

**SECOND AMENDED AND RESTATED  
AGREEMENT OF LIMITED PARTNERSHIP  
OF  
LUBERT-ADLER REAL ESTATE FUND VII, L.P.**

## TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. CERTAIN DEFINITIONS .....	1
SECTION 2. NAME.....	14
SECTION 3. LOCATION .....	14
SECTION 4. PURPOSE .....	15
SECTION 5. TERM.....	15
SECTION 6. CONTRIBUTION TO CAPITAL AND STATUS OF PARTNERS .....	15
6.1. <u>General Partner</u> .....	15
6.1.1 <u>Name, Address and Commitment</u> .....	15
6.1.2 <u>Management and Control of the Partnership</u> .....	15
6.1.3 <u>Powers</u> .....	16
6.1.4 <u>Certificate of Limited Partnership</u> .....	17
6.1.5 <u>Other Activities</u> .....	17
6.1.6 <u>Investment Limitations</u> .....	19
6.1.7 <u>Loan-to-Value Limitation</u> .....	21
6.1.8 <u>Co-Investment with any Parallel Fund or Institutional Holders</u> .....	22
6.1.9 <u>Working Capital Reserves</u> .....	24
6.1.10 <u>Investment Company Act, Investment Advisers Act</u> .....	24
6.1.11 <u>Governmental Plan Partner Acknowledgements</u> .....	24
6.1.12 <u>ERISA</u> .....	25
6.1.13 <u>Removal of General Partner for Cause</u> .....	25
6.1.14 <u>Removal of General Partner without Cause</u> .....	27
6.2. <u>Limited Partners</u> .....	28
6.2.1 <u>Names, Addresses and Commitments</u> .....	28
6.2.2 <u>Limited Liability</u> .....	28
6.2.3 <u>No Control of Partnership; Other Limitations</u> .....	29
6.2.4 <u>Death, Dissolution or Bankruptcy</u> .....	29
6.2.5 <u>Registration</u> .....	29
6.2.6 <u>Continuation of Limited Partner Status</u> .....	29
6.2.7 <u>Additional Limited Partners and Increased Commitments</u> .....	29
6.3. <u>Capital of the Partnership</u> .....	31
6.3.1 <u>Capital Contributions</u> .....	31
6.3.2 <u>Default by Partners</u> .....	34
6.3.3 <u>Early Termination of Commitment Period and the Partnership</u> .....	37
6.4. <u>Liability of Partners</u> .....	38
6.4.1 <u>Limited Liability of Limited Partners</u> .....	38
6.4.2 <u>Sovereign Immunity</u> .....	38
6.5. <u>Withdrawal and Return of Capital</u> .....	38
6.6. <u>Interest on Capital</u> .....	39

6.7. <u>Capital Account Maintenance</u> .....	39
6.8. <u>Certain Rights of Institutional Holders</u> .....	40
6.9. <u>Credit Facility</u> .....	41
6.10. <u>Alternative Vehicle</u> .....	43
SECTION 7. DISTRIBUTIONS AND ALLOCATIONS.....	44
7.1. <u>Distributions</u> .....	44
7.1.1 <u>Tax Distributions</u> .....	44
7.1.2 <u>Timing of Distributions of Cash</u> .....	45
7.1.3 <u>Priority of Distributions</u> .....	46
7.1.4 <u>Special GP Loan</u> .....	47
7.2. <u>Allocation of Annual Profit or Loss</u> .....	47
7.2.1 <u>Allocation of Profits</u> .....	47
7.2.2 <u>Allocation of Losses</u> .....	48
7.3. <u>Regulatory Allocations</u> .....	49
7.3.1 <u>Special Allocations</u> .....	49
7.3.2 <u>Tax Allocations</u> .....	51
7.4. <u>Allocation of Credits</u> .....	51
7.5. <u>Allocation in the Event of Additional Limited Partners or Increased Commitments</u> .....	51
7.6. <u>Assignment During Fiscal Year</u> .....	51
7.7. <u>Target Allocation on Liquidation</u> .....	51
7.8. <u>Taxes Withheld</u> .....	52
7.9. <u>Classification as a Partnership for Federal Income Tax Purposes</u> .....	53
7.10. <u>Distributions in Kind</u> .....	53
7.11. <u>Interpretation</u> .....	53
7.12. <u>Prohibited Tax Shelter Transactions</u> .....	54
7.13. <u>Reportable Transactions and Listed Transactions</u> .....	54
7.14. <u>Testing Date</u> .....	54
SECTION 8. VALUATION OF PARTNERSHIP ASSETS.....	55
8.1. <u>Valuation by General Partner</u> .....	55
8.2. <u>Valuation by Executive Board</u> .....	55
8.3. <u>Valuation of Marketable Securities that are Freely Transferable</u> .....	55
8.4. <u>Valuation of All Other Interests and Property</u> .....	55
8.5. <u>Goodwill</u> .....	55
SECTION 9. EXPENSES; MANAGEMENT FEE.....	56
9.1. <u>Organizational Expenses</u> .....	56
9.2. <u>Management Fee</u> .....	56
9.3. <u>Expenses of General Partner and Management Company</u> .....	59
9.4. <u>Expenses of the Partnership</u> .....	59
SECTION 10. INDEMNIFICATION.....	60
10.1. <u>General Provisions</u> .....	60
10.2. <u>Advance Payment of Expenses</u> .....	62
10.3. <u>Insurance</u> .....	62
10.4. <u>Sharing of Indemnification Expenses with Parallel Funds</u> .....	62

SECTION 11. ADMISSION OF ADDITIONAL OR SUBSTITUTE GENERAL PARTNER ..63	
SECTION 12. TRANSFERABILITY OF PARTNERSHIP INTERESTS; WITHDRAWAL OF PARTNERSHIP INTERESTS.....63	
12.1. <u>General Partner</u> .....	63
12.2. <u>Assignment by Limited Partners</u> .....	64
12.3. <u>Substitution of Limited Partners</u> .....	65
12.4. <u>Withdrawal of Partnership Interests</u> .....	66
12.5. <u>ERISA Partner Withdrawal</u> .....	66
SECTION 13. TERMINATION OF THE PARTNERSHIP .....	68
13.1. <u>Dissolution</u> .....	68
13.2. <u>Winding Up/Liquidation</u> .....	69
13.3. <u>Liabilities of the General Partner Upon Dissolution</u> .....	71
13.4. <u>Additional Obligations</u> .....	72
SECTION 14. PARTNERSHIP FUNDS.....	72
SECTION 15. BOOKS AND RECORDS; REPORTS; TAX ELECTIONS; MEETINGS .....	73
15.1. <u>Books and Records</u> .....	73
15.2. <u>Accounting Method</u> .....	73
15.3. <u>Financial Statements and Reports</u> .....	73
15.4. <u>Tax Elections</u> .....	74
15.5. <u>Meetings</u> .....	74
SECTION 16. WAIVER OF PARTITION .....	75
SECTION 17. POWER OF ATTORNEY .....	75
17.1. <u>Grant of Power</u> .....	75
17.2. <u>Survival of Power</u> .....	76
SECTION 18. GENERAL PROVISIONS .....	76
18.1. <u>Amendments</u> .....	76
18.2. <u>Notices</u> 78	
18.3. <u>Governing Law</u> .....	79
18.4. <u>Binding Nature of Agreement</u> .....	79
18.5. <u>Additional Partners</u> .....	79
18.6. <u>Validity</u> 79	
18.7. <u>Entire Agreement</u> .....	79
18.8. <u>Indulgences, Etc</u> .....	80
18.9. <u>Execution in Counterparts</u> .....	80
18.10. <u>Paragraph</u> .....	80
18.11. <u>Gender, Etc</u> .....	80
18.12. <u>Number of Days</u> .....	80
18.13. <u>Interpretation</u> .....	80
18.14. <u>Corporate Authority</u> .....	80
18.15. <u>Third Party Beneficiaries</u> .....	81
18.16. <u>Controversies with Internal Revenue Service</u> .....	81

18.17. <u>Action by Limited Partners</u> .....	81
18.18. <u>Confidentiality</u> .....	82
18.19. <u>Compliance with Laws and Regulations</u> .....	83
18.19.1 <u>Information Requests</u> .....	83
18.19.2 <u>Partner Withdrawal</u> .....	83

**SECOND AMENDED AND RESTATED  
AGREEMENT OF LIMITED PARTNERSHIP OF  
LUBERT-ADLER REAL ESTATE FUND VII, L.P.**

THIS SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP of Lubert-Adler Real Estate Fund VII, L.P., effective as of March 31, 2015, by and among Lubert-Adler Group VII, L.P., a Delaware limited partnership (the “**General Partner**”), and the persons listed on the Schedule of Partners who purchased Interests as limited partners (the “**Limited Partners**”).

**W I T N E S S E T H:**

WHEREAS, the Partnership was formed under the Delaware Revised Uniform Limited Partnership Act as amended from time to time (the “**RULPA**”), on March 14, 2013 by filing a certificate of limited partnership (the “**Certificate**”) with the office of the Secretary of State of the State of Delaware;

WHEREAS, the Partnership conducted an Initial Closing and the Partners entered into an Agreement of Limited Partnership on October 15, 2013 (the “**Original Agreement**”);

WHEREAS, the General Partner and the Limited Partners amended and restated the Original Agreement effective as of March 21, 2014 (the “**First Restated Agreement**”) and the General Partner further amended the First Restated Agreement effective as of July 11, 2014 (the “**First Amendment**”), September 18, 2014 (the “**Second Amendment**”) and December 29, 2014 (the “**Third Amendment**”); and

WHEREAS, the First Amendment, the Second Amendment and the Third Amendment have been incorporated into this Second Amended and Restated Agreement of Limited Partnership (the “**Agreement**”).

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

**SECTION 1. CERTAIN DEFINITIONS**

Capitalized terms used in this Agreement and not defined elsewhere herein or in the Memorandum shall have the following meanings:

“**Additional Capital Contributions**” shall have the meaning given to such term in Section 6.3.1(a) of this Agreement.

“**Additional Shortfall Amount**” shall have the meaning given to such term in Section 13.3(b) of this Agreement.

“**Adjusted Capital Account Deficit**” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) credit to such Capital Account any amounts that such Partner is obligated to restore pursuant to any provisions of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6).

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

“**Advisory Committee**” shall have the meaning given to such term in Section 6.8(b) of this Agreement.

“**Affiliate**” or “**affiliate**” means (i) any Person, directly or indirectly controlling, controlled by or in common control with a specified Person; (ii) any Person owning or controlling 10% or more of the outstanding voting securities of a specified Person; (iii) any employee, officer, director, partner or trustee of such specified Person; and (iv) if a specified Person is an officer, director, partner or trustee of a Person, the Person for which such Person acts in such capacity.

“**Agreement**” means this Second Amended and Restated Agreement of Limited Partnership of Lubert-Adler Real Estate Fund VII, L.P., as originally executed and as amended and restated from time to time hereafter.

“**Alternative Vehicle**” shall have the meaning given to such term in Section 6.10 of this Agreement.

“**Approved Person**” means Dean S. Adler and any successor to him appointed as set forth in Section 6.3.3(a) of this Agreement.

“**Asset(s)**” shall have the meaning given to such term in Section 4 of this Agreement.

“**Assumed Tax Benefit**” shall mean the tax benefit calculated, with respect to any Total Shortfall Amount contributed by the General Partner pursuant to Section 13.3 of this Agreement, by assuming that 50% of any capital loss attributable to a restoration of a negative capital account and 100% of an ordinary deduction attributable to a guaranteed payment are usable and by applying the tax rates for the year in which such payment is made.

“**Available Profits**” shall mean, with respect to any Waived Fee Amount, as of the time of determination, the aggregate amount of Profit, as computed for purposes of maintaining Capital Accounts, realized after the date the Waived Fee Notice relating to such Waived Fee Amount was given, excluding any such Profit attributable to the excesses, if any, of (i) the fair market value (as determined by the General Partner), on the date the Waived Fee Notice relating to such Waived Fee Amount was given, of each asset then held by the Partnership over (ii) the Gross Asset Value of each such asset on such date. The General Partner shall be entitled to irrevocably elect to exclude from Available Profits any item of Profit that would otherwise be

included in Available Profits; provided that such election must be made not later than the date for filing the Partnership's U.S. federal income tax return for the year that includes such item (determined without regard to any extensions).

**"Book Value"** shall have the meaning given to such term in Section 6.7(b) of this Agreement.

**"Bridge Funding"** means that portion of the Partnership's funded cost of an Asset which the General Partner reasonably believes at the time of investment will be replaced by refinancing proceeds, including without limitation any amount to be drawn by the Partnership on a Credit Facility, or other equity sources.

**"Capital Account"** shall have the meaning given to such term in Section 6.7 of this Agreement.

**"Capital Contribution"** means the amount of money actually paid to the Partnership by a Partner with respect to his, her or its Interest as a Partner in the Partnership. Amounts paid as Subsequent Closing Interest to the Partnership shall not be treated as Capital Contributions.

[REDACTED]

**"Capital Transaction"** means (i) a transaction pursuant to which the Partnership (or any entity in which the Partnership has a direct or indirect interest and which owns an Asset) finances or refinances mortgage indebtedness with respect to an Asset; (ii) a sale, condemnation, exchange or a casualty not followed by reconstruction, or other disposition, whether by foreclosure or otherwise, of all or a portion of an Asset owned by the Partnership (or any entity in which the Partnership has a direct or indirect interest and which owns an Asset); or (iii) an insurance recovery or any other transaction with respect to the Partnership which, in accordance with generally accepted accounting principles, is considered capital in nature.

**"Carried Interest"** means the aggregate amount distributed to the General Partner pursuant to Sections 7.1.3(c)(ii), 7.1.3(d)(ii) and 7.1.3(e)(ii) of this Agreement, including Tax Distributions of amounts which are attributable to such sections, and where the context requires, the allocations with respect to such distributions.

**"Cash Equivalent Securities"** shall mean all Securities that are direct obligations of, or obligations that are guaranteed by, the United States of America, certificates of deposit, time deposits, demand deposits and bankers acceptances of banks or trust companies believed by the General Partner to be creditworthy, commercial paper or finance company paper that is rated not less than prime-one or A-1 or their equivalents by Moody's Investor Service, Inc. or Standard & Poor's Corporation or their successors, repurchase agreements by any one or more of the foregoing and money market funds.

**"Cause"** shall have the meaning given to such term in Section 6.1.13(a) of this Agreement.

**"Certificate"** shall have the meaning given to such term in the Preamble.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Co-Investment Commitment Letter**” shall mean the letter provided to Institutional Holders pursuant to Section 6.1.8(b) substantially in the form attached hereto as Exhibit A of this Agreement.

“**Co-Investment Opportunity Memorandum**” shall mean the memorandum prepared by the General Partner or an affiliate describing the co-investment opportunity pursuant to Section 6.1.8(b) and a summary of all material terms.

“**Commitment**” means, with respect to any Partner, the total Capital Contribution required to be made by such Partner in respect of the purchase of such Partner’s Interest in the Partnership as set forth in the Schedule of Partners; provided, that the Commitment of any Partner shall not include Subsequent Closing Interest. In the event that the obligation of any Partner to make any portion of such Commitment is forever released by the General Partner, the Commitment for such Partner shall be reduced by the amount so released.

“**Commitment Period**” [REDACTED]

“**Commitment Period Termination Date**” means the earliest to occur of the following: (i) [REDACTED], (ii) such date as the General Partner advises the Limited Partners that the Commitments have been terminated or (iii) the date on which the Limited Partners vote to terminate the Commitments pursuant to Section 6.3.3(b) of this Agreement.

“**Commitment Voting Notice**” shall have the meaning given to such term in Section 6.3.3(b) of this Agreement.

“**Contributions Account**” means the account established for each Partner on the books of the Partnership that shall consist of such Partner’s initial Capital Contribution to the Partnership made pursuant to this Agreement, excluding any amounts paid as Subsequent Closing Interest, increased by any Additional Capital Contributions made by such Partner and any increases pursuant to Section 6.3.2 of this Agreement. A Partner’s Contributions Account shall be reduced only for the return of any capital to a pre-existing Partner pursuant to Section 6.2.7 of this Agreement (other than payments of Subsequent Closing Interest to such Partners) and any reductions as a result of a default pursuant to Section 6.3.2 of this Agreement, and shall not be reduced on account of any other distributions to such Partner or for any other reason. In the event an Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Contributions Account of the transferor.

“**Control**” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Credit Facility**” shall have the meaning given to such term in Section 6.9 of this Agreement.

“**Credit Facility Confirmation**” shall have the meaning given to such term in Section 6.9 of this Agreement.

“**Deferred Management Fees**” shall have the meaning given to such term in Section 9.2(e) of this Agreement.

“**Depreciation**” shall have the meaning given to such term in Section 6.7(b)(iii) of this Agreement.

“**Disability**” means any condition, continuing for a period of six (6) consecutive months or expected to continue for a period of six (6) consecutive months, resulting from any physical or mental injury, illness, infirmity or lack of capacity (including substance addiction or abuse) that shall render the Approved Person incapable of active involvement in the management of the Partnership. In computing the period of Disability for purposes of the preceding sentence, a period in excess of twenty (20) days in any thirty (30) day period shall constitute one (1) month of Disability.

“**Discounted Fee Partner**” shall have the meaning set forth in Section 9.2(a) of this Agreement.

“**Distributable Cash**” for any fiscal year or other determination time means the total annual cash gross receipts of the Partnership derived from all sources (including from any reserves previously established by the General Partner that the General Partner determines are no longer required by the Partnership), less (i) the cash expenditures by the Partnership, (ii) any amounts set aside by the General Partner for the restoration or creation of commercially reasonable reserves as set forth in Section 6.1.9 of this Agreement, (iii) amounts received by the Partnership in respect of Capital Contributions and (iv) amounts received from Partners pursuant to Section 6.2.7 of this Agreement. Notwithstanding the foregoing, cash resulting from the sale or refinancing of an Asset, up to the Partnership’s cost of the Asset, occurring within twenty-four (24) months after the date of the original investment by the Partnership in such Asset or occurring anytime in the case of cash associated with a Bridge Funding, may be retained by the Partnership for reinvestment in new Assets during the Commitment Period or used for follow-on investment in existing Assets or to pay for expenses after the Commitment Period, in accordance with the terms of this Agreement.

“**ERISA**” shall mean the Employee Retirement Income Security Act of 1974, as amended, and the regulations and interpretations thereof promulgated by the Department of Labor and from time to time in effect.

“**ERISA Partner**” shall mean a Limited Partner that is either (i) a “benefit plan investor” within the meaning of Section 3(42) of ERISA and Section 2510.3-101(f)(2) of the Plan Assets Regulations or (ii) any Government Plan.

“**ERISA Withdrawal Date**” shall have the meaning given to such term in Section 12.5(b) of this Agreement.

“**Excess UBTI Transaction**”

[REDACTED]

“**Excluded Transaction**” shall have the meaning given to such term in Section 6.1.8(a)(iv) of this Agreement.

“**Executive Board**” shall have the meaning given to such term in Section 6.8(b) of this Agreement.

“**Final Closing**” means the date on which the investors are last admitted to the Partnership pursuant to Section 6.2.7 of this Agreement or to any Parallel Fund, which date shall mean March 31, 2015; provided however, solely for the purposes of determining the term of the Partnership as set forth in the first sentence of Section 5, the term “Final Closing” therein shall mean December 31, 2014.

