Person may, without the Indemnified Person's prior written consent, settle or compromise any such Proceeding or consent to entry of any judgment with respect to any such Proceeding that requires solely the payment of money damages by the Indemnifying Person and that includes as an unconditional term thereof the release by the claimant or the plaintiff of the Indemnified Person from all liability in respect of such Proceeding. As a condition to asserting any rights under this Article, each of Compass' Indemnified Persons must appoint Compass as its sole agent for all matters relating to any claim under this Article. Each Shareholder shall receive separate notice from Compass for matters relating to any claim by Compass pursuant to Section 8.2 at the address set forth below each Shareholder's name on Exhibit B hereto.

**SECTION 8.7 Determination of Losses.** For purposes of this Article, in computing any Loss paid, imposed on or incurred by a Compass' Indemnified Person or Shareholders' Indemnified Person, the amount of each such Loss shall be deemed to be an amount net of (a) any tax benefit or insurance proceeds realized with respect thereto by Compass' Indemnified Person or Shareholders' Indemnified Person and (b) any indemnity or contribution paid by any

third party to Compass' Indemnified Person or Shareholders' Indemnified Person with respect thereto.

**SECTION 8.8 Right of Set-off; Payment; Interest.**

(a) Upon written notice by the Shareholders to Compass or by Compass to the Shareholders, as applicable, specifying in reasonable detail its justification therefor, the Shareholders and Compass each may set off the amount of any Loss for which indemnity may be sought under this Article against amounts otherwise payable to the other party under this Agreement, including, without limitation, the Additional Merger Consideration allocable to the Shareholders. Neither the exercise of nor the failure to exercise such right of set-off or to give a claim notice shall constitute an election of remedies nor limit Compass or the Shareholders in any manner in the enforcement of any other remedies that may be available to it.

(b) The Indemnifying Party shall make any payment required to be made under this Article in cash and on demand. Any Losses or other payments required to be paid by an Indemnifying Party under this Article which are not paid within five (5) business days of receipt by the Indemnifying Party of the Indemnified Party's demand therefor shall thereafter be deemed delinquent, and the Indemnifying Party shall pay to the Indemnified Party immediately upon demand interest at the Default Rate from the date such payment becomes delinquent to the date of payment of such delinquent sums.

**SECTION 8.9 Inconsistent Provisions.** The provisions of this Article shall govern and control over any inconsistent provisions of this Agreement, including any exculpatory or non-recourse provisions.

**SECTION 8.10 Subrogation to Indemnity Rights.** If any Shareholder fails to perform its obligations under this Article, Compass shall be subrogated to any rights the Shareholders may have under any rights of contribution or indemnity from any former shareholders of the Company relating to the matters covered by this Article.

**SECTION 8.11 Waiver.** The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or obligation will not affect the right to indemnification in accordance with the provisions of this Article V.

**ARTICLE IX.  
MISCELLANEOUS**

**SECTION 9.1 Expenses.** All costs and expenses incurred in connection with the transactions contemplated by this Agreement, including without limitation, attorneys' fees, accountants' fees, other professional fees and costs related to expenses of officers and directors of the Company, shall be paid by the party incurring such costs and expenses. Each party hereto hereby agrees to and shall indemnify the other parties hereto against any liability arising from any such fee or payment incurred by such party.

**SECTION 9.2 Brokers and Finders.** All negotiations on behalf of Compass, the Company, and the Shareholders relating to this Agreement and the transactions contemplated by

this Agreement have been carried on by the parties hereto and their respective agents directly without the intervention of any other Person in such manner as to give rise to any claim against Compass, the Company, or the Shareholders for financial advisory fees, brokerage or commission fees, finder's fees or other like payment in connection with the consummation of the transactions contemplated hereby.

SECTION 9.3 Entire Agreement; Amendment; Assignment. This Agreement (a) constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, among the parties or any of them with respect to the subject matter hereof, and (b) shall not be assigned by the Company or the Shareholders, by operation of law (other than by devise and descent) or otherwise. This Agreement may not be amended except by an instrument in writing signed on behalf of all the parties.