“**First Priority Return**” means, as of any calculation date, a nine percent (9%) cumulative annual return, compounded annually, on each Partner’s Unreturned Capital Account balance (computed from time to time to reflect additions to or reductions of such Unreturned Capital Account balance). Any existing Partner increasing its Commitment and any additional Limited Partner admitted on a Subsequent Closing Date shall be entitled to a First Priority Return on the amount of any Capital Contribution made (but not on the amount of any Subsequent Closing Interest paid) pursuant to Section 6.2.7(b) of this Agreement, calculated from the date each portion of such Capital Contribution would have been made if such Limited Partner had been admitted or such existing Partner had increased its Commitment on the Initial Closing. For purposes of calculating the First Priority Return with respect to non-defaulting Partners (taking into account cure periods), the date on which a Capital Contribution is due pursuant to a notice given by the General Partner pursuant to Section 6.3.1(a) of this Agreement shall be deemed to be the date on which a given Capital Contribution has been made.

“**Forced Withdrawal Date**” shall have the meaning given to such term in Section 18.19.2 of this Agreement.

“**Fund Interest**” means: (i) in the case of a Limited Partner, the Commitment of the Limited Partner to the Partnership divided by the sum of the Commitments of all Limited Partners plus the commitments of all limited partners to the Parallel Funds and (ii) in the case of a limited partner of a Parallel Fund, the commitment of such limited partner to such Parallel Fund divided by the sum of the commitments of all limited partners to the Parallel Funds plus the Commitments of the Limited Partners to the Partnership.

“**Fund I**” means, individually and collectively, Lubert-Adler Real Estate Opportunity Fund, L.P., Lubert-Adler Real Estate Opportunity Fund II, L.P. and Lubert-Adler Capital Real Estate Opportunity Fund, L.P.

“**Fund II**” means, individually and collectively, Lubert-Adler Real Estate Fund II, L.P., Lubert-Adler Real Estate Parallel Fund II, L.P. and Lubert-Adler Capital Real Estate Fund II, L.P.

“**Fund III**” means, individually and collectively, Lubert-Adler Real Estate Fund III, L.P., Lubert-Adler Real Estate Parallel Fund III, L.P. and Lubert-Adler Capital Real Estate Fund III, L.P.

“**Fund IV**” means, individually and collectively, Lubert-Adler Real Estate Fund IV, L.P., Lubert-Adler Real Estate Parallel Fund IV, L.P. and Lubert-Adler Capital Real Estate Fund IV, L.P.

“**Fund V**” means, individually and collectively, Lubert-Adler Real Estate Fund V, L.P. and Lubert-Adler Real Estate Parallel Fund V, L.P.

“**Fund VI**” means, individually and collectively, Lubert-Adler Real Estate Fund VI, L.P., Lubert-Adler Real Estate Fund VI-A, L.P. and Lubert-Adler Real Estate Fund VI-B, L.P.

“**General Partner**” means Lubert-Adler Group VII, L.P., a Delaware limited partnership, and any other Person subsequently admitted to the Partnership as a general partner.

“**General Partner Affiliate**” means (i) the General Partner, (ii) the Management Company, (iii) any of the managers, directors, officers, employees and other individuals and owners who participate in the management of either the General Partner or the Management Company, (iv) any of Ira M. Lubert or Dean S. Adler or any immediate family member of either of them, or (v) any Person in which persons described in (i) through (iv) above, either individually or collectively, either directly or indirectly, own(s) or control(s) ten percent (10%) or more of the outstanding voting securities (or has similar controlling power through other means) or otherwise directs the management.

“**Government Plan**” means any pension, profit sharing or other retirement plan sponsored by the United States or any state, municipality or other political subdivision or any instrumentality of the foregoing.

“**Gross Asset Value**” shall mean, with respect to any asset, such asset’s adjusted basis for federal income tax purposes, except as adjusted by the General Partner as provided herein or otherwise required by Regulations Section 1.704-1(b)(2)(iv).

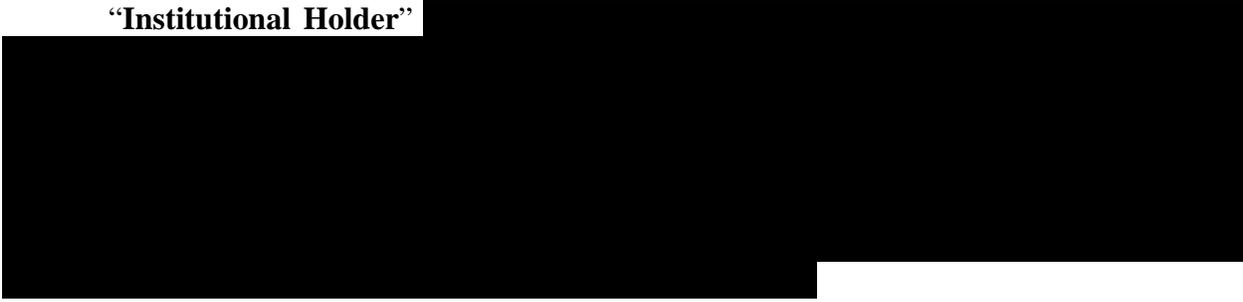
“**Indemnitee**” shall have the meaning given to such term in Section 10.1 of this Agreement.

“**Initial Closing**” means the date on which the sum of (i) the General Partner’s Commitment and (ii) those Commitments in respect of executed Subscription Agreements from Limited Partners and those commitments in respect of executed subscription agreements from limited partners of any Parallel Funds which have been accepted by the General Partner is at least [REDACTED]. For purposes of this Agreement, the Initial Closing was held on October 15, 2013.

“**Initial Extension Period**” shall have the meaning given to such term in Section 5 of this Agreement.

“**Initial Period**” shall have the meaning given to such term in Section 9.2(a) of this Agreement.

“**Institutional Holder**”



“**Interests**” means a Partner’s economic rights and interest in the Partnership as a Partner, as provided in this Agreement.

“**Investment Advisers Act**” or “**Advisers Act**” means the Investment Advisers Act of 1940, as amended, and the regulations and interpretations thereof promulgated by the Securities and Exchange Commission and from time to time in effect.

“**Investment Company Act**” means the Investment Company Act of 1940, as amended, and the regulations and interpretations thereof promulgated by the Securities and Exchange Commission and from time to time in effect.

“**Key Personnel Notice**” shall have the meaning given to such term in Section 6.3.3(a) of this Agreement.

“**LEM**” means LEM Real Estate High-Yield Debt and Preferred Equity Fund III, L.P., a Delaware Limited Partnership and any of its successor funds.

“**Limited Partners**” means the persons listed on the Schedule of Partners who acquire limited partnership Interests as the same may be amended from time to time, including any persons admitted to the Partnership as substitute Limited Partners.

“**LLC**” means Lubert-Adler Group VII, LLC.

“**Loan-to-Value Threshold**” shall have the meaning given to such term in Section 6.1.7 of this Agreement.

“**Management Agreement**” shall mean the management agreement between the Partnership and the Management Company, as amended from time to time.

“**Management Company**” means Lubert-Adler Management Company, L.P., a Delaware limited partnership and an affiliate of the General Partner or any of its affiliates as designated by the General Partner.

“**Management Fee**” shall have the meaning given to such term in Section 9.2(a) of this Agreement.

**“Management Fee Distribution”** shall have the meaning set forth in Section 9.2(h) of this Agreement.

**“Management Fee Payment Date”** shall have the meaning given to such term in Section 9.2(b) of this Agreement.

**“Marketable Securities”** means securities that are traded on a national securities exchange, reported through the National Association of Securities Dealers Automated Quotation System or traded over the counter.

**“Memorandum”** shall have the meaning given to such term in Section 4 of this Agreement.

**“Nonrecourse Deductions”** shall have the meaning of “nonrecourse deductions” set forth in Treasury Regulations Section 1.704-2(b)(1).

**“Offering”** means the offer and sale of Interests to Limited Partners and investors in any Parallel Fund pursuant to the Memorandum.

**“Organizational Expenses”** means any fees, costs or expenses incurred in connection with the Offering, including, without limitation, the formation and organization of the Partnership, the Parallel Fund, the General Partner and LLC, unaffiliated third-party costs incurred in connection with negotiating side letters with specific investors, printing, travel, filing fees, legal and accounting fees, and similar fees, and not including any commissions, placement fees or similar remuneration payable to any Person in connection with the sale of any Interest. Organizational Expenses generally shall be allocated among the Partnership and the Parallel Funds based on the relative commitments to each such entity; provided, that the General Partner may allocate expenses that are specific to one entity, but not the other entities, only to the specific entity as it shall determine in good faith. Any non-pro rata allocation of such expenses by the General Partner under Section 9.1 shall be disclosed to the Executive Board.

**“Outstanding Indebtedness”** shall have the meaning given to such term in Section 6.1.7(a) of this Agreement.

**“Parallel Fund(s)”** means any limited partnership or other Person having the same investment strategy as the Partnership organized by the General Partner (or at the General Partner’s direction) to meet certain regulatory or tax requirements or the specific organizational requirements of any Person who, but for such requirements, would be a Limited Partner of the Partnership, but only if the acquisition of interests in and organization of such Parallel Fund occurs on or prior to the Final Closing. [REDACTED]

**“Partner Minimum Gain”** shall have the meaning of “partner nonrecourse debt minimum gain” as set forth in Treasury Regulations Section 1.704-2(i)(2).

**“Partner Nonrecourse Debt”** shall have the meaning set forth in Treasury Regulations Section 1.704-2(b)(4).

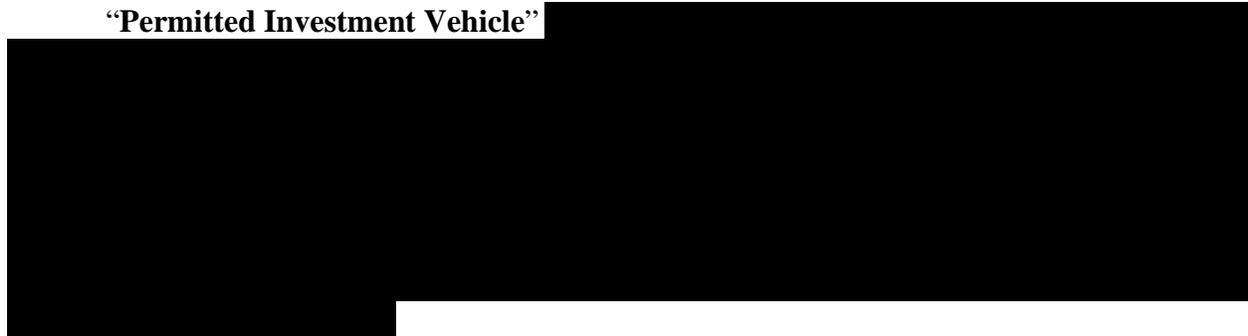
**“Partner Nonrecourse Deductions”** shall have the meaning of “partner nonrecourse deductions” set forth in Treasury Regulations Section 1.704-2(i)(1).

**“Partners”** means the General Partner and the Limited Partners.

**“Partnership”** shall have the meaning given to such term in Section 2 of this Agreement.

**“Partnership Minimum Gain”** shall have the meaning of “partnership minimum gain” as set forth in Treasury Regulations Section 1.704-2(b)(2).

**“Permitted Investment Vehicle”**



**“Person”** means any individual, general partnership, limited partnership, limited liability partnership, corporation, joint venture, trust, limited liability company, cooperative, association, unincorporated organization, benefit plan or governmental, quasi-governmental, judicial or regulatory entity or any department, agency or subdivision thereof and the heirs, legal representatives, successors and assigns of any of the foregoing where the context so admits.

**“Plan Assets Regulations”** shall have the meaning given to such term in Section 6.1.12 of this Agreement.

**“Predecessor Lubert-Adler Funds”** means Fund I, Fund II, Fund III, Fund IV, Fund V, and Fund VI collectively.

**“Prime Rate”** means the interest rate announced from time to time by JPMorgan Chase Bank as its prime lending rate (regardless of how such rate is specifically described).

**“Profit”** and **“Loss”** means at all times during the existence of the Partnership, the net income or net loss of the Partnership for Federal income tax purposes with respect to each fiscal year determined by the Partnership’s accountants at the close of the Partnership’s fiscal year, including, without limitation, each item of Partnership income, gain, loss or deduction other than those items specifically allocated in Section 7.3 of this Agreement. The terms Profit and Loss include the Partnership’s distributive share of the profit or loss of any partnership or joint venture in which it is a member. The Profit or Loss of the Partnership shall be computed with the adjustments required to comply with the Capital Account maintenance rules of Treasury Regulations Section 1.704-1(b)(2)(iv), including those applicable to the revaluation of partnership assets under Treasury Regulations Section 1.704-1(b)(2)(iv)(f).

**“Pro Rata to the Partners”** means to the Partners in proportion to their Contributions Account.

“**Public Securities**” means securities that are freely transferable pursuant to an effective registration under the Securities Act of 1933, as amended, or an exemption from the registration requirements thereof.

“**Publicly Traded Portfolio Security**” shall mean a Security which is traded on any recognized national securities exchange or which is listed or admitted to trading on an established, over-the-counter market (excluding a Security that the General Partner determines is thinly-traded) or a publicly traded security acquired from the issuer thereof as part of a “Private Investment in Public Equity” (“PIPE”) transaction.

“**Qualified Organization**” shall have the meaning of “qualified organization” set forth in Code Section 514(c)(9)(C).

“**Regulated Partner**” means each Limited Partner that is subject to the provisions of Regulation Y.

“**Regulation Y**” means, as of any date, Regulation Y of the Board of Governors of the Federal Reserve System (C.F.R. Part 225) or any similar or successor regulation in effect on such date.

“**Regulations**” or “**Treasury Regulations**” means regulations promulgated by the Department of Treasury of the United States in respect of the Code.

“**Regulatory Allocations**” shall have the meaning given to such term in Section 7.3.1(f) of this Agreement.

“**Returned Capital**” shall have the meaning given to such term in Section 6.3.1(f) of this Agreement.

“**RULPA**” shall have the meaning given to such term in the Preamble of this Agreement.

“**Schedule of Partners**” means the list maintained by the General Partner containing the name, address and Commitment of the General Partner and each Limited Partner. A copy of the Schedule of Partners shall be made available to any requesting Partner, provided that the General Partner may modify the presentation of the Schedule of Partners to preserve the confidentiality of Partners.

“**Second Priority Return**” means, as of any calculation date, a twelve percent (12%) cumulative annual return, compounded annually, on each Partner’s Unreturned Capital Account, (calculated in a consistent manner with how the First Priority Return is calculated on a memorandum basis by using twelve percent (12%) in place of nine percent (9%) for purposes of priority return, return of capital and unreturned capital accounts), including the First Priority Return already paid or accrued; provided that any Partner increasing its Commitment and any additional Limited Partner admitted on a Subsequent Closing Date shall be entitled to a Second Priority Return on the amount of any Capital Contribution made pursuant to Section 6.2.7(b) of this Agreement (excluding Subsequent Closing Interest) calculated from the date such Capital Contribution would have been made if such Limited Partner had been admitted, or such existing Partner had increased its Commitment, on the Initial Closing. For purposes of calculating the

Second Priority Return with respect to non-defaulting Partners (taking into account cure periods), the date on which a Capital Contribution is due pursuant to a notice given by the General Partner pursuant to Section 6.3.1(a) of this Agreement shall be deemed to be the date on which a given Capital Contribution has been made.

“**Securities**” or “**Security**” means and includes (i) notes, bonds, debentures, bills, trust receipts, mortgages, preferred equity instruments with fixed payment obligations, and other obligations, instruments or evidences of indebtedness; (ii) common stock, preferred stock, partnership interests, membership interests or other equity interests (including warrants, rights, put and call options and other options relating to any Security referenced in this definition); and (iii) other property, interests or choses in action commonly regarded as securities and interests in personal property of all kinds, tangible or intangible (including cash, certificates of deposit and other bank deposits).

“**Service Mark License Agreement**” shall have the meaning set forth in Section 8.5 of this Agreement.

“**Shared Obligation**” shall have the meaning given to such term in Section 6.9 of this Agreement.

“**Shortfall Amount**” shall have the meaning given to such term in Section 13.3(b) of this Agreement.

“**Side Letter**” shall have the meaning given to such term in Section 18.7 of this Agreement.

“**Special Affiliate Distribution**” shall have the meaning given to such term in Section 9.2(d) of this Agreement.

“**Special GP Distribution**” shall have the meaning given to such term in Section 9.2(d) of this Agreement.

“**Special GP Loan**” shall have the meaning given to such term in Section 7.1.4 of this Agreement.

“**Subpartnership(s)**” means any partnership, limited liability company or other similar entity, including a master fund, in which the Partnership has a direct or indirect interest. Subpartnerships may be formed in jurisdictions within or outside of the United States of America.

“**Subsequent Closing Date**” shall have the meaning given to such term in Section 6.2.7(a) of this Agreement.

“**Subsequent Closing Interest**” shall have the meaning given to such term in Section 6.2.7(b) of this Agreement.

“**Successor Entity**” shall have the meaning given to such term in Section 6.1.5(b)(i) of this Agreement.

“**Tax Credits**” shall have the meaning given to such term in Section 7.4 of this Agreement.

“**Tax Distributions**” means distributions made by the Partnership pursuant to Section 7.1.1 of this Agreement.

“**Tax Matters Partner**” shall have the meaning given to such term in Section 18.16 of this Agreement.

“**Tax Payment Loan**” shall have the meaning given to such term in Section 7.8(a) of this Agreement.

“**Termination Date**” shall have the meaning given to such term in Section 5 of this Agreement.

“**Testing Date**” shall have the meaning set forth in Section 7.14.

“**Total Shortfall Amount**” shall have the meaning given to such term in Section 13.3(b) of this Agreement.

“**UBTI**” shall mean unrelated business taxable income as such term is used in Sections 511 through 514 of the Code.

“**UBTI Structuring Costs**” shall mean all out-of-pocket structuring costs incurred to enable a transaction to comply with Section 514(c)(9) of the Code or to otherwise reduce the amount of UBTI to Qualified Organizations from a transaction.

“**Unallocated Special Profits Amount**” shall mean, as of any date, the excess, if any, of (i) the Waived Fee Balance as of such date over (ii) the cumulative amount of profits allocated to the General Partner pursuant to Section 7.2.1(a) of this Agreement.

“**Unfunded Commitment,**” with respect to any Partner, means the portion of the total Commitment that has not been paid in as Capital Contributions; provided that the amount of any Capital Contribution

, shall not be treated as having been paid in for this purpose and may be recalled by the Partnership in accordance with Section 6.3.1 of this Agreement. Amounts paid as Subsequent Closing Interest to the Partnership shall not reduce such Partner’s Unfunded Commitment. Returned Capital shall be treated as a part of the Unfunded Commitment of the Partner to which it was returned.

“**Unreturned Capital Account**” with respect to any Partner means all cash paid toward such Partner’s Commitment reduced by distributions made to such Partner pursuant to Section 7.1.3(b) of this Agreement. Amounts returned to a pre-existing Partner pursuant to Section 6.2.7(d) of this Agreement or paid as Subsequent Closing Interest to the Partnership shall not be treated as having been paid toward such Partner’s Commitment.

“**Up-Stream Blocker**” shall have the meaning given to such term in Section 6.10 of this Agreement.

“**Valuation Date**” shall mean December 31 of each year of the Partnership term.

“**Waived Fee Amount**” shall have the meaning given to such term in Section 9.2(c) of this Agreement.

“**Waived Fee Balance**” shall mean, as of any date, the aggregate Waived Fee Amounts for all Management Fee Payment Dates on or prior to such date.

“**Waived Fee Notice**” shall have the meaning given to such term in Section 9.2(c) of this Agreement.

“**Waived Fee Surplus**” shall mean, as of any date, the excess of (i) the Waived Fee Balance as of such date over (ii) the sum of (A) the aggregate amount of distributions previously made to the General Partner pursuant to Section 7.1.3(f) of this Agreement and (B) the aggregate unpaid principal amount, if any, of all Special GP Loans previously made to the General Partner.

“**Withdrawing Partner**” shall have the meaning given to such term in Section 18.19.2 of this Agreement.

“**Withholding Tax Act**” shall have the meaning given to such term in Section 7.8 of this Agreement.

## SECTION 2. NAME

The parties hereto hereby form a limited partnership under RULPA which shall be named Lubert-Adler Real Estate Fund VII, L.P. (the “**Partnership**”).

## SECTION 3. LOCATION

The principal place of business of the Partnership shall be maintained at such place as determined by the General Partner. Registered Office Service Company is hereby designated as the registered agent for service of process on the Partnership within the State of Delaware; and 203 N.E. Front Street, Suite 101, Milford, Delaware 19963 is hereby designated as the registered office of the Partnership within the State of Delaware required by Section 17-104 of the RULPA. The General Partner may from time to time change the Partnership’s registered agent for service of process, the location of its registered office within the State of Delaware and the location of its principal place of business, but only in accordance with RULPA. The Limited Partners will be notified of any change of the Partnership’s registered agent or principal place of business within ten (10) days of such change. The General Partner may establish additional places of business of the Partnership within and without the State of Delaware, as and when required by the business of the Partnership and in furtherance of its purposes set forth in Section 4 of this Agreement and may appoint agents for service of process in all other jurisdictions in which the Partnership shall conduct business.

## SECTION 4. PURPOSE

The primary purpose of the Partnership is to acquire, hold, maintain, operate, develop, sell, improve, lease, dispose of and otherwise invest in, directly or indirectly through Subpartnerships, various real estate assets debt and other securities, as described in the Confidential Private Placement Memorandum of the Partnership dated February 2013 and all exhibits and supplements, if any, thereto (the “**Memorandum**”) (each an “**Asset**” and, collectively, “**Assets**”), and to engage in other activities incidental or related thereto, in accordance with and subject to certain restrictions contained in the Memorandum.

## SECTION 5. TERM

The Partnership will commence dissolution proceedings in accordance with Section 13 of this Agreement on the seventh (7th) anniversary of the Final Closing (the “**Termination Date**”), unless commenced earlier in accordance with this Agreement; provided, however, that the General Partner may extend the date for the commencement of dissolution proceedings for an additional two (2) year period with the approval of the Executive Board (the “**Initial Extension Period**”) and, provided, further, that the General Partner may extend the date for the commencement of dissolution proceedings for an additional one (1) year period following the completion of the Initial Extension Period with the approval of the Executive Board. The General Partner will request Executive Board approval sufficiently in advance of the Termination Date (or the end of the extended term, as the case may be) to permit it to meet its obligations under Section 13.2(c) of this Agreement whether or not extension is approved as provided herein.

## SECTION 6. CONTRIBUTION TO CAPITAL AND STATUS OF PARTNERS

### 6.1. General Partner.

6.1.1 Name, Address and Commitment. The name, address and Commitment of the General Partner are set forth on the Schedule of Partners. 



6.1.2 Management and Control of the Partnership. Except as otherwise specifically provided elsewhere herein, the management, policies and control of the Partnership shall be vested exclusively in the General Partner. The Partnership shall enter into the Management Agreement with the Management Company, delegating its obligations under the Management Agreement to the Management Company but specifying that such authority shall be exercised in conformity with such agreement and this Agreement. The Management Agreement shall be binding upon the Partnership in accordance with its terms, shall not amend or modify the obligations of the General Partner hereunder nor be inconsistent with the terms of this Agreement and shall not be terminated or amended, nor be assigned to a non-affiliate of the

Management Company, and no breaches of any of the provisions of the Management Agreement may be waived, without the approval of the Executive Board. If and to the extent the consent of the Limited Partners is required, whether by operation of law or otherwise, in connection with the assignment of the Management Agreement to a non-affiliate of the Management Company, the Executive Board is authorized and empowered to grant such consent on behalf of the Limited Partners.

6.1.3 Powers. Subject to the provisions of this Agreement and consistent with the investment purposes stated herein, the General Partner shall directly, or through the Management Company, have the power on behalf and in the name of the Partnership to carry out and implement any and all of the purposes of the Partnership and to exercise any of the powers of the Partnership including, without limitation, the following matters:

(a) The acquisition of any Asset or interest in any Asset, whether the interest of the Partnership is direct or indirect (and including any acquisition of an interest in any Subpartnership or other entity which directly or indirectly owns an interest in any Asset);

(b) Any sale or other transfer or disposition of any Asset or interest in any Asset, whether the interest of the Partnership is direct or indirect (and including any sale or other transfer or disposition of an interest in any Subpartnership or other entity which directly or indirectly owns an interest in any Asset), or any other Partnership assets;

(c) Any borrowing, lending or other loan transaction, and entering into any agreement, contract or other obligation; provided that any borrowing by the Partnership or by any Subpartnership shall be nonrecourse to the Limited Partners;

(d) The adjustment, settlement or compromise of any claim, obligation, debt, demand, suit or judgment against the Partnership;

(e) The retention of key employees and the selection of any consultant or law or accounting firm to act on behalf of or provide services to the Partnership;

(f) The establishment of, and the withdrawal from, commercially reasonable reserves pursuant to Section 6.1.9 of this Agreement or otherwise;

(g) Monitoring the ongoing performance of the Partnership's investments, and providing to the Partners material information and reports regarding such investments and such other information reasonably requested by a Partner;

(h) Subject to clause (c) above and Section 6.1.7 of this Agreement, executing, in furtherance of any or all decisions of the General Partner, any mortgage, deed of trust, security agreement, deed, lease, promissory note, bill of sale, contract or other instrument purporting to convey or encumber the real or personal property of the Partnership, including without limitation the encumbering of Partnership property to secure loans made to any partnership, joint venture or other entity in which the Partnership has an interest;

(i) Carrying out contracts necessary to, in connection with, or incidental to the accomplishment of the purposes of the Partnership, to the fullest extent as may

be lawfully carried on or performed by a partnership under the laws of each state in which the Partnership is then formed or qualified;

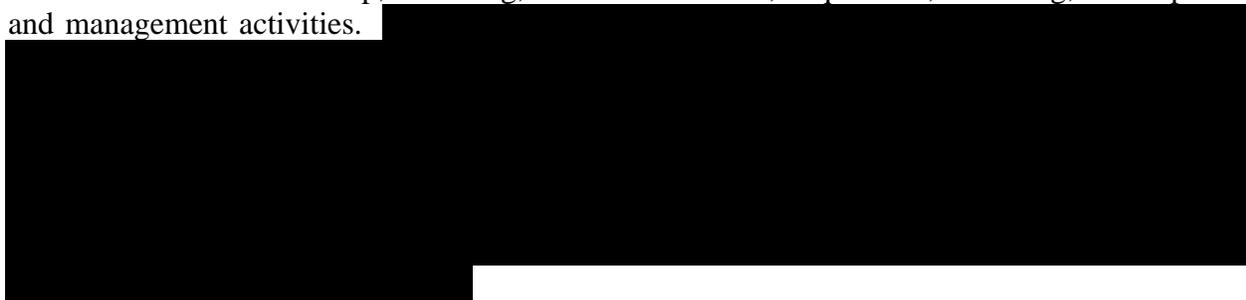
(j) Establishing entities in jurisdictions within and outside of the United States of America in connection with investments in Assets, and engaging in transactions in such jurisdictions in connection with the purchase, sale and management of Assets; and

(k) Any other decision or action that under this Agreement is required to be made or taken by the General Partner.

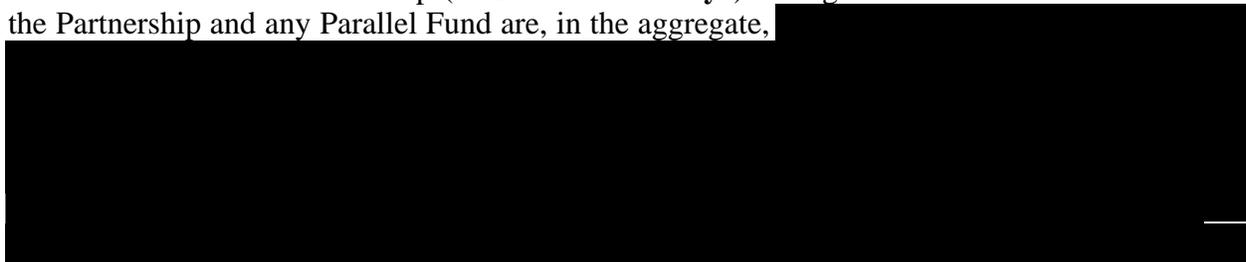
6.1.4 Certificate of Limited Partnership. The General Partner shall file for public record with the appropriate public authorities, and, if required, publish the Certificate and any amendments thereto and take all such other action as may be required to preserve the limited liability of the Limited Partners in any jurisdiction in which the Partnership shall conduct operations.

6.1.5 Other Activities.

(a) The General Partner shall directly, or through the Management Company, devote to the Partnership such time and efforts as may be necessary for the proper performance of its duties hereunder. The Partners acknowledge that Affiliates of the General Partner currently engage and will continue to engage in the management and operation of the Predecessor Lubert-Adler Funds and in various real estate activities initiated prior to the formation of the Partnership, including, without limitation, acquisition, financing, development and management activities.



(b) (i) Without the prior written consent of [REDACTED] of the Fund Interest of the non-defaulting Limited Partners and the non-defaulting limited partners of any Parallel Funds voting together as a single class, neither the General Partner nor any Affiliate of the General Partner shall, directly or indirectly, act as a general partner, manager or the primary source of transactions on behalf of another pooled real estate fund formed after the date of the Initial Closing with principal objectives and investment strategy substantially similar to that of the Partnership (a “**Successor Entity**”) during the Commitment Period unless the Partnership and any Parallel Fund are, in the aggregate, [REDACTED]



[REDACTED]

For purposes of this Section 6.1.5, the Partnership and any Parallel Funds shall be deemed to be invested when the Partnership's aggregate Commitments and the commitments of the limited partners of any Parallel Funds have been invested, released, expended, reserved for future investments (including without limitation amounts which the Partnership and any Parallel Funds are obligated to invest pursuant to binding agreements, whether or not all conditions to closing have then been satisfied) or reserved for other liabilities or obligations of the Partnership and any Parallel Fund as determined by the General Partner and with respect to any reserves (excluding reserves pursuant to binding agreements), with the approval of the Executive Board. Neither the Partnership nor any Partner shall by virtue of this Agreement have any right, title or interest in or to any Successor Entity. Parallel Funds shall not be considered Successor Entities.

(ii) Without the prior approval of the Executive Board, during the Commitment Period, none of the General Partner, the Management Company or any Affiliate of the General Partner or the Management Company shall, directly or indirectly, on its own behalf or on behalf of another Person, acquire, after the date of the Initial Closing, an asset of a type suitable for the investment goals of the Partnership and Parallel Funds without first offering such investment to the Partnership and Parallel Funds; provided, that this Section 6.1.5(b)(ii) shall not apply to any proposed investment (v) which the Partnership is prohibited from investing in pursuant to the investment limitations set forth in Section 6.1.6, (w) which is acquired as a result of their ownership interest in a Predecessor Lubert-Adler Fund, (x) [REDACTED] (y) in which the equity portion of such investment by such Person is less than Five Hundred Thousand Dollars (\$500,000) and such investment represents a minority position that has no active involvement in the management of the investment or (z) acquired through a blind pool investment vehicle or a discretionary account managed by a Person other than the General Partner, Management Company or their Affiliates. Nothing contained in this Section 6.1.5(b)(ii) shall preclude any such Persons from owning Assets distributed to them from the Partnership or another investment partnership owned by such Persons prior to the date of this Agreement.

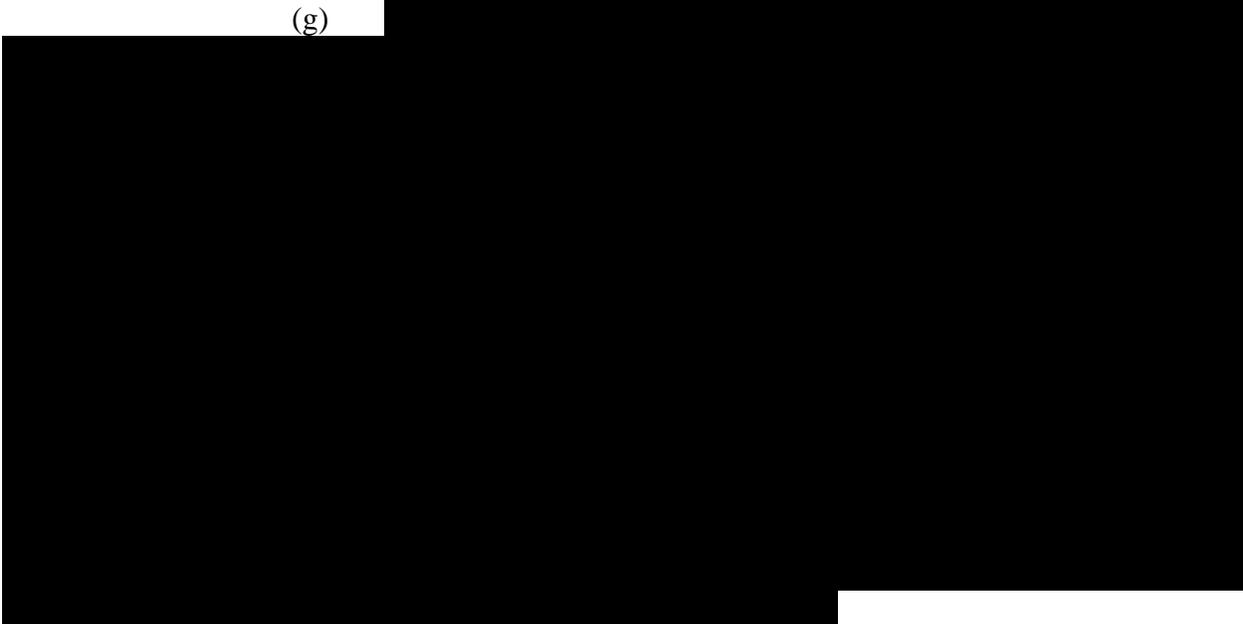
(c) [REDACTED]

(d) [INTENTIONALLY DELETED]

(e) Without the prior approval of the Executive Board, no employee, officer or director of the General Partner or the Management Company or LLC, or any spouse or minor children of, or estate planning vehicle controlled by any of the foregoing may purchase an interest in an Asset held by the Partnership or any Subpartnership.

(f) The Partnership and any Subpartnership may enter into any contract or agreement with the General Partner, the Management Company or their respective Affiliates for the provision of services to the Partnership or such Subpartnership, including, without limitation, providing development or management services for any Asset if such contract or agreement is required by the Partnership's or any Subpartnership's business and the Executive Board has approved the terms of such contract or agreement and such terms and conditions are no less favorable to the Partnership or Subpartnership than those provided by an unaffiliated third party in an arm's length transaction. Any purchase or sale of any assets between the Partnership or any Subpartnership and the General Partner, the Management Company, any other Lubert-Adler managed fund or account, the Approved Person or their respective Affiliates must be on such terms and conditions that are no less favorable to the Partnership or Subpartnership than those provided by an unaffiliated third party in an arm's length transaction and must first be approved by the Executive Board.

(g)



(h) Without the prior approval of the Executive Board, the Partnership may not purchase any Asset in which the General Partner, the Management Company, any other Lubert-Adler managed fund or account, the Approved Person or any of their Affiliates has an existing interest, provided that investments acquired pursuant to Section 6.1.5(g) do not require Executive Board approval.

6.1.6 Investment Limitations.

(a)



[REDACTED]

(b) After complying with the provisions set forth in Section 6.1.8(b) of this Agreement and subject to Section 6.1.6(c) of this Agreement, to the extent there is additional investment opportunity remaining with respect to such Asset, the Partnership and any Parallel Fund together shall have the right to invest in such Asset with the approval of the Executive Board.

(c) [REDACTED]

(d) The Partnership shall not make any loans to the General Partner or its Affiliates, except for any Tax Payment Loans resulting from mandatory tax withholding and any Special GP Loans.

(e) [REDACTED]

(f) Without the prior approval of the Executive Board, the Partnership shall not make any investment in an Asset until one hundred percent (100%) of the total commitments of Fund VI have been invested, returned, released, or reserved.