SECTION 9.4 Further Assurances. From time to time as and when requested by Compass or its successors or assigns, the Company and the Shareholders shall, and the Company shall cause the officers and directors of the Company to, execute and deliver such further agreements, documents, deeds, certificates and other instruments and shall take or cause to be taken such other actions, including those as shall be necessary to vest or perfect in or to confirm of record or otherwise the Company's title to and possession of, all of its property, interests, assets, rights, privileges, immunities, powers, franchises and authority, as shall be reasonably necessary or advisable to carry out the purposes of and effect the transactions contemplated by this Agreement.

SECTION 9.5 Enforcement of the Agreement. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity.

SECTION 9.6 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

SECTION 9.7 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered if in person, by cable, telegram or telex or by facsimile, or five business days after mailing if delivered by registered or certified mail (postage prepaid, return receipt requested) to the respective parties as follows:

if to Compass:

Charles E. McMahon  
Vice Chairman  
Compass Bancshares, Inc.  
24 Greenway Plaza  
Houston, Texas 77046  
Facsimile No.: (713) 993-8535

D. Stevenson Ferguson, Jr.  
Executive Vice President  
Compass Bank  
2001 Kirby Drive  
Houston, Texas 77019  
Facsimile No.: (713) 831-5765

with copies to:

Jerry W. Powell  
General Counsel  
Compass Bancshares, Inc.  
15 South 20th Street  
Birmingham, Alabama 35233  
Facsimile No.: (205) 297-3043

Annette L. Tripp  
Locke Liddell & Sapp LLP  
3400 JPMorgan Chase Tower, 600 Travis  
Houston, Texas 77002  
Facsimile No.: (713) 223-3717

if to the Company or the Shareholders:

David T. Albaneze  
CEO and Chief Investment Officer  
St. Johns Investment Management Company  
1301 Riverplace Blvd., Suite 2530  
Jacksonville, Florida 32207  
Facsimile No.: (904) 346-0047

with a copy to:

Sidney S. Simmons, II  
Stoneburner Berry & Simmons, P.A.  
One Independent Drive, Suite 2000  
Jacksonville, Florida 32202  
Facsimile No.: (904) 354-5244

or to such other address as the person to whom notice is given may have previously furnished to the others in writing in the manner set forth above (provided that notice of any change of address shall be effective only upon receipt thereof).

SECTION 9.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

SECTION 9.9 Descriptive Headings. The descriptive headings are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

SECTION 9.10 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

SECTION 9.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

SECTION 9.12 Incorporation by References. Any and all schedules, exhibits, annexes, statements, reports, certificates or other documents or instruments referred to herein or attached hereto are incorporated herein by reference hereto as though fully set forth at the point referred to in the Agreement.

SECTION 9.13 Certain Definitions.

(a) "Subsidiary" or "Subsidiaries" shall mean, when used with reference to an entity, any corporation, fifty percent of the outstanding voting securities of which are owned directly or indirectly by such entity or any partnership, limited liability company, joint venture or other enterprise in which any entity has, directly or indirectly, any equity interest.

(b) "Material Adverse Effect" shall mean any event, change, circumstance, or occurrence, together with any other event, change, circumstance, or occurrence, that has a material adverse effect on the financial condition, assets, liabilities (absolute, accrued, contingent or otherwise), reserves, business, results of operations, or prospects of the Company (or when the reference is to Compass, to Compass and its Subsidiaries, taken as a whole).

(c) "Environmental Laws" shall mean all federal, state and local laws, ordinances, rules, common law, regulations, guidance documents, directives, and decisions, interpretations and orders of courts or administrative agencies or authorities, relating to the release, threatened release, recycling, processing, use, handling, transportation treatment, storage, disposal, remediation, removal, inspection or monitoring of, or exposure to, Hazardous Substances or protection of human health or safety or the environment (including, without limitation, wildlife, air, surface water, ground water, land surface, and subsurface strata), including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of

1980, as amended ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, as amended ("SARA"), the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), Hazardous and Solid Waste Amendments of 1984, as amended ("HSWA"), the Hazardous Materials Transportation Act, as amended ("HMTA"), the Toxic Substances Control Act ("TSCA"), Occupational Safety and Health Act ("OSHA"), Federal Water Pollution Control Act, as amended ("FWPCA"), Clean Air Act, and any and all regulations promulgated pursuant to any of the foregoing, as amended.

(d) "Hazardous Substances" shall mean those substances included within the statutory or regulatory definitions, listings or descriptions of "pollutant," "hazardous material," "contaminant," "toxic waste," "hazardous substance," "hazardous waste," "solid waste," or "regulated substance" pursuant to CERCLA, SARA, RCRA, HSWA, HMTA, TSCA, OSHA, and/or any other Environmental Laws, as amended, and shall include, without limitation, any material, waste or substance which is or contains explosives, radioactive materials, oil or any fraction thereof, asbestos, or formaldehyde. To the extent that the laws or regulations of the State of Texas establish a meaning for "hazardous substance," "hazardous waste," "hazardous material," "solid waste," "pollutant," "contaminant," "regulated substance," or "toxic waste," which is broader than that specified in any of CERCLA, SARA, RCRA, HSWA, HMTA, TSCA, OSHA or any other Environmental Law such broader meaning shall apply.

(e) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, discarding or abandoning.

(f) "Knowledge" or "known" -- An individual shall be deemed to have "knowledge" of or to have "known" a particular fact or other matter if (i) such individual is actually aware of such fact or other matter, or (ii) a prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the normal course of performing his or her duties. A corporation shall be deemed to have "knowledge" of or to have "known" a particular fact or other matter if any individual set forth on Exhibit E hereto (or in any similar capacity) of the corporation, has, or at any time had, knowledge of such fact or other matter. The Company is understood to have undertaken a separate investigation in connection with the transactions contemplated hereby to determine the existence or absence of facts or other matters in the statement qualified as "known" by, or the "knowledge" of, the Shareholders or the Company.

(g) "Liability" shall mean any debt, obligation, duty, or liability of any nature (including any unknown, undisclosed, unfixed, unliquidated, unsecured, unmatured, unaccrued, unasserted, contingent, conditional, inchoate, implied, vicarious, joint, several or secondary liability, or any liability arising pursuant to any Environmental Law), regardless of whether such debt, obligation, duty, or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP.

(h) "Loss" means any loss, damage, injury, harm, detriment, decline in value, lost opportunity, Liability, exposure, claim, demand, Proceeding, settlement, judgment, award, punitive damage award, fine, penalty, tax, fee, charge, cost, or expense (including, without limitation, costs of attempting to avoid or in opposing the imposition thereof, interest, penalties, costs of preparation and investigation, and the fees, disbursements, and expenses of attorneys, accountants and other professional advisors), as well as with, respect to compliance with the

requirements of Environmental Law and materials of environmental concern, expenses of remediation and any other remedial, removal, response, abatement, cleanup, investigative, monitoring, or record keeping costs and expenses.

(i) "Encumbrance" shall mean any lien, pledge, hypothecation, charge, mortgage, deed of trust, security interest, encumbrance, equity, trust, equitable interest, claim, easement, right-of-way, servitude, right of possession, lease tenancy, license, encroachment, burden, intrusion, covenant, infringement, interference, proxy, option, right of first refusal, community property interest, legend, defect, impediment, exception, condition, restriction, reservation, limitation, impairment, imperfection of title, restriction on or condition to the voting of any security, restriction on the transfer of any security or other asset, restriction on the receipt of any income derived from any security or other asset, and restriction on the possession, use, exercise or transfer of any other attribute of ownership, whether based on or arising from common law, constitutional provision, statute or contract.

(j) "Person" shall mean any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability company, joint venture, joint stock association, estate, trust, cooperative, foundation, union, syndicate, league, consortium, coalition, committee, society, firm, company or other enterprise, association, organization or entity of any nature, or any foreign governmental authority, the United States of America, any State of the United States, any local authority and any political subdivision of any of the foregoing, any multi-national organization or body, any agency, department, commission, board, bureau, court or other authority thereof, or any quasi-governmental or private body exercising, or purporting to exercise, any executive, legislative, judicial, administrative, police, regulatory or taxing authority or power of any nature.