(g) [REDACTED]

(h) [REDACTED]

[Redacted]

(i)

[Redacted]

(j)

[Redacted]

(k)

[Redacted]

(l)

[Redacted]

6.1.7 Loan-to-Value Limitation.

(a)

[Redacted]

(b)

[Redacted]

[REDACTED]

6.1.8 Co-Investment with any Parallel Fund or Institutional Holders.

(a) The General Partner (or an Affiliate thereof) shall also serve as a general partner of (or in a similar capacity for) any Parallel Fund. Except as provided in Section 6.1.8(a)(iv), the Partnership and any Parallel Fund will conduct their investment activities in parallel. To implement this policy, the General Partner will directly, or through the Management Company:

(i) except as provided in Section 6.1.8(a)(iv), apportion available investment opportunities between the Partnership and any Parallel Fund in proportion to: (x) for periods prior to Final Closing, the relative amounts of total Unfunded Commitments, less reserves allocated to Assets and to expenses and liabilities, available to each such entity at the time of the investment, and (y) for periods after Final Closing, the relative amounts of total Unfunded Commitments, less reserves allocated to Assets and to expenses and liabilities, available to each such entity as of December 31<sup>st</sup> of the prior year or such other date as the General Partner may, in its discretion, determine to use;

(ii) (x) until such time as the Partnership and any Parallel Fund have had a Final Closing, from time to time transfer at cost investments among the Partnership and any Parallel Fund so that all applicable investments (other than Excluded Transactions) of the Partnership are held as among the Partnership and Parallel Funds in proportion to the relative amounts of total Unfunded Commitment, less reserves allocated to Assets and to expenses and liabilities, available to each such entity at such time; (y) as of Final Closing, investments shall be transferred at cost among the Partnership and any Parallel Fund so that all applicable investments (other than Excluded Transactions) of the Partnership are held as among the Partnership and Parallel Funds in proportion to the relative amounts of total Unfunded Commitment, less reserves allocated to Assets and to expenses and liabilities, available to each such entity as of the Final Closing; provided, that the transfer prices, pursuant to Section 6.1.8(ii)(x) & (y), between the Partnership and Parallel Funds shall be further adjusted as necessary, or as is commercially reasonable, with respect to income or principal payments received from the investments, or with respect to carrying costs (including an appropriate interest factor on equity funding) or other expenses associated with investments, so as to put each such fund in the economic position (or as close to it as is commercially reasonable) in which it would have been if it had invested in the investment when originally made; and (z) treat, and cause the Partnership and any Parallel Fund to treat, all transfers pursuant to Section 6.1.8(a)(ii) of this Agreement between and among the Partnership and any Parallel Funds, for U.S. federal, state and local income tax purposes, as a sale of an interest in the applicable investments;

(iii) cause the Partnership and any Parallel Fund to sell or otherwise dispose of each such investment at the same time and on the same terms and allocate proceeds of each such sale in amounts proportionate to the relative size of the investments made by the Partnership and any Parallel Fund in any Asset;

(iv)

[REDACTED]

(v)

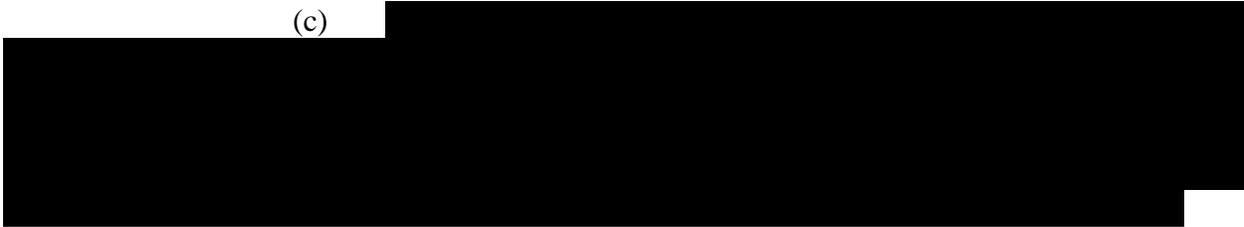
[REDACTED]

(b)

[REDACTED]



(c)



(d) In the event a Limited Partner directs an investment opportunity to the Partnership or affords the Partnership a unique strategic advantage, such Limited Partner may invest in such opportunity together with the Partnership and the investment by such Limited Partner shall not be deemed to be a co-investment for purposes of Section 6.1.8(b) of this Agreement.

6.1.9 Working Capital Reserves. The General Partner may set aside proceeds of the Offering and other cash receipts of the Partnership (including payments in respect of the Unfunded Commitments) to establish and replenish from time to time commercially reasonable working capital reserves. Any balance in the working capital reserves upon dissolution of the Partnership shall be distributed in the same manner as other Assets are distributed.

6.1.10 Investment Company Act, Investment Advisers Act. The Partnership is structured to be excluded from registering under the Investment Company Act. Existing laws, regulations and interpretations and/or changes thereto may make it necessary or advisable to register the Partnership under the Investment Company Act. While the Management Company is registered as an investment adviser under the Investment Advisers Act, neither the General Partner nor the Approved Person currently are registered as investment advisers under the Investment Advisers Act. Changes in the laws and regulations applicable to the business of the Partnership, the General Partner and the Approved Person may make it necessary or advisable to register the General Partner or the Approved Person under the Investment Advisers Act. The General Partner shall have the power to take such action as it may deem advisable in light of existing or changing regulatory conditions in order to permit the Partnership to continue in existence, including, without limitation, registering the Partnership under the Investment Company Act, taking any and all action necessary to secure such registration and to secure registration or appropriate exemptions under the Investment Advisers Act as may be necessary in connection with the registration of the General Partner or its affiliates under the Investment Advisers Act.

6.1.11 Governmental Plan Partner Acknowledgements. Each Limited Partner that is a Governmental Plan Partner acknowledges that (i) the underlying assets of the

Partnership are not intended to constitute assets of that Governmental Plan Partner for purposes of any federal, state or local law governing the investment and management of the assets of that Governmental Plan Partner that may be similar to any provision of ERISA (“ERISA Similar Law”) and (ii) as a result, none of the Partnership, the General Partner or any of their Affiliates intend to act as a fiduciary within the meaning of any ERISA Similar Law applicable to that Governmental Plan Partner or the Partnership’s assets.

#### 6.1.12 ERISA.

(a) The General Partner shall use its best efforts to cause the investments of the Partnership not to be treated as “plan assets” under Department of Labor regulation section 2510.3-101, as modified by Section 3(42) of ERISA (the “**Plan Assets Regulations**”); provided, however, that this Section 6.1.12 shall not have, or shall cease to have, any force or effect if the participation of “benefit plan investors” in the Partnership is not “significant” within the meaning of the Plan Assets Regulations, or if such Plan Assets Regulations are no longer in effect.

(b) Each ERISA Partner represents that it (i) has the right, and is duly authorized, to be a Limited Partner and to make the Capital Contributions on its part required to be made hereunder and (ii) does not know of any condition or circumstance in existence on the date hereof or on the date it executes its subscription agreement to acquire its Interest that would give rise to a right for it to withdraw from the Partnership pursuant to Section 12.5 of this Agreement.

#### 6.1.13 Removal of General Partner for Cause.

(a) In the event of the General Partner’s (i) fraud, (ii) gross negligence, (iii) willful misconduct, (iv) material breach of its duties under this Agreement, (v) conviction or plea or no contest to a violation of a federal securities law, (vi) conviction or a plea of no contest to a felony under any federal or state statute, (vii) material violation of any other law that has a material adverse effect on the Partnership or (viii) breach of its fiduciary duties under this Agreement and those provided under applicable Delaware law, or the Management Company’s material breach of its duties under this Agreement, or the Management Company’s or Approved Person’s (A) fraud, (B) gross negligence that has a material adverse effect on the Partnership, (C) willful misconduct that has a material adverse effect on the Partnership, (D) conviction or plea or no contest to a violation of a federal securities law that has a material adverse effect on the Partnership, (E) conviction or a plea of no contest to a felony under any federal or state statute that has a material adverse effect on the Partnership or (F) material violation of any other law that has a material adverse effect on the Partnership (such event shall hereinafter be deemed for “**Cause**” or a “**Cause Event**”) and if such Cause Event is not cured (if capable of being cured) within sixty (60) days following written notice to the General Partner from [REDACTED] of the Fund Interest of the non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund voting together as a single class specifying in reasonable detail the nature of such Cause Event, [REDACTED] of the Fund Interest of the non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund voting together as a single class may, within the later of ninety (90) days of such written notice to the General Partner or the expiration of such cure period (if the Cause Event has not been cured

within the cure period), either remove the General Partner and appoint a new General Partner or dissolve the Partnership in accordance with Section 13 of this Agreement. Such removal for Cause of the General Partner shall be effective upon delivery of written notice of such action to the Partners and the partners of any Parallel Fund and, in the case of a new General Partner, the appointment of the new General Partner. Except as set forth in this Section 6.1.13, the removal of the General Partner shall in no way impair any rights of such General Partner attributable to the period prior to the effective date of such removal. The General Partner shall not be deemed to have cured any such Cause event unless, within the requisite sixty (60) day period, such Cause event was in fact cured and the General Partner sends written notice to the non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund specifying in reasonable detail how it was cured. Until either the General Partner cures any such Cause event or expiration of the above referenced 90-day period, the ability of the General Partner to enter into any new agreements to acquire new investments on behalf of the Partnership shall be suspended.

(b) Upon removal for Cause, the Interest of the General Partner in the Partnership shall be converted, without any further action being necessary to effect such conversion, into a Limited Partner Interest having the same rights to distributions and the same allocations of Profits and Losses that it had as General Partner; provided, that the Carried Interest thereafter payable to the removed General Partner shall be reduced by [REDACTED] and provided, further, that in the event that the losses, costs, damages or expenses incurred by the other Partners as a result of the Cause Event that causes the General Partner's removal hereunder exceed the value of the portion of the Carried Interest forfeited hereunder by the General Partner (which shall first offset such losses, costs, damages or expenses), [REDACTED]

(c) The new General Partner shall have such rights to distributions and allocations of Profits and Losses as may be conveyed to it voluntarily by a vote of [REDACTED] of the Fund Interest of the non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund, provided there is no additional dilution to the removed General Partner's rights to distributions, Profits or Losses. Unless otherwise agreed to by [REDACTED] of the Fund Interest of the non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund, the new General Partner shall operate the Partnership solely for the purpose of conserving and disposing of its portfolio of investments existing as of the date of admission of such new General Partner and no additional investments in Assets unrelated to its existing portfolio shall thereafter be made or acquired through the Partnership.

(d) The removed General Partner, even though removed pursuant to this Section 6.1.13, shall remain entitled to exculpation and indemnification from the Partnership to the extent allowable pursuant to Section 10 of this Agreement in its capacity as a General Partner with respect to any matter arising out of its acts prior to its removal. The removed General Partner shall have the right to require the Partnership and any Affiliate to conduct its business under a name not using the term “Lubert-Adler” or any variation thereof. Upon its appointment, the new General Partner shall promptly amend the Partnership’s Certificate of Limited Partnership and other state filings to reflect the conversion of the former General Partner into a Limited Partner and, if required, to reflect the change of the Partnership’s name.

6.1.14 Removal of General Partner without Cause.

(a) Non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund voting together as a single class constituting in the aggregate at least [REDACTED] of the Fund Interest may remove and replace the General Partner with another general partner for both the Partnership and any Parallel Fund at any time provided the General Partner has received written notice of such removal and replacement at least sixty (60) days prior to the effective date of such removal. During such sixty (60) day period, no requests for Additional Capital Contributions shall be made by the removed General Partner and the ability of the General Partner to make any new investments on behalf of the Partnership shall be suspended. [REDACTED]

(b) [REDACTED]



(c) The removed General Partner, even though removed pursuant to this Section 6.1.14, shall remain entitled to exculpation and indemnification from the Partnership to the extent allowable pursuant to Section 10 of this Agreement in its capacity as a General Partner with respect to any matter arising out of its acts prior to its removal. The removed General Partner shall have the right to require the Partnership and any Affiliate to conduct its business under a name not using the term “Lubert-Adler” or any variation thereof. Upon its appointment, the new General Partner shall promptly amend the Partnership’s Certificate of Limited Partnership and other state filings to reflect the conversion of the former General Partner into a Limited Partner and, if required, to reflect the change of the Partnership’s name.

(d) In the event of the removal of the General Partner, the Management Agreement and any other agreements with the General Partner or its Affiliates shall be terminated and neither the removed General Partner nor any of its Affiliates shall receive a Management Fee for any period subsequent to such removal. The General Partner and its Affiliates shall provide copies of all Partnership records to the new General Partner and shall cooperate with the transition to the new General Partner.

6.2. Limited Partners.

6.2.1 Names, Addresses and Commitments. The names, addresses and Commitments of the Limited Partners are set forth on the Schedule of Partners. The Schedule of Partners shall be amended from time to time to reflect any change in the identity or the Commitment of the Limited Partners or the aggregate Commitments of all Limited Partners.

6.2.2 Limited Liability. The liability of each of the Limited Partners to the Partnership shall be limited to any Unfunded Commitments and any outstanding Tax Payment Loan except as required under the RULPA.

6.2.3 No Control of Partnership; Other Limitations.

(a) No Limited Partner, in its capacity as such, shall take any part in the control of the affairs of the Partnership, undertake any transactions on behalf of the Partnership or have any power to sign for or to bind the Partnership.

(b) No Limited Partner shall have the right or power to: (1) withdraw or reduce its Capital Contribution to the Partnership except as a result of the dissolution of the Partnership (provided that Limited Partners shall have no right to withdraw or reduce their Capital Contributions or Commitment on dissolution of the Partnership to the extent that the Partnership requires funds to pay its creditors) or as otherwise provided herein; (2) cause the termination and dissolution of the Partnership except as otherwise provided herein; or (3) demand or receive property other than cash in return for its Capital Contribution except as otherwise provided herein.

6.2.4 Death, Dissolution or Bankruptcy. The death, incompetence, bankruptcy, liquidation or dissolution of a Limited Partner shall not result in the termination of the Partnership, but, subject to the provisions of Section 12 of this Agreement, the rights and obligations of such Limited Partner under this Agreement shall accrue to such Limited Partner's successor, estate or legal representative. Except as expressly provided in this Agreement, no other event affecting a Limited Partner (including but not limited to insolvency) shall affect this Agreement.

6.2.5 Registration. Upon the admission of a Person as a Limited Partner or substitute Limited Partner, such Person shall be registered on the records of the Partnership, together with such Person's address and Commitment amount. Each Person registered as a Limited Partner of record shall continue to be the holder of record of such Interests until acceptance of the transfer of any such Interests is given in accordance with the terms of this Agreement. A holder of record shall be entitled to all distributions and all allocations of Profit and Loss with respect to Interests registered in such Person's name and to all other rights of a Limited Partner until such Person's rights in such Interests have been transferred in accordance with this Agreement. The Partnership shall not be affected by any notice or knowledge of transfer of any Interest, except as expressly provided in Section 12.2 of this Agreement. The payment to the holder of record of any distribution with respect to Interests owned by such holder shall discharge the Partnership's obligations in respect thereto.

6.2.6 Continuation of Limited Partner Status. Once admitted as a Limited Partner, a person shall continue to be a Limited Partner for all purposes of this Agreement until a substitute Limited Partner is admitted in place of such person pursuant to the provisions of Section 12.3 of this Agreement.

6.2.7 Additional Limited Partners and Increased Commitments.

(a) Subject to the provisions of this Agreement, during the period commencing on the Initial Closing and ending with the Final Closing, the General Partner is authorized, but not obligated, to accept from time to time additional Commitments from the Partners and to select and admit other Persons to the Partnership as additional Limited Partners

(the date of any such admittance occurring after the Initial Closing shall hereinafter be referred to as a “**Subsequent Closing Date**”). Any such additional Commitments shall be accepted and any such additional Limited Partners shall be admitted to the Partnership only if after such admission or the acceptance of such additional Commitments, the sum of the aggregate Commitments of all Limited Partners plus the aggregate commitments of all limited partners in any Parallel Fund shall not exceed Five Hundred Million Dollars (\$500,000,000), which may be increased to Seven Hundred and Fifty Million Dollars (\$750,000,000) in the discretion of the General Partner.

(b) Any existing Limited Partner increasing its Commitment and any additional Limited Partner shall be (i) treated as having increased its Commitment or as having been a party to this Agreement as of the date of the Initial Closing for all purposes of this Agreement, including, without limitation, for purposes of calculating the First Priority Return and Second Priority Return, (ii) required to contribute, as determined by the General Partner, a percentage of its Commitment sufficient, following the funding of such portion of its Commitment and distributions (if any) to pre-existing Partners contemplated pursuant to Section 6.2.7(d) of this Agreement, to result in all the Partners of the Partnership having contributed the same percentage of their respective Commitments, (iii) required to bear its portion of other operating expenses (including Organizational Expenses and its share of the Management Fee) whenever incurred and (iv) required to pay interest (the “**Subsequent Closing Interest**”) to the Partnership on its Capital Contribution pursuant to this Section 6.2.7(b) at an annual rate equal to nine percent (9%) per annum, calculated from the date such Capital Contribution would have been made if such Limited Partner had been admitted or such existing Partner had increased its Commitment on the date of the Initial Closing to the date of payment by such Partner.

(c) The Subsequent Closing Interest received by the Partnership from Partners increasing their Commitments and any additional Limited Partners shall not be treated as a Capital Contribution or payment toward such Partner’s Commitment. Rather, such Subsequent Closing Interest shall be treated as income by the Partnership and the distribution, if any, to the pre-existing Partners shall be treated as a guaranteed payment for the use of capital within the meaning of Section 707(c) of the Code. Such income and the deduction for the guaranteed payment shall be included in Profits or Losses, as the case may be. The General Partner may postpone the collection of Subsequent Closing Interest until the date of the Final Closing or within one hundred eighty (180) days thereafter.

(d) A portion or all of the amounts (other than Subsequent Closing Interest) received by the Partnership from Partners increasing their Commitments and any additional Limited Partners shall be distributed to pre-existing Partners, but only to the extent necessary, such that after such distribution, all Partners shall have contributed to the Partnership the same percentage of their respective Commitments (excluding Subsequent Closing Interest)(adjusted to reflect any current and prior distributions to pre-existing Partners pursuant to this Section 6.2.7(d)), it being understood that a distribution to pre-existing Partners may not be necessary. The General Partner may, in its sole discretion, credit to the Capital Accounts of or apply toward subsequent Capital Contribution obligations of pre-existing Partners any amounts that otherwise would have been distributed to them under this Section 6.2.7(d). To the extent pre-existing Partners have received the amounts distributed pursuant to Section 6.2.7(c) of this Agreement, such pre-existing Partners will not be entitled to the First Priority Return or the Second Priority Return with respect to the portion of capital returned to them under this Section

6.2.7(d). For the purposes of this Section 6.2.7, all Assets and other investments of the Partnership made or incurred prior to the admission of an ERISA Partner, an Additional Limited Partner or an increase in the Commitment of a Limited Partner, as the case may be, shall be valued at original cost unless the General Partner, in its sole discretion, determines that a material change or significant event requires a different valuation, in which case the amounts contributed pursuant to this Section 6.2.7 for each Interest shall be adjusted accordingly.

(e) Accession to Agreement. Each Person who is to be admitted as an additional or substitute Limited Partner pursuant to this Agreement shall accede to this Agreement by executing, together with the General Partner, a subscription agreement and/or such other document as determined by the General Partner providing for such admission, which shall be deemed for all purposes to constitute an amendment to this Agreement providing for such admission but shall not require the consent or approval of any other Partner. In addition, the General Partner shall make any necessary filings with the appropriate governmental authorities and take such actions as are necessary under applicable law to effectuate such admission. The admission of additional or substitute Limited Partners to the Partnership shall be effective upon the execution of a subscription agreement and/or such other document or such later effective date as is set forth in any instrument executed by the General Partner and any newly admitted Partner. The General Partner shall cause the Schedule of Partners to be amended from time to time, without the consent of any other Partner, to reflect any changes in the Commitments or identity of any Partner, the aggregate Commitments of all Partners, or the admission of Limited Partners.

### 6.3. Capital of the Partnership.

#### 6.3.1 Capital Contributions.

(a) Each of the Partners hereby commits to make an aggregate Capital Contribution to the Partnership in the amount of such Partner's Commitment. Each Partner admitted in the Initial Closing shall contribute to the Partnership, on or promptly after the Initial Closing pursuant to a capital call issued by the General Partner, a percentage of its Commitment, as determined by the General Partner. Partners admitted after the Initial Closing (or increasing their Commitment) shall contribute to the Partnership the amounts determined pursuant to Section 6.2.7(a) of this Agreement. In addition, subject to Sections 6.3.1(b), (d) and (e) of this Agreement, each Partner shall make additional contributions to the capital of the Partnership ("**Additional Capital Contributions**"), upon no less than fifteen [REDACTED] prior written notice from the General Partner, provided that no Partner shall be obligated to make a Capital Contribution in respect of its Commitment that exceeds the amount of such Partner's Unfunded Commitment at the time of such Capital Contribution; provided, that to the extent the assets of the Partnership, including but not limited to proceeds of liability insurance, are not sufficient to satisfy the Partnership's obligations, including without limitation, any indemnification obligations, but not including general operating expenses of the Partnership, [REDACTED]

[REDACTED]

[REDACTED]. Any such recall shall be made among the Partners in the reverse order of the original distribution to the Partners beginning with Section 7.1.3(e) of this Agreement. Such recalled capital received by the Partnership pursuant to this Section 6.3.1(a) shall be treated as a Capital Contribution for all purposes of this Agreement and shall increase such contributing Partner's Unreturned Capital Account balance. In connection with the dissolution of the Partnership, the General Partner will, in good faith, attempt to identify, and notify the Limited Partners of, a material liability of the Partnership that likely could be subject to recall pursuant to this Section 6.3.1(a). Each capital call notice shall set forth the date on which the related Additional Capital Contribution is due and information relating to the general purposes for the Additional Capital Contribution. The amount of capital required to be contributed by each Partner on each occasion of an Additional Capital Contribution shall be computed by the General Partner so that each Partner's Additional Capital Contribution bears the same relationship to the aggregate Additional Capital Contributions to be made on such occasion as such Partner's Unfunded Commitment bears to the aggregate Unfunded Commitments of all Partners. All calls for Additional Capital Contributions to the Partnership by the Partners and for additional capital contributions to any Parallel Fund by the partners of any Parallel Fund shall be made at the same times, on the same terms. All Capital Contributions shall be made either by wire transfer or by personal check, except to the extent not otherwise permitted pursuant to applicable laws and regulations, as determined by the General Partner.

(b) No Partner shall be liable for any Additional Capital Contribution with respect to which the General Partner has not delivered the notice provided for in Section 6.3.1(a) of this Agreement on or before the last day of the Commitment Period; provided that the General Partner may call for Additional Capital Contributions after the Commitment Period (but in no event shall a Partner be obligated to make a Capital Contribution in respect of its Commitment that exceeds the amount of such Partner's Unfunded Commitment at the time of such Capital Contribution), by delivery of the notice provided for in Section 6.3.1(a) of this Agreement, to fund (i) commitments to complete any investments in process at the end of the Commitment Period, provided that such investment closes within six (6) months following the end of the Commitment Period, unless such investment has been approved by the Executive Board, provided that the General Partner has prepared a schedule identifying such investments and delivered such schedule to the Executive Board at the end of the Commitment Period; (ii) amounts which the Partnership is obligated to meet pursuant to binding agreements entered into prior to the end of the Commitment Period, whether or not all conditions to closing have then been satisfied, or pursuant to non-binding agreements entered into prior to the end of the Commitment Period, provided such non-binding agreements become binding within six (6) months following the end of the Commitment Period, unless such investment has been approved by the Executive Board, provided that the General Partner has prepared a schedule identifying such non-binding agreements and delivered such schedule to the Executive Board at the end of the Commitment Period; (iii) the repayment of all principal, interest and other amounts owing, or which may become due, under any guarantee or loan, including any Credit Facility; (iv) other expenses and liabilities of the Partnership, or any Subpartnership, accrued as of the last day of the Commitment Period and through the term of the Partnership, including the Management Fee; and (v) follow-on investments in existing Assets (subject to the limitations specified in Section 6.1.6(e) of this Agreement). The General Partner may at any time, by written notice to the Limited Partners, terminate in whole or in part the obligation of the Partners to make Additional Capital Contributions and, upon the giving of such notice, the obligation of the Partners to make

such contributions shall terminate to the extent, and as of the date, specified in such notice. Such termination may take the form of the General Partner reducing Partners' Commitments. Any partial termination of the outstanding obligations of the Partners to make Additional Capital Contributions or the reduction of Partners' Commitments shall be accomplished by terminating in part the obligations of all Partners, pro rata in proportion to their respective Commitments. Except as otherwise set forth herein, the General Partner shall not cause any termination of the Partners' obligations to make Additional Capital Contributions unless an equivalent termination occurs contemporaneously with respect to the obligations of the partners of any Parallel Fund to make additional capital contributions to any Parallel Fund.

(c) Except as otherwise set forth in this Agreement, the General Partner shall have no obligation to make contributions to the capital of the Partnership or other payments to the Partnership in excess of the amounts specified in Section 6.3.1 of this Agreement or to lend or otherwise provide funds to the Partnership, even if the failure to do so would result in a default by the Partnership in any of its obligations, a loss by the Partnership of any of its investments or other consequence adverse to the Partnership.

(d) Notwithstanding any provision in the Agreement to the contrary, if, at any time before any Additional Capital Contribution is required to be made by any Partner, such Partner obtains and delivers to the Partnership an opinion of counsel (which opinion in form and content and counsel shall be reasonably acceptable to the General Partner) to the effect that the payment by such Partner of any such Additional Capital Contribution will be prohibited by any statute, law or regulation applicable to such Partner, then (w) such Partner shall have no further right or obligation to make Additional Capital Contributions except that such Partner shall be required to fund its pro rata portion of the outstanding balance of the Credit Facility; (x) such Partner's Commitment and Unfunded Commitment shall be reduced by an amount equal to such portion; (y) such Partner shall not, by reason of its failure to pay such portion, be deemed or treated as a defaulting Partner for purposes of Section 6.3.2 of this Agreement; and (z) (i) such Partner shall not participate in any Profits, Losses or distributions attributable to any investment by the Partnership which is attributable to the Additional Capital Contribution and (ii) this Agreement shall be deemed to have been amended, as of the date such Additional Capital Contribution was required to be made, as necessary to achieve these results. Notwithstanding any other provision of this Agreement to the contrary, the General Partner, in its sole discretion and without the consent of any other Partner, may cause a formal amendment to this Agreement to be effected to effectuate the intent of this Section 6.3.1(d) and, if this Agreement is not formally amended, shall have reasonable discretion to adjust Partnership allocations and distributions in order to effectuate that intent.

(e) In the case of any ERISA Partner, prior to the date the Partnership qualifies as a "venture capital operating company" within the meaning of the Plan Assets Regulations (or otherwise complies with such other exemption as may be available under such regulations to prevent the assets of the Partnership from being treated as the assets of any ERISA Partner for purposes of the Plan Assets Regulations), such ERISA Partner may not be required to contribute capital in respect of its Commitment; provided, however, that as soon as practicable following the date the Partnership qualifies as a venture capital operating company (or otherwise complies with such other exemption as may be available under such regulations to prevent the assets of the Partnership from being treated as the assets of any ERISA Partner for purposes of

the Plan Assets Regulations), such ERISA Partner shall contribute to the Partnership the amounts required pursuant to Section 6.2.7 of this Agreement (including interest).

(f) If the General Partner makes a capital call and receives Capital Contributions from the Partners for an investment in any Asset and such investment is not made for any reason within 90 days of the capital call, the General Partner shall return all of such Capital Contributions received from the Partners (the “**Returned Capital**”). All Returned Capital shall be treated as a part of the Unfunded Commitment of the Partner to which it was returned and, accordingly, shall be available for subsequent capital calls. Any portion of a Capital Contribution that is returned to a Partner pursuant to this Section 6.3.1(f) shall reduce the Capital Account of such Partner on the date it is returned to such Partner.

### 6.3.2 Default by Partners.

(a) The Partnership shall enforce the obligations of each Limited Partner to make Capital Contributions in respect of such Partner’s Commitment as specified in this Agreement. The Partnership shall have all remedies available at law or in equity and shall have the right to exercise the provisions of this Section 6.3.2, which rights shall be cumulative with each other and not exclusive of each other, in the event any such Capital Contribution or other required payment is not made when due (except to the extent such Capital Contribution is not required to be made pursuant to the terms of this Agreement). Upon each default by a Limited Partner to make such Capital Contribution or other required payment, the General Partner may in its sole discretion undertake any one or more of the following actions:

(i) If such default has not been cured within five (5) business days of notice from the General Partner, the General Partner may elect to charge such Limited Partner interest at an annual rate of [REDACTED] compounded monthly. If such default has not been cured within fifteen (15) days of notice from the General Partner, the General Partner may elect to charge such Limited Partner interest at an annual rate of [REDACTED] (including, but not in addition to, the [REDACTED] interest rate charged above), compounded monthly on the amount due from the date such amount became due until the earlier of (A) the date on which such payment is received by the Partnership or (B) the date of any action taken by the General Partner pursuant to subsections (ii)-(iv) below. Any distributions to which such Limited Partner is entitled shall be reduced by the amount of such interest and such amount shall be allocated among the remaining non-defaulting Partners ratably in accordance with their respective Contributions Accounts (or distributed to such non-defaulting Partners as a guaranteed payment, the deduction for which is allocated to the defaulting Partner).

(ii) Without limiting the foregoing, and in addition to the above, if such default has not been cured within forty-five (45) days of notice from the General Partner, if the defaulting Limited Partner’s Commitment is equal to or less than One Million Dollars (\$1,000,000), the General Partner shall have the option to acquire all or a portion of the defaulting Limited Partner’s Interest on the terms set forth below. If the General Partner does not elect to purchase the entire Interest of a defaulting Limited Partner with a Commitment equal to or less than One Million Dollars (\$1,000,000) or if the defaulting Limited Partner’s Commitment is greater than One Million Dollars (\$1,000,000), the General Partner shall offer such Interest to the non-defaulting Limited Partners pro rata in proportion to their respective

Contributions Account. If any Limited Partner does not elect to purchase the entire Interest offered to it, such unpurchased Interest shall be reoffered to the other Limited Partners who have purchased the entire Interest offered to them pro rata in proportion to their respective Contribution Accounts until either all of such Interest is acquired or no Limited Partner wishes to make a further investment. In the event the entire defaulting Limited Partner's Interest is not purchased as set forth above, the General Partner may, in its sole discretion, acquire the unpurchased Interest or offer the unpurchased Interest to third parties in such amounts as it may determine. At the closing of such purchase, each purchaser shall, as payment in full for the defaulting Limited Partner's Interest being purchased, deliver a non-interest bearing, non-recourse promissory note due upon the termination and liquidation of the Partnership (in a form approved by the General Partner), secured only by the defaulting Limited Partner's Interest being purchased, payable to the defaulting Limited Partner in an amount equal to [REDACTED] of the book value of the portion of the defaulting Limited Partner's Interest being acquired (which book value shall be deemed to equal the defaulting Limited Partner's Capital Account balance as determined by the General Partner in accordance with generally accepted accounting principles). Each purchaser also shall assume the portion of the defaulting Limited Partner's obligation to make both the defaulted and future Capital Contributions pursuant to its Commitment that are commensurate with the defaulting Limited Partner's Interest being purchased. The date and place for closing, and all time limits for acceptances of the offers set forth in this Section, shall be determined by the General Partner in its sole and absolute discretion.

(iii) Without limiting the foregoing, and in addition to the above, if such default has not been cured within the forty-five (45) day notice period from the General Partner, the General Partner may cause the defaulting Limited Partner to forfeit [REDACTED] of its Capital Account balance and Unreturned Capital Account balance (for each Default). In each such event [REDACTED] of the defaulting Limited Partner's Capital Account balance, Unreturned Capital Account balance and Contributions Account shall be reduced and reallocated Pro Rata to the Partners (other than defaulting Limited Partners).

(iv) Without limiting the foregoing and in addition to the above, if such default has not been cured within forty-five (45) days of notice from the General Partner, the General Partner may reduce such Limited Partner's Commitment (which has not been assumed by another Partner or third party) to the amount of any Capital Contributions (which have not been purchased by another Partner or third party) previously made by such Limited Partner. Such Limited Partner shall have no right to make any Capital Contribution thereafter (including the Capital Contribution as to which the default occurred and any Capital Contribution otherwise required to be made thereafter).

(v) Notwithstanding any other provision of this Agreement, the Schedule of Partners shall be amended to the extent necessary to reflect such purchases, reductions or reallocations and the General Partner may, in its sole discretion and without the consent of any other Partner, cause a formal amendment to this Agreement to be effected to effectuate the intent of this Section 6.3.2(a) and, if this Agreement is not formally amended, shall have reasonable discretion to adjust Partnership allocations and distributions in order to effectuate that intent.

(vi) Without limiting the foregoing, and in addition to the above, no part of any distribution shall be paid to any Limited Partner from which there is then due and owing to the Partnership, at the time of such distribution, any amount required to be paid to the Partnership. At the election of the General Partner, the Partnership may either (A) apply all or part of any such withheld distribution in satisfaction of the amount then due to the Partnership (including interest thereon) from such Limited Partner or (B) withhold such distribution until all amounts then due (including interest thereon) are paid to the Partnership by such Limited Partner. Upon payment of all amounts due to the Partnership (by application of withheld distributions or otherwise), the General Partner shall distribute any unapplied balance of any such withheld distribution to such Limited Partner.

(vii) During the time period commencing on the date the defaulting Limited Partner becomes a defaulting Limited Partner (whether or not notice of such default has been made) and terminating on the date such default is cured or such defaulting Limited Partner's Interest is purchased, reduced or reallocated as described above, such defaulting Limited Partner shall have no right to vote on Partnership matters.

(viii) Notwithstanding anything to the contrary contained in this Agreement, in addition to exercising the foregoing remedies against a defaulting Partner or any other rights hereunder or under applicable law, the General Partner shall have the right to make an additional request to all Partners other than such defaulting Partner calling for Additional Capital Contributions to the Partnership (other than Additional Capital Contributions to fund the defaulting Partner's share of an indemnification expense) on a pro rata basis in the aggregate amount of the Additional Capital Contribution which the defaulting Partner failed to make. Any request for an Additional Capital Contribution pursuant to the immediately preceding sentence shall not increase any non-defaulting Partner's Commitment and any amount contributed by any Partner pursuant to such request shall reduce such Partner's Unfunded Commitment.

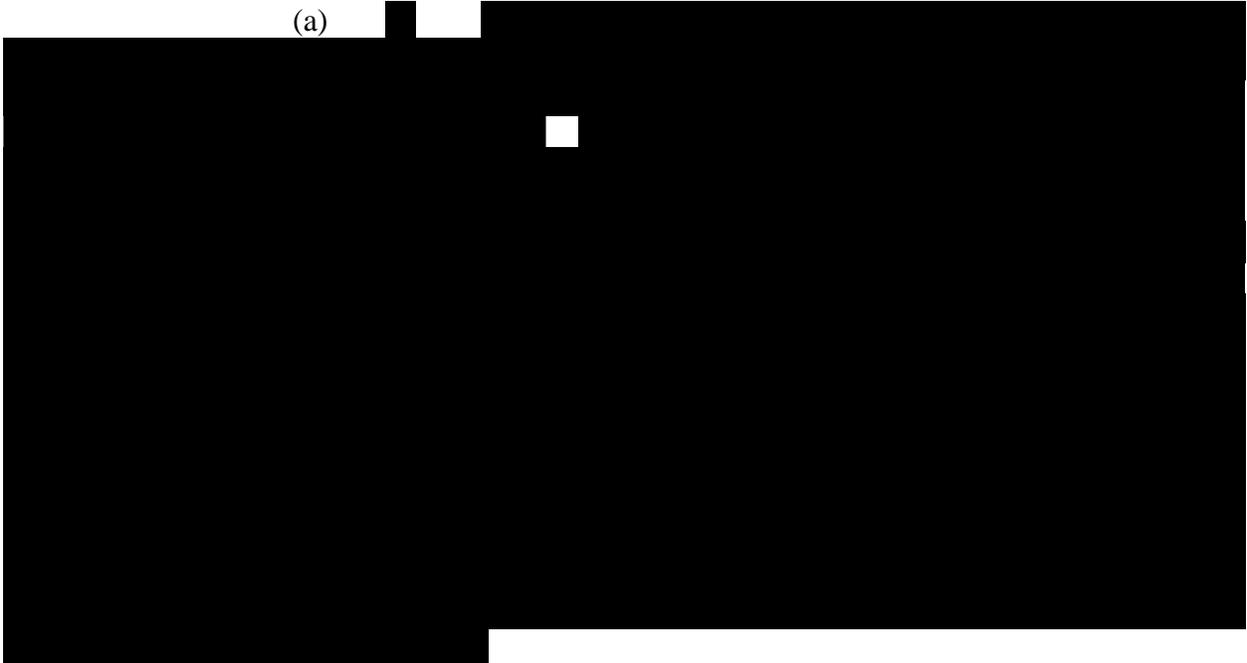
(b) To secure each Partner's obligations and liabilities to the Partnership, each Partner hereby grants to the Partnership and its assigns a security interest under the Uniform Commercial Code, as enacted in the State of Delaware, in such Partner's Interest in the Partnership and any proceeds thereof. In addition to the remedies provided in this Agreement, the Partnership may at any time avail itself of any or all legal remedies that may be available to a secured creditor under the laws of any applicable jurisdiction to compel payment by the defaulting Partner of any Unfunded Commitment with respect to such Interest, other amounts due under this Agreement, reasonable court costs, damages, expenses and attorney's fees. If any Person purchases the defaulting Partner's Interest, the defaulting Partner (notwithstanding the fact that such Person shall no longer be a Partner) shall be relieved of its obligation to make any payment due hereunder only to the extent such payments are actually made by the purchaser.

(c) Each defaulting Partner is obligated to pay the Partnership and the non-defaulting Partners for all damages that may result to such parties from a failure to make a Capital Contribution by such Partner, including, without limitation, reasonable attorney's fees and court costs and that the defaulting Partner shall continue to be liable for such damages regardless of whether its Interest is purchased pursuant to this Section 6.3.2 or otherwise.

(d) In the event of a failure to make a Capital Contribution by the General Partner, any action or decision which would otherwise be made by the General Partner pursuant to any provision of this Section 6.3.2 shall instead be made by vote of at least seventy-five percent (75%) of the Fund Interest of the non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund voting together as a single class (excluding for such purposes any Limited Partner or limited partner in a Parallel Fund who is an Affiliate of the General Partner).