(k) "Default Rate" shall mean the rate of interest reported as the "prime rate" in *The Wall Street Journal*, plus 2% per annum, but not exceeding the maximum rate permitted by applicable law.

(l) "Ordinary Course of Business" shall mean an action taken by a Person if:

(i) such action is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person;

(ii) the Person is a corporation, partnership, limited liability company or any other entity of any nature, such action is not required to be authorized by the board of directors of such entity (or by any Person or group of Persons exercising similar authority) and is not required to be authorized by the shareholders or other equity owners (if any) of such entity; and

(iii) such action is similar in nature and magnitude to actions customarily taken in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business of such Person.

(m) "Pre-Closing Taxable Period" shall mean (i) any taxable period ending on or before the Closing Date and (ii) with respect to any taxable period beginning on or before the

Closing Date and ending after the Closing Date, the portion of such taxable period that is on or before the Closing Date ("Taxable Period to Date").

(n) "Business Day" shall mean a day on which Compass Bank, a Subsidiary of Compass, is open for banking business.

(o) "Investment Contract" shall mean any contract or agreement to which the Company is a party and pursuant to which the Company or any of the Company's representatives provides to any Person investment management or investment advisory or other investment services.

(p) "Affiliate" or "affiliate" means, with respect to any Person, any Person that, directly or indirectly, controls, is controlled by, or is under common control with, such person in question. For the purposes of this definition, "control" (including, with correlative meaning, the terms "controlled by" and "under common control with") as used with respect to any person, shall mean 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 or by contract or otherwise.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first above written.

COMPASS BANCSHARES, INC.

By Garrett R. Hedges  
Name Garrett R. Hedges  
Title Chief Financial Officer

COMPASS FLORIDA 2002, INC.

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

ST. JOHNS INVESTMENT MANAGEMENT  
COMPANY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

SHAREHOLDERS

\_\_\_\_\_  
David T. Albaneze

\_\_\_\_\_  
John L. Allen

\_\_\_\_\_  
David W. Price

\_\_\_\_\_  
G. Russell Creighton

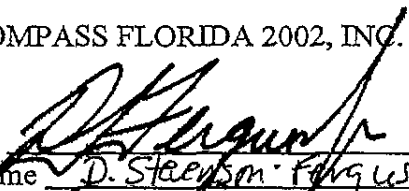
\_\_\_\_\_  
Daniel D. Payne

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first above written.

COMPASS BANCSHARES, INC.

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

COMPASS FLORIDA 2002, INC.

By   
Name D. Steenson Ferguson  
Title President

ST. JOHNS INVESTMENT MANAGEMENT  
COMPANY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

SHAREHOLDERS

\_\_\_\_\_  
David T. Albaneze

\_\_\_\_\_  
John L. Allen

\_\_\_\_\_  
David W. Price

\_\_\_\_\_  
G. Russell Creighton

\_\_\_\_\_  
Daniel D. Payne

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its officers thereunto duly authorized, all as of the day and year first above written.

COMPASS BANCSHARES, INC.

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

COMPASS FLORIDA 2002, INC.

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

ST. JOHNS INVESTMENT MANAGEMENT  
COMPANY

By David T. Albaneze  
Name David T. Albaneze  
Title CEO

SHAREHOLDERS

David T. Albaneze  
David T. Albaneze

John L. Allen  
John L. Allen

David W. Price  
David W. Price

G. Russell Creighton  
G. Russell Creighton

Daniel D. Payne  
Daniel D. Payne

EXHIBIT A

ILLUSTRATION OF CALCULATION OF  
ADDITIONAL MERGER CONSIDERATION

# EXHIBIT A

## St. John's Investment Mgmt Example of Potential Earmout

(,000's)	No. of Shares	Mkt Value @ \$30.16	%
Shares Issued At Closing	55	\$ 1,650	53.3%
Shares Earned During Earmout Period	48	1,446	46.7%
Total	103	\$ 3,096	100.0%