6.3.3 Early Termination of Commitment Period and the Partnership.

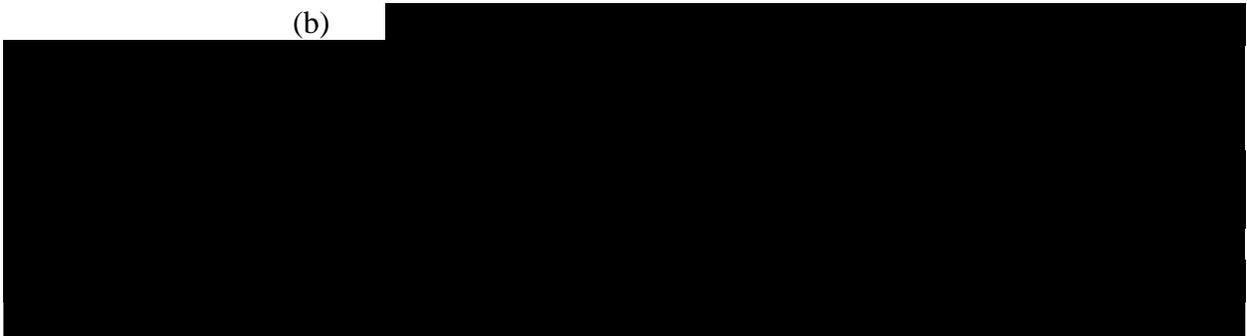
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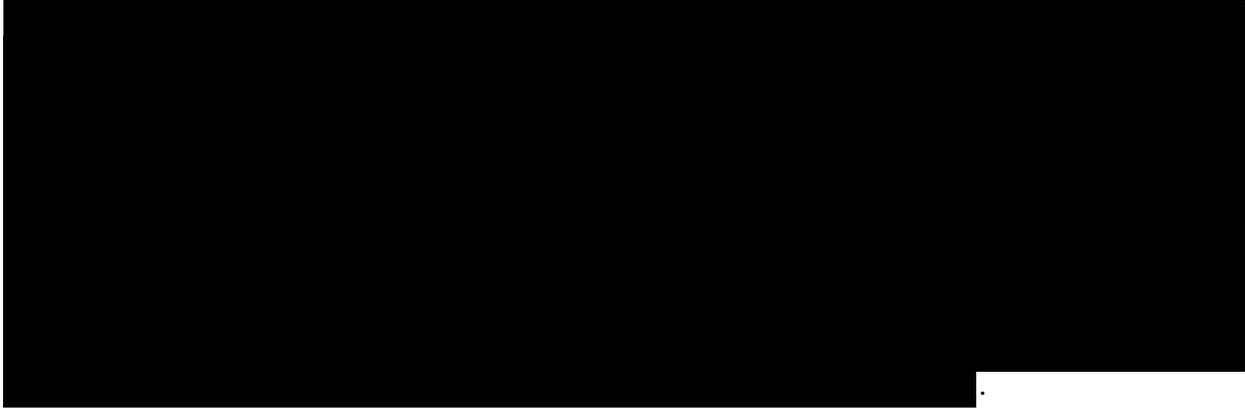


(ii)



(b)





6.4. Liability of Partners.

6.4.1 Limited Liability of Limited Partners. Except as otherwise required by law, no Limited Partner, in its capacity as such, shall be liable for the debts, liabilities, contracts or any other obligations of the Partnership. Except as expressly provided in Section 6 of this Agreement, no Limited Partner shall be obligated to make contributions to the capital of the Partnership or other payments to the Partnership or the General Partner. Except as otherwise required by law, no Limited Partner, in its capacity as such, shall owe a fiduciary duty to the Partnership or any Partner.

6.4.2 Sovereign Immunity. It is hereby acknowledged that each Limited Partner having sovereign status under the Eleventh Amendment of the U.S. Constitution reserves all immunities, defenses, rights or actions arising out of its status as an instrumentality of a sovereign state or entity or under the Eleventh Amendment, and no waiver of such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by such Limited Partner's execution and delivery of this Agreement, any subscription document, side letter agreements or any website user agreement or other document entered into by the General Partner and a Limited Partner, by any express or implied provision hereof or by any actions or omissions to act by such Limited Partner or any representative or agent thereof whether taken pursuant to this Agreement or prior to such Limited Partner's execution and delivery of this Agreement. Nothing contained in this Section 6.4.2 shall relieve any Limited Partner of any obligation that such Limited Partner may have to make Capital Contributions or for the Partnership to utilize any Capital Contributions by such Limited Partner for expenses permitted under this Agreement.

6.5. Withdrawal and Return of Capital. Although the Partnership may make distributions to the Partners during the term of the Partnership in return of their Capital Contributions, no Partner, in such Partner's capacity as such, shall have the right to withdraw or to demand a return of any of such Partner's Capital Contribution or Capital Account without the consent of the General Partner



except upon dissolution and winding up of the Partnership and as set forth in Sections 12.5 and 18.19 of this Agreement; provided, however, that a termination and reconstitution of the Partnership under Section 708 of the Code and related Treasury Regulations shall not be considered a dissolution or winding up of the Partnership for purposes of this Section 6.5. Except to the extent otherwise provided herein, any return of such

Capital Contribution or Capital Account shall be made solely from the assets of the Partnership (including the Capital Contributions of the Partners) and only in accordance with the terms of this Agreement, and no Partner shall have personal liability for the return of any other Partner's capital. Under circumstances requiring a return of any Capital Contribution, no Partner shall have the right to receive property other than cash except as may be specifically provided in this Agreement and, to the extent any monies which any Partner is entitled to receive pursuant to Section 6 of this Agreement or any other provision of this Agreement would constitute a return of capital, each of the Partners consents to the withdrawal of such capital.

6.6. Interest on Capital. Except to the extent otherwise provided herein, no interest shall accrue or be paid on any Capital Contribution made to the Partnership.

6.7. Capital Account Maintenance. The Partnership shall maintain a separate Capital Account (the "**Capital Account**") for each Partner. The Capital Account of each Partner shall be credited with the cash and the fair market value of any property (net of liabilities assumed by the Partnership and liabilities to which such property is subject) contributed to the Partnership by such Partner, plus all income, gain, or Profits of the Partnership allocated to such Partner pursuant to Section 7.2 of this Agreement (including for purposes of this Section income and gain exempt from tax), and shall be debited by the sum of all Losses or deductions of the Partnership allocated to such Partner pursuant to Section 7.2 of this Agreement, such Partner's distributive share of expenditures of the Partnership described in Section 705(a)(2)(B) of the Code and expenditures treated as such pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i) and all cash and the fair market value of any property (net of liabilities assumed by the Partner and the liabilities to which such property is subject) distributed by the Partnership to such Partner pursuant to Sections 7.1 and 13.2 of this Agreement. The computation of the amount of the Capital Account of a Partner shall be determined in all events solely in accordance with the rules set forth in Treasury Regulations Section 1.704-1(b)(2)(iv), as it now exists and may be amended, and, in the event that the treatment called for in such regulation is inconsistent with the provisions of this Agreement, the rules of the aforementioned regulation shall control. Any reference in any section of this Agreement to the Capital Account of a Partner shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

(a) The Capital Accounts of all Partners shall be adjusted at such time as the Book Values (as hereinafter defined) of Partnership properties are adjusted, the amount of such adjustment to Capital Accounts being computed as if the aggregate net adjustment to such Book Values had resulted from the recognition of gain or loss by the Partnership in an amount equal to the amount of such net adjustment.

(b) The Book Value of any Partnership property shall be the adjusted basis of such property for federal income tax purposes, subject to the following modifications:

(i) The Book Value of property contributed by a Partner to the Partnership shall be the gross fair market value of such property as reasonably determined by such Partner and the Partnership.

(ii) The Book Values of all Partnership properties shall be adjusted so as to equal their respective gross fair market values, as reasonably determined by the General Partner, as of the following times: (A) the acquisition of an additional Interest in the Partnership by any new or existing Partner in exchange for the provision of services to or for the benefit of the Partnership or for a more than de minimis capital contribution; (B) the distribution by the Partnership to a Partner of more than a de minimis amount of Partnership property in exchange for an Interest in the Partnership except that no adjustment shall be made if all Partners receive, at the same time, undivided interests in the distributed property in proportion to their interests in the Partnership; and (C) the termination of the Partnership for federal income tax purposes pursuant to Section 708(b)(1)(B) of the Code; provided, however, that the adjustments described in clauses (A) and (B) above need not be made if the General Partner determines, in its sole discretion, that they are not necessary in order to reflect the intended economic arrangement among the Partners.

(iii) The Book Value of Partnership property which has been determined or adjusted pursuant to this Section shall be thereafter adjusted by “Depreciation” (as hereinafter defined) taken into account with respect to such property for purposes of computing Profit and Loss. “Depreciation” shall mean, for each fiscal or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to a property of the Partnership for such year or other period, except that, if the Book Value of any such property differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such property’s beginning Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period, bears to such beginning adjusted tax basis.

#### 6.8. Certain Rights of Institutional Holders.

(a) Co-Investment. Institutional Holders shall have the co-investment rights set forth in Section 6.1.8 of this Agreement.

(b) Advisory Committee/Executive Board. The Partnership and any Parallel Fund together shall have a single general advisory committee (the “**Advisory Committee**”), which shall consist of a representative of each of the Institutional Holders and the institutional holders of any Parallel Fund, except to the extent that (i) participation by a particular Institutional Holder on the Advisory Committee would, in the reasonable discretion of the General Partner, create a conflict for the Partnership, (ii) any such Institutional Holder is a defaulting Partner pursuant to Section 6.3.2 of this Agreement or the applicable provision of the partnership agreement of the Parallel Fund of which such defaulting partner is a partner, or (iii) any such Institutional Holder is not willing to serve in such capacity. The function of the Advisory Committee shall be to assist the General Partner in evaluating the performance of the Partnership. The Partnership and any Parallel Fund together shall have a single executive board (the “**Executive Board**”),

[REDACTED]. To the extent permitted under Section 17-303 of RULPA, without any of its members incurring liability as a general partner of the Partnership, the functions of the Executive Board shall be to (1) review and approve all potential conflicts of interest involving the General Partner and its Affiliates, including without limitation, approval of transactions between the Partnership on the one hand and the General Partner and/or its Affiliates on the other hand; (2) approve the valuation of Assets that are distributed in-kind, (3) address conflicts of interest between the Partnership and the General Partner, the Management Company and their Affiliates that are not otherwise addressed under this Agreement including, but not limited to, any principal transaction within the scope of Section 206 of the Advisers Act and (4) act on such other matters as are specified elsewhere herein, [REDACTED]

[REDACTED]. Except as otherwise set forth herein, all approvals, disapprovals, consents, recommendations and other actions taken by the Executive Board shall be authorized by a majority of the members thereof who are then eligible to vote, [REDACTED]

[REDACTED]. The Advisory Committee shall meet on a semi-annual basis or at such times as the General Partner shall determine. The Executive Board shall meet at such times as the General Partner, or a majority of the members of the Executive Board, shall determine. The General Partner shall participate in meetings of the Advisory Committee and the Executive Board but shall have no right to vote. Members of the Executive Board and Advisory Committee shall be reimbursed from the Partnership for reasonable expenses incurred in connection with performing their duties hereunder. The Executive Board may, at the Partnership's expense, retain independent legal counsel, accountants and other third-party consultants as reasonably necessary to assist the Executive Board in connection with its activities hereunder. The record of any action taken by the Executive Board, and any request for action of the Executive Board by the General Partner, will be made available to any Limited Partner upon request. Except for the foregoing and as otherwise set forth elsewhere in this Agreement, all decisions regarding the operations and investments of the Partnership shall be made by the General Partner.

(c) Fiduciary Obligations. The Limited Partners expressly agree that, with respect to decisions made or actions taken by members of the Executive Board or Advisory Committee, neither such members nor the Limited Partners on behalf of which such members act as representatives shall have any fiduciary duty whatsoever to the Partners or to any other Person and such member may take actions, and grant approvals (or refuse to grant approvals), under this Agreement for the sole benefit of the Limited Partner such member represents, as determined in his or her sole discretion. Notwithstanding anything in this Agreement, any Executive Board consent to a transaction required under Section 206 of the Advisers Act shall be deemed to be "consent of the client" for purposes of such Section 206 and be binding on all Partners.

6.9. Credit Facility. The Partnership is authorized to enter into one or more credit facilities (each, a "**Credit Facility**"), including Credit Facilities in which the Partnership is a co-borrower with one or more of any Parallel Fund on a joint and several basis (a "**Shared Obligation**"); provided that with respect to any Shared Obligation, (a) the General Partner (or, in the event that the General Partner is not also the general partner of any Parallel Fund, the General

Partner and the general partner of such other Parallel Fund) shall, as between such partnerships themselves, allocate any amounts payable by the Partnership and/or such other Parallel Funds in accordance with the aggregate amount of capital commitments or such other method as the General Partner in good faith shall determine in each such entity and (b) the Partnership and such other Parallel Funds shall each have a claim against the other to the extent that such claiming party has paid any amount due with respect to any Shared Obligation in excess of its proportionate share. No governing document of a Credit Facility or a modification thereto shall alter the obligations and rights of a Limited Partner under the Partnership or Subscription Agreement without the written consent of the Limited Partner. Such Credit Facility will be secured primarily by (x) a pledge by the Partnership of all or a portion of the aggregate Unfunded Commitments of all Partners and by a pledge by the Partnership of the Partners' pledges set forth in Section 6.3.2(b) of this Agreement and (y) a pledge by the General Partner of its interest in the Partnership and the rights of the General Partner contained herein, including, without limitation, the right to deliver requests for Additional Capital Contributions and enforce all remedies against Partners that fail to fund their respective Unfunded Commitments pursuant thereto and in accordance with the terms hereof. In connection with any such Credit Facility, each Partner agrees that, subject to the other terms of this Agreement: (i) such Limited Partner's Commitment and Unfunded Commitment obligations are unconditional, and any claims that the Limited Partner may have against the Partnership or the General Partner shall be subordinate to all payments due to the lender under the Credit Facility; (ii) if the lender under such Credit Facility shall so request, such Limited Partner shall, with a minimum of fourteen (14) days advance notice to such Partner, acknowledge to such lender the amount of such Limited Partner's Commitment and Unfunded Commitment and any other relevant matters relating to this Agreement (including the agreements of the Limited Partner in this Section 6.9); (iii) such Limited Partner is obligated to and shall fund its Unfunded Commitment and honor capital calls, including those for Additional Capital Contributions, made by the General Partner or such lender acting in the name of the General Partner in accordance with the terms of this Agreement without deduction, offset, counterclaim or defense; (iv) such Limited Partner agrees that it will, if such lender requires the General Partner to make such a request to Limited Partners, with a minimum of fourteen (14) days advance notice to such Partner, use reasonable best efforts to provide such financial information and reports as may be reasonably requested by the General Partner for provision to the lender; (v) with a minimum of fourteen (14) days advance notice to such Partner, such Limited Partner shall provide to the General Partner for delivery to such lender copies of its formation documents (or similar documents reasonably acceptable to the lender under any Credit Facility); (vi) such Limited Partner shall provide to the General Partner for delivery to such lender legal opinions or other evidence of corporate authority reasonably requested by such lender; (vii) as long as the Credit Facility is in place, such Partner will make Capital Contributions into an account designated by mutual agreement of the General Partner and lender under the Credit Facility (which may be changed with a minimum of fourteen (14) days advance notice to such Partner); (viii) such Limited Partner agrees that it shall and will, if such lender requires the General Partner to make such a request to Limited Partners, with a minimum of fourteen (14) days advance notice to such Partner, execute an agreement or, in the case of an ERISA Partner, an acknowledgement, in a form reasonably required by the lender acknowledging the foregoing and its obligations under this Agreement and/or any similar confirmation letter required by a lender under a Credit Facility (as the case may be, a "**Credit Facility Confirmation**"); and (ix) the General Partner (1) will not acknowledge amounts as

capital contributions in respect of a Partner's Interest if such amounts are funded to accounts other than the account designated by the General Partner, and (2) may change such account from time to time, without the consent of the Limited Partners, upon notice to the Limited Partners by the General Partner, provided that any such change while the Credit Facility is outstanding shall require the consent of the lender under that Credit Facility. The General Partner hereby confirms that it does not object to the Limited Partners' execution of any Credit Facility Confirmation. The Partnership shall use funds borrowed under any Credit Facility solely (x) to pay expenses of the Partnership as described in Section 9.4 of this Agreement, (y) to make deposits in lieu of, or in advance of, making capital calls, or (z) as interim acquisition and development financing. In addition, the borrowing limit under any Credit Facility to pay expenses of the Partnership shall be limited to an amount no greater than the Unfunded Commitments of the Partners. No funds borrowed under any Credit Facility shall be outstanding in excess of (A) eighteen (18) months for debt related Assets and (B) twelve (12) months for all other Assets.

6.10. Alternative Vehicle. The General Partner may determine, in its good faith judgment, that for tax or other reasons applicable to one or more Partners, it is in the best interests of the Partnership and the Partners to make a potential investment in an Asset through one or more alternative entities organized by or on behalf of the General Partner or its Affiliates and having economic terms, conditions and management substantially similar in all material respects, to the extent practicable, to those of the Partnership (each, an "**Alternative Vehicle**"), provided, that (a) the General Partner or an Affiliate thereof shall serve as the general partner (or a position of similar responsibility and control) with respect to any such Alternative Vehicle (without limiting the responsibilities and obligations of the General Partner hereunder), (b) the General Partner, in its sole discretion, shall determine which Limited Partners shall participate in an Alternative Vehicle, (c) Limited Partners participating in the investment through the Alternative Vehicle shall be required to make capital contributions directly to the Alternative Vehicle to the same extent, for the same purposes and on the same terms and conditions as Partners are required to make Capital Contributions to the Partnership, (d) any capital contributions made to any Alternative Vehicle shall reduce the Unfunded Commitments of the participating Limited Partners to the same extent as if Capital Contributions were made to the Partnership with respect to such investments, (e) distributions and allocations from any Alternative Vehicle and the Total Shortfall amount pursuant to Section 13.3 of this Agreement shall be determined as if the investment was made solely by the Partnership so that such distributions and allocations among the General Partner and Limited Partners are made on a pooled basis (and not on a deal by deal basis), taking into account all other distributions and allocations; (f) upon the dissolution of the Partnership, any such Alternative Vehicle shall similarly be dissolved as promptly as practicable, (g) any such Alternative Vehicle shall be organized as (i) a limited partnership, (ii) a limited liability company, (iii) a business trust, (iv) an entity for which a U.S. "check-the-box" election to be treated as a partnership could be made under the Code, (v) a corporation or an entity for which a U.S. "check-the-box" election to be treated as a corporation could be made under the Code, or (vi) a real estate investment trust (or applicable foreign equivalent) and (h) any such Alternative Vehicle shall maintain the limited liability of the Limited Partners to the same extent as provided hereunder. The General Partner shall use its reasonable best efforts to ensure that any Alternative Vehicle is structured in a manner which would not unfairly discriminate among the participating Partners and that the respective rights and obligations of the General Partner and the Limited Partners contained in this Agreement apply in all material respects to the participants in such Alternative Vehicle.

Notwithstanding anything in this Section 6.10 to the contrary, no Limited Partner shall be required to participate in any Alternative Vehicle if the Limited Partner notifies the General Partner in writing including a reasonably detailed explanation that such participation would result in a violation of a law, statute, rule or regulation or any order, judgment or decree of a federal, state or local or foreign governmental authority applicable to such Limited Partner which would not have resulted from such Limited Partner's participation in the Partnership. Limited Partners participating in the investment through the Alternative Vehicle will be treated as an excused Limited Partner with respect to the Partnership's investment as set forth in Section 6.3.1(d) of this Agreement. The General Partner shall, upon the written request of any Limited Partner, provide such Limited Partner with a copy of the agreements of limited partnership or similar constituent document of any Alternative Vehicle. Each Limited Partner hereby authorizes the General Partner to execute and deliver on its behalf as its attorney-in-fact such documents and to take such actions as may be necessary to give effect to this Section 6.10 and to cause the Limited Partners to be admitted to any such Alternative Vehicle. Each investor in the Alternative Vehicle shall be entitled to receive such opinions and certificates issued by the General Partner or on behalf of the Partnership as the Limited Partners received (provided that such opinions or certificates are applicable to them). Any expenses associated with the formation and maintenance of an Alternative Vehicle shall be borne solely by the Limited Partners who invest therein. Notwithstanding the foregoing provisions of this Section 6.10, if, in connection with the formation of an Alternative Vehicle to invest in an Asset (or other assets), the General Partner determines that it may be in the best interests of the Partnership for any Limited Partner to hold its interest in such Alternative Vehicle through an entity treated, or taxable, as a corporation for United States federal income tax purposes (an "**Up-Stream Blocker**"), the General Partner may offer any Limited Partner the opportunity to elect to make its capital contributions with respect to such Alternative Vehicle to such Up-Stream Blocker in lieu of funding such contribution directly to the Alternative Vehicle. Such contributions to, and participation in, an Up-Stream Blocker shall be treated as contributions to and participation in the corresponding Alternative Vehicle; provided, however, that amounts paid or distributed to the Up-Stream Blocker by the Alternative Vehicle shall be treated as having been paid to the Limited Partner or its Affiliate, as the case may be, directly for all purposes. All expenses associated with any Up-Stream Blocker shall be borne solely by such Up-Stream Blocker and the Limited Partner(s) participating therein.