	CALENDAR YEAR							
	2002-1 month		2003		2004		2005	
	Total	% Rev	Total	% Rev	Total	% Rev	Total	% Rev
% AUM growth	-13.1%		10.3%		10.2%		10.3%	
Assets under management	\$ 232,000		\$ 256,000		\$ 282,000		\$ 311,000	
% revenue growth	-45.1%		-8.2%		10.9%		10.8%	
Revenues	141		1,584		\$ 1,757		\$ 1,948	
Operating costs	131	93.1%	1,312	82.8%	1,350	76.9%	1,417	72.8%
Income after operating costs	10	6.9%	272	17.2%	407	23.1%	531	27.2%
Less: Identifiable intangible & one-time expense in 2002	164	NM	25	1.6%	25	1.4%	25	1.3%
Less: Parity of earnings cost for stock issued	17	12.1%	224	14.1%	259	14.7%	353	18.1%
Net revenues available to fund shareholder earmout	\$ (171)	NM	\$ 23	1.5%	\$ 123	7.0%	\$ 153	7.9%
Shareholder portion of available revenue	50%		\$ 12		\$ 61		\$ 76	
Shareholder portion of available revenue after tax	65%		\$ 7		\$ 40		\$ 50	
Estimated EPS hurdle	10.0%		\$ 2.66		\$ 2.93		\$ 3.22	
Earmout shares issued			3		14		15	
Cumulative earmout shares issued			3		16		32	

Please Note: The above is an example of the mechanics of the transaction earmout. The financial projections presented above are an example of possible future results based on past history and estimates. Past history is not a guarantee of future results.

In the event of any conflict between the example provided in this Exhibit A and the Merger Agreement, the terms of the Merger Agreement shall control.

EXHIBIT B

ALLOCATION OF ADDITIONAL MERGER CONSIDERATION

<u>Shareholder/Address</u>	<u>Percentage Additional Merger Consideration</u>
David T. Albaneze 7820 James Island Trail Jacksonville, Florida 32256	70.12%
John L. Allen 4399 Phillips Place Jacksonville, Florida 32207	7.47%
David W. Price 2271 Flatwood Court Jacksonville, Florida 32223	7.47%
G. Russell Creighton 2355 Lakeshore Dr. N. Orange Park, Florida 32003	7.47%
Daniel D. Payne 149 Cattail Circle Jacksonville, Florida 32259	7.47%

EXHIBIT C

NON-COMPETITION AGREEMENT

NON-COMPETITION AGREEMENT, dated \_\_\_\_\_, 2002 by and among Compass Bancshares, Inc., a Delaware corporation ("Compass"), and \_\_\_\_\_ ("Owner").

WHEREAS, pursuant to the Agreement and Plan of Merger, dated as of \_\_\_\_\_, 2002 (the "Merger Agreement"), between Compass, Compass Florida 2002, Inc. and St. Johns Investment Management Company, a Florida corporation (the "Company"), such parties have agreed to the Merger as defined therein;

WHEREAS, Owner is a \_\_\_\_\_ % shareholder of the Company and as a result of the Merger will receive substantial consideration;

WHEREAS, the Merger Agreement requires, as a condition to the closing, that Owner execute and deliver this agreement to Compass; and

WHEREAS, Owner acknowledges that the restrictions against competition and the other agreements set forth in this Agreement have constituted a substantial inducement to Compass to enter into the Merger Agreement, and that none of such restrictions or agreements set forth in the Agreement will be unduly burdensome on Owner.

NOW, THEREFORE, in consideration of the receipt of consideration under the Merger Agreement, the consideration payable under that certain Employment Agreement of even date herewith between Owner and the Company ("Employment Agreement"), and of the mutual promises set forth in this Agreement, the parties hereto agree as follows:

1. Definitions. Terms used but not defined in this Agreement shall have the meanings ascribed to them in the Merger Agreement.