## SECTION 7. DISTRIBUTIONS AND ALLOCATIONS

### 7.1. Distributions.

#### 7.1.1 Tax Distributions.

(a) Subject to Section 7.1.1(b) of this Agreement, the Partnership shall distribute to each Partner in cash, with respect to each fiscal year, either during such year or within ninety (90) days thereafter, an amount equal to the aggregate federal, state, local, and foreign income tax liability (including employment or self-employment tax liability of the partners of the General Partner attributable to the Carried Interest, including estimated tax payment liabilities and liabilities under the tax imposed by Code Section 1411) such Partner would have incurred as a result of such Partner's ownership of an Interest, calculated (i) regardless of the actual tax status of the Partner, as if such Partner were taxable at the maximum

marginal income tax rates provided for with respect to natural persons residing in Philadelphia, Pennsylvania (or, if higher, with respect to taxable corporations), under applicable federal, state, local, and foreign income tax laws as determined from time to time by the General Partner after consulting with accountants to the Partnership; (ii) by assuming that all allocations are in excess of the Code Section 1411(b) threshold amount; (iii) as if allocations from the Partnership (excluding allocations to the General Partner pursuant to Sections 7.2.1(a) and 7.2.1(b) of this Agreement) were, for such year, the sole source of income and loss for such Partner; (iv) by taking into account the character of such income (including reduced long term capital gains rates), (v) by taking into account the carryover of items of loss, deduction and expense previously allocated by the Partnership to such Partner and (vi) by calculating the tax liability of the General Partner separately with respect to its capital interest and Carried Interest allocations (such distributions being referred to herein as “**Tax Distributions**”).

(b) Notwithstanding the foregoing: (i) the aggregate amount of Tax Distributions that otherwise would be made pursuant to this Section 7.1.1 may be reduced or not made with respect to any fiscal year to the extent determined by the General Partner in its sole discretion, and (ii) Tax Distributions that otherwise would be made to any Partner with respect to any fiscal year pursuant to Section 7.1.1(a) of this Agreement shall be reduced by the amount of any other cash distributions made by the Partnership to such Partner (excluding distributions to the General Partner pursuant to Section 7.1.3(f) of this Agreement) during such fiscal year or by April 15 of the following year, provided, however, that for purposes of this clause (ii) any Tax Distribution made by April 15 with respect to a prior year shall not be accounted for as a distribution for the fiscal year in which it was made and no distribution shall be applied to reduce Tax Distributions with respect to more than one fiscal year. Notwithstanding the foregoing, Tax Distributions made in respect of Carried Interest allocations to the General Partner shall be reduced only by the amount of Carried Interest distributions made to the General Partner during such fiscal year or by April 15 of the following year. In addition, Tax Distributions made in respect of capital interest allocations to the General Partner shall be reduced only by the amount of capital interest distributions made to the General Partner during such fiscal year or by April 15 of the following year.

(c) Any Tax Distribution shall be applied against and reduce the amount a Partner otherwise would be entitled to receive pursuant to Section 7.1.3 of this Agreement. Notwithstanding the foregoing, Tax Distributions to the General Partner made in respect of Carried Interest allocations to the General Partner shall reduce only the amount of Carried Interest distributions to the General Partner. In addition, Tax Distributions to the General Partner made in respect of capital interest allocations to the General Partner shall reduce only the amount of capital interest distributions to the General Partner. This Agreement shall be interpreted to give effect to such intention.

**7.1.2 Timing of Distributions of Cash.** The General Partner (i) shall distribute Distributable Cash as soon as administratively practicable, (ii) intends to distribute Distributable Cash at least quarterly and (iii) shall distribute net cash available for distribution from a Capital Transaction within forty-five (45) days of the receipt by the Partnership of such net cash from the Capital Transaction. As a matter of administrative convenience, however, the General Partner shall not be required to make any distributions until such time as the aggregate amount otherwise distributable exceeds Five Million Dollars (\$5,000,000).

7.1.3 Priority of Distributions. Except as otherwise provided in Section 7.1.1 of this Agreement with respect to Tax Distributions, Distributable Cash initially shall be apportioned Pro Rata to the Partners. The amount apportioned to the General Partner, plus the amount of any accrued, but not yet distributed, Special GP Distributions shall be distributed to the General Partner. The amount apportioned to each Limited Partner plus (i) the amount of any accrued, but not yet distributed, Management Fee Distributions (which shall be applied under this Section 7.1.3 as set forth in Section 9.2(h) of this Agreement) attributable to each Discounted Fee Partner and (ii) if applicable, any accrued, but not yet distributed, Special Affiliate Distributions attributable to a Limited Partner who is an Affiliate of the General Partner, shall be distributed as follows:

(a) First, to the Limited Partner, until the Limited Partner has received, on a cumulative basis, distributions under this Section 7.1.3(a) in an amount equal to the unpaid First Priority Return owing to the Limited Partner;

(b) Second, to the Limited Partner until the Limited Partner has received on a cumulative basis, distributions under this Section 7.1.3(b) in an amount sufficient to reduce such Limited Partner's Unreturned Capital Account balance to zero;

(c) Third, (i) eighty percent (80%) to the Limited Partner and (ii) twenty percent (20%) to the General Partner until the Limited Partner has received, on a cumulative basis, distributions under Section 7.1.3(a) of this Agreement and this Section 7.1.3(c) in the current and all prior fiscal years equal to the unpaid Second Priority Return owing to the Limited Partner;

(d) Fourth, (i) fifty percent (50%) to the Limited Partner and (ii) fifty percent (50%) to the General Partner until the General Partner has been distributed pursuant to this Section 7.1.3(d) in the current and all prior fiscal years twenty percent (20%) of all distributions made pursuant to Section 7.1.3(a) of this Agreement and made or being made pursuant to this Section 7.1.3(d) in the current and all prior fiscal years with respect to the Limited Partner;

(e) Thereafter, (i) eighty percent (80%) to the Limited Partner and (ii) twenty percent (20%) to the General Partner.

(f) GP Waived Fee Distribution. Notwithstanding anything in this Agreement to the contrary and prior to any other distribution pursuant to this Section 7.1.3, the General Partner shall be entitled to receive (i) cash distributions in such amount as would cause the cumulative amount of distributions made pursuant to this clause (i) to equal the cumulative amount of profits allocated to the General Partner pursuant to Section 7.2.1(a) of this Agreement and (ii) cash distributions in such amount as would cause the Waived Fee Surplus to be reduced to zero. Any distribution pursuant to clause (ii) of the preceding sentence shall be treated as an advance of, and shall be offset against, distributions which the General Partner is entitled to receive pursuant to clause (i) of the preceding sentence. If, through the time of the final distribution of the assets of the Partnership among the Partners as provided in Section 13.2 of this Agreement, the aggregate amount of distributions received by the General Partner pursuant to clause (ii) of the second preceding sentence exceeds the aggregate amount of such

distributions which have been applied as an offset against distributions which the General Partner is entitled to receive pursuant to clause (i) of the second preceding sentence, the General Partner shall make a capital contribution to the Partnership equal to such excess amount, and such amount shall be distributed to the Partners pursuant to Section 13.2 of this Agreement. The General Partner shall be obligated to restore a deficit in its Capital Account upon liquidation of the Partnership only to the extent that its obligations under the preceding sentence correspond to such deficit, provided, however, that the preceding clause of this sentence shall not affect the General Partner's obligations under Section 13.3 of this Agreement, and provided, further, that the General Partner's restoration obligation under the preceding sentence shall be applied before Section 13.3 of this Agreement is applied. Distributions made pursuant to this Section 7.1.3(f) shall be treated, first, as distributions pursuant to clause (i) of the first sentence of this Section 7.1.3(f) to the extent of amounts distributable thereunder at such time, and thereafter as distributions pursuant to clause (ii) of such sentence.

7.1.4 Special GP Loan. To the extent that any proposed distribution to the General Partner pursuant to Section 7.1.3(f) of this Agreement, if made, would exceed the General Partner's tax basis (as determined for federal income tax purposes) in its Interest, that amount shall not be distributed, but instead the General Partner shall be entitled to borrow funds from the Partnership in such amount as would (together with amounts distributed pursuant to Section 7.1.3(f) of this Agreement) equal no more than fifty percent (50%) of the Waived Fee Surplus at any time (a "**Special GP Loan**"). The General Partner shall be liable to repay (and shall repay) to the Partnership the full amount borrowed with respect to a Special GP Loan (plus interest thereon calculated at an annual compounded rate equal to the long-term applicable federal rate published by the Internal Revenue Service for the month in which such Special GP Loan is made), not later than the earlier to occur of (i) the 10th anniversary of the date on which such loan was made or (ii) the date of the Partnership's final liquidating distribution. Any distribution to which the General Partner is entitled pursuant to clause (i) of the first sentence of Section 7.1.3(f) of this Agreement (after taking into account the offset provision of the second sentence of Section 7.1.3(f) of this Agreement) shall be applied against and used to prepay the outstanding balance, if any, of principal or interest on any Special GP Loans, with such prepayments allocated to the earliest Special GP Loan with an unpaid amount of principal or interest. Amounts loaned to the General Partner pursuant to this Section 7.1.4 shall not reduce the General Partner's Capital Account or affect the Capital Account of any other Partner. At the time that any Special GP Loan is outstanding, the General Partner shall maintain a net worth of at least two (2) times all outstanding debt, including any Special GP Loans. The General Partner shall certify that it shall comply with this provision prior to receiving a Special GP Loan or as soon as practicable after the General Partner has become aware that a Special GP Loan has been made.

## 7.2. Allocation of Annual Profit or Loss.

7.2.1 Allocation of Profits. After giving effect to the allocations set forth in Section 7.3 of this Agreement, Profits for any fiscal year or other period of the Partnership will be credited to the Capital Accounts of the Partners in the following order of priority:

(a) First, one hundred percent (100%) to the General Partner until the Unallocated Special Profits Amount is reduced to zero, provided that the cumulative amount

allocated pursuant to this Section 7.2.1(a) shall not exceed the Available Profits with respect to all Waived Fee Amounts included in the Waived Fee Balance as of the end of such period;

(b) Second, to the Partners, in an amount sufficient to reverse, on a cumulative basis, the cumulative amount of any Losses allocated to the Partners in the current and all prior fiscal years, first pursuant to the proviso after Section 7.2.2(e) of this Agreement and second pursuant to Section 7.2.2(e) of this Agreement, allocated to each Partner in the reverse order and in proportion to the allocation of such Losses to such Partner;

(c) Third, one hundred percent (100%) to the Partners, until the cumulative amount allocated pursuant to this Section 7.2.1(c) for the current and all prior fiscal years is equal to the First Priority Return paid or accrued in the current and all prior fiscal years plus the cumulative amount of any Losses allocated pursuant to Section 7.2.2(d) of this Agreement in the current and all prior fiscal years (which Losses reverse Profits allocated under this Section 7.2.1(c)) allocated to each Partner in proportion to each Partner's paid or accrued First Priority Return;

(d) Fourth, (A) eighty percent (80%) Pro Rata to the Partners, and (B) twenty percent (20%) to the General Partner, until the cumulative amount allocated to the Partners pursuant to Section 7.2.1(c) of this Agreement and Section 7.2.1(d)(A) of this Agreement for the current and all prior fiscal years is equal to the paid or accrued Second Priority Return in the current and all prior fiscal years plus the cumulative amount of any Losses allocated pursuant to Section 7.2.2(c) of this Agreement in the current and all prior fiscal years (which Losses reverse Profits allocated under this Section 7.2.1(d)) allocated to each Partner in proportion to each Partner's paid or accrued Second Priority Return;

(e) Fifth, (i) fifty percent (50%) Pro Rata to the Partners, and (ii) fifty percent (50%) to the General Partner until the General Partner has been allocated pursuant to this Section 7.2.1(e)(ii) in the current and all prior fiscal years twenty percent (20%) of all allocations made pursuant to Section 7.2.1(c) of this Agreement and made or being made pursuant to this Section 7.2.1(e) in the current and all prior fiscal years with respect to such Partners (taking into account allocated Losses reversing such Profits); and

(f) Thereafter, (A) eighty percent (80%) Pro Rata to the Partners, and (B) twenty percent (20%) to the General Partner.

7.2.2 Allocation of Losses. After giving effect to the allocations set forth in Section 7.3 of this Agreement, Losses for any fiscal year or other period will be charged to the Capital Accounts of the Partners in the following order of priority:

(a) First, (i) eighty percent (80%) to the Partners and (ii) twenty percent (20%) to the General Partner in an amount sufficient to reverse, on a cumulative basis, the cumulative amount of Profits allocated under Section 7.2.1(f) of this Agreement, in the current and all prior fiscal years, allocated to the Partners in the reverse order and in proportion to the allocation of such Profits to the Partners;

(b) Second, (i) fifty percent (50%) to the Partners and (ii) fifty percent (50%) to the General Partner in an amount sufficient to reverse, on a cumulative basis, the

cumulative amount of Profits allocated under Section 7.2.1(e) of this Agreement in the current and all prior fiscal years, allocated to such Partners in the reverse order and in proportion to the allocation of such Profits to such Partners;

(c) Third, (i) eighty percent (80%) to the Partners, and (ii) twenty percent (20%) to the General Partner, in an amount sufficient to reverse, on a cumulative basis, the cumulative amount of Profits allocated under Section 7.2.1(d) of this Agreement in the current and all prior fiscal years, allocated to such Partners in the reverse order and in proportion to the allocation of such Profits to such Partners;

(d) Fourth, one hundred percent (100%) to the Partners in an amount sufficient to reverse, on a cumulative basis, the cumulative amount of Profits allocated under Section 7.2.1(c) of this Agreement, allocated to such Partner; and

(e) Fifth, Pro Rata to the Partners;

provided, however, that Losses shall not be allocated to any Partner pursuant to this Section 7.2.2 if such allocation of Losses would result in or increase an Adjusted Capital Account Deficit with respect to such Partner, and any Losses that cannot be allocated to any Partner as a result of this proviso shall be allocated first to the Capital Accounts of the other Partners in proportion to the amounts allocable to such Partner without causing or increasing an Adjusted Capital Account Deficit and then, subject to Section 7.3.1(d) of this Agreement, one hundred percent (100%) to the General Partner.

(f) Notwithstanding anything else contained herein to the contrary, but subject to the proviso following Section 7.2.2(e) and 7.3.1 of this Agreement, Profits and Losses allocable to each Partner pursuant to Sections 7.2.1 and 7.2.2 of this Agreement shall be adjusted to take account of the reduced Management Fee chargeable to each Discounted Fee Partner and the General Partner to the extent that the General Partner has, as of the date of such allocations, elected pursuant to Section 9.2 of this Agreement not to be charged a Management Fee with respect to its own Commitment, including, without limitation, by allocating to each Discounted Fee Partner and the General Partner a smaller deduction of such fees in order to reflect the reduced amount payable by it, with all such adjustments being made as the General Partner determines is necessary or appropriate in order to reflect the intended economic arrangement of such provisions and the other provisions of this Agreement.

### 7.3. Regulatory Allocations.

7.3.1 Special Allocations. The following special allocations shall be made:

(a) Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulations Section 1.704-2(f), in the event there is a net decrease in Partnership Minimum Gain during a Partnership taxable year, each Partner shall be allocated items of income and gain for such year (and, if necessary, for subsequent years) equal to that Partner's share of the net decrease in Partnership Minimum Gain. The determination of a Partner's share of the net decrease in Partnership Minimum Gain shall be determined in accordance with Treasury Regulations Section 1.704-2(g). The items to be specially allocated to the Partners in accordance with this Section 7.3.1(a) shall be determined in accordance with Treasury

Regulations Section 1.704-2(f)(6). This Section 7.3.1(a) is intended to comply with the Partnership Minimum Gain chargeback requirement set forth in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Partner Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulations Section 1.704-2(i)(4), in the event there is a net decrease in Partner Minimum Gain during a Partnership taxable year, each Partner who has a share of that Partner Minimum Gain as of the beginning of the year, to the extent required by Treasury Regulations Section 1.704-2(i)(4) shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) equal to that Partner's share of the net decrease in Partner Minimum Gain. Allocations pursuant to this Section 7.3.1(b) shall be made in accordance with Treasury Regulations Section 1.704-2(i)(4). This Section 7.3.1(b) is intended to comply with the requirement set forth in Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset Allocation. In the event any Partner unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6) which would cause such Partner to have an Adjusted Capital Account Deficit, items of Partnership income and gain shall be specially allocated to such Partner in an amount and manner sufficient to eliminate such Adjusted Capital Account Deficit as quickly as possible. This Section 7.3.1(c) is intended to constitute a "qualified income offset" in satisfaction of the alternate test for economic effect set forth in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(d) Allocation of Nonrecourse Deductions. Nonrecourse Deductions shall be allocated Pro Rata to the Partners or under any other method permitted by Treasury Regulations Section 1.704-2.

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

(f) Curative Allocations. The allocations set forth in Sections 7.3.1(a)-(e) of this Agreement (the "**Regulatory Allocations**") are intended to comply with certain requirements of Treasury Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding any other provisions of this Section 7 (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in allocating subsequent Profits, Losses and items of income, gain, loss and deduction among the Partners so that, to the extent possible, the net amount of allocations of Profits, Losses, and other items and the Regulatory Allocations to each Partner shall be equal to the net amount that would have been allocated to each such Partner pursuant to the provisions of this Section 7 if the Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence, curative allocations pursuant to this Section 7.3.1(f) shall be made only to the extent the General Partner reasonably determines that allocations will otherwise be inconsistent with the economic agreement among the Partners and may be made by

taking into account Regulatory Allocations which, although not made yet, are likely to be made in the future.

(g) Allocations of Nonrecourse Debt. The General Partner may allocate excess nonrecourse liabilities under Treasury Regulations Section 1.752-3(a)(iii) under any method permitted by such section of the Regulations.

7.3.2 Tax Allocations. Allocations for tax purposes shall be made in accordance with allocations to Capital Accounts, with adjustment as necessary in order to comply with Section 704(c) of the Code and the Regulations. Any deductions, income, gain or loss specially allocated pursuant to this Section 7.3.2 shall not be taken into account for purposes of determining Profits or Losses or for purposes of adjusting a Partner's Capital Account. The Partnership may use any reasonable method, including curative allocations, permitted under Treasury Regulations Section 1.704-3 to the extent applicable.

7.4. Allocation of Credits. Any federal, state, local or foreign tax credits arising from the Partnership's operations ("**Tax Credits**") shall be allocated in the same manner as Profits or Losses are allocated for the fiscal year in which the Tax Credit arises.