2. Non-competition.

(a) Non-competition. Owner agrees that for a period of four years following the Closing, he will not, directly or indirectly, (i) solicit, hire, employ or engage any past, present or future employee of Compass or its affiliates or the Company or its affiliates, (ii) compete for or solicit financial advisory or asset management services for or on behalf of any bank, financial advisor, or other financial services entity with a place of business in the Jacksonville, Florida Metropolitan Statistical Area (the "Market Area"), or own, operate, participate in, undertake any employment with or have any interest in any bank, financial advisor, or other financial services entity with a place of business in the Market Area, except owning publicly traded stock for investment purposes only in which Owner owns less than 5%, (iii) compete for or solicit

financial advisory or asset management business from any customer of the Company, Compass or any of their affiliates (or their successors by merger), or (iv) use in any competition, solicitation or marketing effort any proprietary list of or other information concerning customers of the Company, Compass or their affiliates developed by the Company, Compass or their affiliates.

(b) Restrictions Reasonable. The restrictions against competition set forth above are considered by the parties to be reasonable for the purposes of protecting the value intended to be received by Compass in connection with the transactions contemplated by the Merger Agreement. If any such restriction is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too broad a range of activities or over too large a geographic area, such restriction shall be interpreted and reformed to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable.

(c) Specific Performance. Owner acknowledges that Compass would be irreparably harmed and that monetary damages would not provide an adequate remedy in the event of a breach of the provisions of this Section 2. Accordingly, Owner agrees that Compass shall be entitled to injunctive relief, in addition to any other remedies available to Compass, and that the prevailing party shall be entitled to receive reimbursement for its reasonable attorney's fees and disbursements incurred in connection with litigation arising out of this Agreement.

### 3. Miscellaneous.

(a) Entire Agreement. This Agreement and the Employment Agreement contain every obligation and understanding between the parties relating to the subject matter hereof and merges all prior discussions, negotiations and agreements, if any, between them, and none of the parties shall be bound by any conditions, definitions, understanding, warranties or representations other than as expressly provided or referred to herein.

(b) Governing Law This Agreement has been entered into and shall, be construed and enforced in accordance with the laws of the State of Florida without reference to the choice of law principles thereof. Any lawsuit or claim involving the interpretation or enforcement of this Agreement must be filed in a court of competent jurisdiction in the State of Florida.

(c) Waiver and Amendment. Any representation, warranty, covenant, term or condition of this Agreement which may be legally waived, may be waived, or the time of performance thereof extended, at any time by the party hereto entitled to the benefit thereof, and any term, condition or covenant hereof (including, without limitation, the period during which any condition is to be satisfied or any obligation performed) may be amended by the parties hereto at any time. Any such waiver, extension or amendment shall be evidenced by an instrument in writing executed by Owner and by Compass (by its Chairman and Chief Executive Officer or any Vice President or other person, who has been authorized by its Board of Directors to execute waivers, extensions or amendments on its behalf). No waiver by any party hereto



whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of such party's rights under such provisions at any other time or a waiver of such party's rights under any other provision of this Agreement. No failure by any party hereto to take any action against any breach of this Agreement or default by another party shall constitute a waiver of the former party's right to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by such other party.

(d) Assignment. This Agreement shall inure to the benefit of Compass, its subsidiaries and affiliates, and their successors and assigns.

(e) Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered if delivered in person, by cable, telegram or by facsimile; five business days after mailing, if delivered by registered or certified mail (postage prepaid, return receipt requested); and two business days after sending if delivered by overnight courier; to the respective parties as follows (or at such other address as a party may specify by notice to the others):

If to Owner, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Compass, to:

Mr. Jerry W. Powell  
Compass Bancshares, Inc.  
15 South 20th Street  
Birmingham, Alabama 35233  
Facsimile No.: (205) 297-3043

(f) Severability. In the event that any one or more of the provisions contained in this Agreement shall be declared invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect, and such invalid, void or unenforceable provision shall be interpreted as closely as possible to the manner in which it was written.

(g) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(h) Section Headings. The section headings in this Agreement are for the convenience of reference only and shall not be deemed to alter or affect any provision hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the parties hereto have duly executed this Agreement as of the date set forth above.

\_\_\_\_\_  
\_\_\_\_\_, as an individual

COMPASS BANCSHARES, INC.

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

## EXHIBIT D

### OPINIONS REQUIRED FROM COUNSEL TO THE COMPANY

(i) the Company is a Florida corporation duly incorporated, validly existing and in good standing under the laws of the State of Florida. The Company has all requisite corporate power and authority, permits, registrations, and licenses to carry on its businesses as we know them to be conducted and to own, lease and operate its properties and assets as now owned, leased or operated;

(ii) the Company and the Shareholders have all requisite power and authority to execute and deliver the Agreement and any other agreements contemplated by the Agreement (collectively, the "Other Agreements") and to consummate the transactions contemplated thereby; all acts (corporate or otherwise) and other proceedings required to be taken by or on the part of the Company and the Shareholders to execute and deliver the Agreement and the Other Agreements and to consummate the transactions contemplated therein have been duly and validly taken; and the Agreement and the Other Agreements have been duly executed and delivered by, and constitute the valid and binding obligations of the Company and the Shareholders enforceable against the Company and the Shareholders in accordance with their terms, subject to the effect of (a) any applicable bankruptcy, insolvency, reorganization or other law relating to or affecting creditors' rights generally and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law);

(iii) the authorized capital stock of the Company consists solely of 7,500 shares of Company Common Stock (as defined in the Agreement) of which 2,008 shares are issued and outstanding (none of which are held in the treasury); and to the best of our knowledge, none of such stock was issued in violation of the preemptive rights of any person;

(iv) to the best of our knowledge and except as set forth on Schedule 2.2 to the Agreement, there are no outstanding subscriptions, options, rights, warrants, calls, convertible securities, irrevocable proxies, or other agreements or commitments obligating the Company to issue any shares of, or equity interests in, restricting the transfer of, or otherwise relating to shares of its capital stock of any class or of any equity interests;

(v) the execution and delivery by the Company of the Agreement does not and the consummation of the transactions contemplated thereby will not contravene or violate any provision of or constitute a default under (a) the articles of incorporation or bylaws of the Company, (b) to the best of our knowledge and except as disclosed in the Agreement, any note, license, instrument, mortgage, deed of trust, or other agreement or understanding, permit, registration, license, authorization or contract, order, arbitration award, judgment or decree, or any other restriction of any kind or character known to us to which the Company is a party or by which the Company or any of its assets or properties is bound, and (c) to the best of our knowledge and except as disclosed in the Agreement, any law, regulation, rule, administrative

regulation or decree of any court or any governmental agency or body whether domestic or foreign applicable to the Company or its assets or properties;

(vi) except as disclosed in the Agreement and except for such consents, approvals, authorizations, actions or filings as have already been obtained by Compass or Merger Sub, no consent, approval, authorization, action or filing with any court, governmental agency or public body is required by the Company or the Shareholders of the Agreement in order to effect the Merger;

(vii) except as set forth in Schedule 2.8 to the Agreement, to the best of our knowledge, the Company is not a party to any Proceeding (as defined in the Agreement), nor to the best of our knowledge, is any Proceeding threatened against or affecting the Company or the Company Stock, which by the terms of the Agreement would be required to be set forth in Schedule 2.8;

(viii) to the best of our knowledge without independent investigation, the Company is not in material default under any law or regulation, or under any order of any court, commission, board, bureau, agency or instrumentality wherever located; and

(ix) upon consummation of the transactions contemplated by the Agreement in accordance with its terms and upon filing of the Articles of Merger relating to the Merger with, and the issuance by, the Florida Department of State of a Certificate of Merger the Merger will have been legally consummated in accordance with the laws of the State of Florida with the consequences specified in s. 607.1106 of the Florida Business Corporation Act; provided, however, that we offer no opinion concerning the compliance by the other parties to the Merger with the laws of the state in which such other parties are incorporated.

EXHIBIT E

OFFICERS WITH KNOWLEDGE

Albert Toole  
David T. Albaneze  
John L. Allen  
David W. Price  
G. Russell Creighton  
Daniel D. Payne  
Sheridan D. Major  
Pamela Cramer