7.5. Allocation in the Event of Additional Limited Partners or Increased Commitments. If any Person is admitted to the Partnership (or the Commitment of any existing Partner is increased) after the date of the Initial Closing and at or prior to the Final Closing in accordance with the provisions of this Agreement, the General Partner shall, subject to Section 7.11 of this Agreement, adjust the allocations otherwise provided for in this Section 7 of Profit or Loss (and items of Partnership income, gain, loss and expense), for the fiscal year in which such event occurs and for subsequent fiscal years if necessary, so that, after such adjustments have been made, each Partner (including any Partners admitted after the date of the Initial Closing and all Partners whose Commitments have been increased after the date of the Initial Closing) shall have been allocated Partnership expenses, including Organizational Expenses and Management Fees, equal in amount to the aggregate amount of such Partnership expenses such Partner would have been allocated if it had been admitted to the Partnership on the date of the Initial Closing; provided, however, that allocations shall be limited to those permitted by Section 706 of the Code.

7.6. Assignment During Fiscal Year. If a Partner's interest in the Partnership is transferred at any time other than at the end of a fiscal year of the Partnership, each item of income, gain, loss, deduction and credit attributable to such interest for the fiscal year in which the transfer occurs shall be divided and allocated between the transferor and the transferee based on any reasonable method permitted under Section 706 of the Code as determined by the General Partner.

7.7. Target Allocation on Liquidation. In the year of liquidation of the Partnership, the General Partner may, in consultation with the Partnership's independent accountants, vary the allocations otherwise set forth herein in order to make the Capital Accounts of the Partners equal, or more nearly equal, to the amount distributable to each Partner upon liquidation. Such allocations may be done with items of income and loss and may be done in the taxable year before the year of liquidation, on the basis of expected liquidating distributions, if the General

Partner, in consultation with the Partnership's independent accountants, determines such procedure is likely to realize better the intended economic arrangement among the Partners.

7.8. Taxes Withheld.

(a) Unless treated as a Tax Payment Loan (as hereinafter defined), any amount paid by the Partnership for or with respect to any Partner on account of any withholding tax or other tax payable with respect to the income, profits or distributions of the Partnership pursuant to the Code, the Treasury Regulations, or any state, local or foreign statute, regulation or ordinance requiring such payment (a "**Withholding Tax Act**") shall be treated as a distribution to such Partner for all purposes of this Agreement, consistent with the character or source of the income, profits or cash which gave rise to the payment or withholding obligation. To the extent that the amount required to be remitted by the Partnership under the Withholding Tax Act exceeds the amount then otherwise distributable to such Partner, including the Tax Distribution, the excess shall constitute a loan from the Partnership to such Partner (a "**Tax Payment Loan**") which shall be payable upon demand and may bear interest at an amount determined in the General Partner's discretion, but in no circumstance at a rate that exceeds the Prime Rate plus two percent (2%), compounded monthly, from the date that the Partnership makes the payment to the relevant taxing authority. As soon as practicable, the General Partner shall notify any Limited Partner that is credited with an outstanding Tax Payment Loan. So long as any Tax Payment Loan or the interest thereon remains unpaid, the Partnership shall make future distributions due to such Partner by applying the amount of any such distribution first to the payment of any unpaid interest on all Tax Payment Loans of such Partner and then to the repayment of the principal of all Tax Payment Loans of such Partner.

(b) Each Limited Partner shall use commercially reasonable efforts to furnish on a timely basis the General Partner with such information and forms as it may require and are necessary to comply with the Withholding Tax Act governing the obligations of withholding tax agents or to allow the Partnership or the Partner(s) to be subject to a reduced rate of tax. Each Limited Partner represents and warrants that any such information and forms furnished by it shall be true and accurate.

(c) The General Partner shall have the authority to take all actions necessary to enable the Partnership to comply with the provisions of any Withholding Tax Act applicable to the Partnership and to carry out this Section 7.8. Nothing in this Section 7.8 shall create any obligation on the General Partner to advance funds to the Partnership or to borrow funds from third parties in order to make any payments on account of any liability of the Partnership under the Withholding Tax Act. Each Limited Partner agrees to indemnify the Partnership and the other Partners for all damages that may result to such parties from a failure to meet its obligations pursuant to this Section 7.8, including, without limitation, reasonable attorneys' fees and court costs.

(d) The General Partner will use commercially reasonable efforts to minimize any withholding taxes payable to any taxing authority, whether United States or non-United States, with respect to income earned by the Partnership, to the extent such withholding tax can be minimized through the delivery of an appropriate certification to the payor or

otherwise, provided that the Partnership would not be subject to any liability to such taxing authority for any delay in withholding and payment.

(e) Notwithstanding the foregoing provisions of this Agreement, any tax withheld pursuant to Sections 1471 through 1474 of the Code (and any regulations promulgated thereunder or administrative interpretations thereunder) (also known as “FATCA”) from any payment received by the Partnership, any Asset, or any other Person in which the Partnership or any Asset holds, directly or indirectly, any interest, shall be treated as attributable to the Partners whose non-compliance or delay with any request by the Partnership for information or forms for applicable tax purposes resulted in the imposition of such withholding and shall reduce distributions to such Partners pursuant to the relevant clause of Section 7.1.3 of this Agreement to the greatest extent possible prior to the attribution of any portion of such withholding to any other Partners.

(f) In addition, if a Partner fails to provide the Partnership with information required by the Subscription Agreement and/or Section 18.19 of this Agreement and such failure results in withholding under Sections 1471 through 1474 of the Code being assessed against the Partnership or an Alternative Vehicle with respect to gross proceeds, income or gains of the Partnership or the Alternative Vehicle in excess of the gross proceeds, income or gains attributable to the Partner (or Partners) who has failed to provide the required information, the Partnership may (i) pursue the remedies provided under Section 18.19.2(a)(iii) of this Agreement and cause such Partner to be a Withdrawing Partner or (ii) cause such Partner’s investment in the Partnership or an Alternative Vehicle to be made through an appropriate entity that may be taxed as a corporation or a pass-through entity as necessary to prevent such withholding under Sections 1471 through 1474 of the Code from affecting any Partner other than the Partner (or Partners) who failed to provide the required information.

7.9. Classification as a Partnership for Federal Income Tax Purposes. The parties hereto intend that the Partnership be classified as a partnership for United States federal income tax purposes. The General Partner shall not elect to have the Partnership classified as an association taxable as a corporation for United States federal income tax purposes pursuant to Treasury Regulations Section 301.7701-3 and shall use its best effort to cause the Partnership to continue to be classified as a partnership. The General Partner is authorized to take any and all steps as may be required to maintain the Partnership’s classification as partnership.

7.10. Distributions in Kind. Except in connection with the dissolution and liquidation of the Partnership pursuant to Section 13 of this Agreement, the Partnership may not distribute to the Partners securities of entities in which the Partnership invests or interests held by the Partnership in any Subpartnership or other entities.

7.11. Interpretation. It is the intent of the Partners that the provisions hereof relating to each partner’s distributive share of income, gain, loss, deduction or credit (or item thereof) shall comply with the provisions of Section 704(b) of the Code and the applicable Regulations. In furtherance of the foregoing, the General Partner is hereby directed to resolve any ambiguity in the provisions of this Agreement in a manner that will preserve, protect and further the intention of the Partners to cause this Agreement to comply with the aforesaid Code provisions for federal income tax purposes and, subject to the penultimate sentence hereof, to adopt such curative

provisions to this Agreement as the General Partner may deem as necessary. The General Partner shall also have the authority to adjust allocations as necessary in order to realize the intended economic arrangement among the Partners, including allocations of gross income for distributions of the First Priority Return and Second Priority Return. In the event of any dispute, the decision of the independent tax counsel employed by the Partnership shall be final. Notwithstanding the foregoing, no Partner shall have the right to require or compel any distribution of cash or property not authorized or provided for by the provisions of this Agreement or withhold any distribution of cash or property provided for by the provisions of this Agreement on the ground that such action is necessary to cause the provisions hereof to conform to the provisions of the Regulations. Except as otherwise provided for herein, allocations of Profit and Loss shall be deemed to include a pro rata share of each item of income, gain, loss, deduction or credit.

7.12. Prohibited Tax Shelter Transactions. The Partnership will use commercially reasonable efforts to avoid making any investment which the General Partner reasonably determines at the time of the investment would qualify as a “prohibited tax shelter transaction” within the meaning of Section 4965 of the Code. In the event that the Partnership makes an investment that may be treated as a “prohibited tax shelter transaction” (within the meaning of Section 4965(e)(1) of the Code), the Partnership will notify each “tax-exempt entity” (as defined in Section 4965(c) of the Code) and will provide to each such Partner such information as such Partner reasonably may request to enable such Partner to fulfill any reporting requirements with respect to such transaction. In the event the Partnership enters into any investment that causes a Partner to be a “party” (within the meaning of Section 4965(a) of the Code) to a “prohibited tax shelter transaction,” the General Partner shall promptly notify each tax-exempt entity and (a) shall use its reasonable efforts to cooperate with such Partner so as to ensure, to the extent practicable, that such Partner does not become or continue as a party to such a transaction and (b) shall not unreasonably withhold its consent under Section 12.2(a)(i) of this Agreement to such Partner’s transfer of its Interest to a third party (provided that such Partner obtains an opinion or, if permitted by the General Partner, otherwise certifies that the transfer meets the criteria of Section 12.2(b) of this Agreement).

7.13. Reportable Transactions and Listed Transactions. The Partnership will use commercially reasonable efforts to inform the Limited Partners if any investment is made which is a “reportable transaction” or “listed transaction” within the meaning of Treasury Regulations Section 1.6011-4.

7.14. Testing Date. On the nine-year anniversary of the Final Closing (the “**Testing Date**”), the General Partner shall determine whether there would have been a Total Shortfall Amount with respect to any Limited Partner as of the Testing Date, assuming that the Partnership had sold all of its assets for fair market value, paid all of its liabilities and dissolved, liquidated and distributed its remaining net assets on the Testing Date in accordance with Section 13.2. For purposes of making the determination, the General Partner shall take into account the actual amount of Capital Contributions made by each Partner to the Partnership and the actual amount distributed to each Partner from the Partnership through the Testing Date. Such determination shall be made within ninety (90) days of the Testing Date. If the General Partner determines that there would have been a Total Shortfall Amount with respect to any Limited Partner as of the Testing Date, the General Partner shall, within one hundred and eighty (180) days of the Testing

Date, repay to the Partnership, for distribution to the Limited Partners in accordance with Section 7.1.3, the Total Shortfall Amounts which shall be determined in accordance with Section 13.3(b) as if the Testing Date was the liquidation date of the Partnership. To the extent that any payments are made pursuant to this Section, future distributions and allocations shall be made taking into account the payment by the General Partner to the Partnership.

## **SECTION 8. VALUATION OF PARTNERSHIP ASSETS**

8.1. Valuation by General Partner. Whenever valuation of Partnership Assets is required by this Agreement, the General Partner shall determine the fair market value thereof in good faith in accordance with this Section 8.

8.2. Valuation by Executive Board. The Executive Board shall approve the General Partner's determination of value in the case of any Asset that is to be distributed in-kind.

8.3. Valuation of Marketable Securities that are Freely Transferable. Marketable Securities which are freely transferable pursuant to an effective registration under the Securities Act of 1933, as amended, or an exemption from the registration requirements thereof shall (a) if traded on a national securities exchange, be valued at their last sale price on such exchange on which such Marketable Securities shall have traded on the last trading day on which such Marketable Securities were traded immediately preceding the date of determination or (b) if the trading of such Marketable Securities is reported through the National Association of Securities Dealers Automated Quotation System, such Marketable Securities shall be valued at the last closing "bid" price as shown by the National Association of Securities Dealers Automated Quotation System on the last trading day on which such Marketable Securities were traded immediately preceding the date of determination.

8.4. Valuation of All Other Interests and Property. All interests, property, Assets and securities (other than freely transferable Marketable Securities) shall be valued by the General Partner in such manner as it may determine in good faith. In valuing property interests, the General Partner may use one or more of the following as determinants of value: appraisals; lender valuations; agreements of sale; sales of comparable properties; discounted cash flow analyses; and direct capitalization of net operating income or any other generally acceptable valuation determinant. If within thirty (30) days after the Executive Board is given notice of any valuation made by the General Partner as set forth above, the Executive Board, by a majority vote, shall so request in writing, the General Partner shall obtain at the expense of the Partnership a valuation of any securities or other interests or other property from a qualified independent and nationally prominent appraisal firm or investment bank experienced in valuing assets of the type held by the Partnership. Such appraisal firm or investment bank shall be selected by the General Partner and approved by the Executive Board. Such valuation of the relevant assets shall be binding on all parties.

8.5. Goodwill. The Partnership's name and goodwill shall, as among the Limited Partners, be deemed to have no value and shall be deemed to be owned by the General Partner, and no Limited Partner shall have any right or claim individually to the use thereof. The Management Company owns all right, title and interest in and to the mark "Lubert-Adler", as well as other marks, and commensurate with this Agreement, has entered into a nonexclusive,

non-transferable Service Mark License Agreement (the “**Service Mark License Agreement**”) with the General Partner and Partnership related to the Partnership’s permitted use of such marks. The Partners acknowledge that the Service Mark License Agreement does not grant a right to use the marks to the Partners, individually. Upon termination of the Partnership or upon removal of the General Partner, (a) the licensing agreement between the Management Company, the General Partner and Partnership shall terminate, pursuant to the terms of such agreement, and (b) the Partnership’s office records, files and statistical data, telephone and facsimile numbers, leasehold interests, licenses, track record and financial performance information, goodwill and any other intangible assets of the Partnership, shall be assigned to the General Partner.

## **SECTION 9. EXPENSES; MANAGEMENT FEE**

9.1. **Organizational Expenses.** Organizational Expenses of the Partnership and any Parallel Fund [REDACTED] shall be paid by the Partnership and any Parallel Fund. [REDACTED]

[REDACTED] The General Partner shall allocate all Organizational Expenses and organizational expenses of any Parallel Fund among the Partnership and any Parallel Fund in proportion to the relative aggregate Commitments of the Partners of the Partnership and the commitments of partners of any Parallel Fund; provided that the General Partner may allocate expenses that are specific to one entity, but not the other entities, only to the specific entity as it shall determine in good faith. Any non-pro rata allocation of such expenses by the General Partner under this Section 9.1 shall be disclosed to the Executive Board. [REDACTED]

### 9.2. Management Fee.

(a) Except as otherwise set forth in this Section 9.2, the Partnership shall pay to the Management Company, quarterly in advance, a management fee for the services to be provided under the Management Agreement (the “**Management Fee**”) which shall equal (i) an annual rate of one and one-half percent (1.5%) multiplied by the Partner’s Commitment for Partners with Commitments of less than Fifty Million Dollars (\$50,000,000); (ii) an annual rate of one and one-quarter percent (1.25%) multiplied by the Partner’s Commitment for Partners with Commitments of at least Fifty Million Dollars (\$50,000,000) and less than One Hundred Million Dollars (\$100,000,000); and (iii) an annual rate of nine thousand three hundred and seventy five ten-thousandths of a percent (0.9375%) multiplied by the Partner’s Commitment for Partners with Commitments equal to or greater than One Hundred Million Dollars (\$100,000,000) (each Partner to which the discount referenced in clauses (ii) and (iii) apply, a “**Discounted Fee Partner**”). Each calculation will be for the period commencing on the Initial Closing until the earlier of (i) the last day of the Commitment Period or (ii) the date on which such Partner’s Unfunded Commitment has been reduced to zero (such period being referred to as

the “**Initial Period**”). For the period commencing after the Initial Period through the termination of the Partnership, the Management Fee for all Commitments shall equal an annual rate of one percent (1.00%) multiplied by the aggregate amount that has been invested by the Partnership in or with respect to Assets that have not been sold without regard to distributions made to the Partners in respect of such Assets (which amount shall include an allocation of Partnership expenses to the extent allocable to the Partnership’s Assets and which amount shall be decreased for any permanent and unrecoverable writedowns of Assets) calculated as of the last day of the prior quarter. If the Initial Period ends during a fiscal quarter of the Partnership, the Management Fee for such fiscal quarter of the Partnership in which the Initial Period ends shall be calculated on a pro rata basis with (x) the amount being based on the Partner’s Commitments, calculated from the first day of such fiscal quarter of the Partnership up to and including the date on which the Initial Period ends and (y) the amount being based on the amount invested in Assets that have not been sold (as described above), calculated as of the last day of the Initial Period, prorated for the remaining number of days in such fiscal quarter of the Partnership. Any increase in the Management Fee resulting from an increase in the total Commitments of all Limited Partners to the Partnership following the Initial Closing, or the admission of additional Limited Partners following the Initial Closing, shall be calculated retroactive to the Initial Closing through the beginning of the first fiscal quarter following a Subsequent Closing Date or a change in the Management Fee structure and such amount shall be paid to the Management Company. If any Limited Partner increases its Commitment and as a result of such increase is entitled to a reduced rate to determine its share of the Management Fee, the General Partner shall recalculate such Limited Partner’s share of the Management Fee and any prior excess payment of Management Fees resulting from the reduced rate attributable to such Limited Partner will be adjusted in the Partnership’s next quarterly payment of Management Fees.

(b) Payments of the Management Fee shall be made quarterly in advance on the first business day of each January, April, July and October of each fiscal year of the Partnership (each such date of payment, a “**Management Fee Payment Date**”). The first payment shall be due on the Initial Closing. However, if the Initial Closing is not the first day of a fiscal quarter of the Partnership, the Partnership’s first payment shall be for the pro rata amount due until the beginning of the first succeeding fiscal quarter of the Partnership (based on a daily proration of days remaining in any quarter).

(c) Notwithstanding the foregoing, the Management Fee payable for any period shall be reduced by an amount (the “**Waived Fee Amount**”) equal to the lesser of (i) the amount of the Management Fee that the Management Company has irrevocably elected to waive in a written notice (a “**Waived Fee Notice**”) delivered to the Partnership prior to the close of the preceding calendar year before the applicable Management Fee Payment Date and (ii) the amount that would be payable to the Management Company on such Management Fee Payment Date pursuant to this Section 9.2 (calculated after giving effect to Section 9.2(b) of this Agreement and in the absence of this Section 9.2(c)). As a result of any such waiver of fees, the General Partner shall be entitled to the rights otherwise described herein in respect of Waived Fee Amounts and Waived Fee Surplus. The allocation of the Waived Fee Amount shall be Pro Rata to the Partners.

(d) At the time the Partnership would otherwise pay the Management Fee, the General Partner may elect not to be charged (or charge its Affiliates) part or all of the

Management Fee payable with respect to its Commitment (and Commitments of its Affiliates) and instead the General Partner or the affected Affiliate will become entitled to receive an aggregate cash distribution (the “**Special GP Distribution**” or, with respect to an Affiliate, the “**Special Affiliate Distribution**”) equal to the amount which the General Partner and its Affiliates are not being charged. The Special GP Distribution and Special Affiliate Distribution shall be determined on an estimated basis and adjusted thereafter when such amount is finally determined. The General Partner may determine the timing of the Special GP Distributions and Special Affiliate Distributions to which it or its Affiliate is entitled.

(e) The Management Company shall be permitted to defer receipt of any payment of the Management Fee, in whole or in part, otherwise payable on a Management Fee Due Date by delivering to the Partnership written notice of the amount of such deferral with respect to such Management Fee Due Date, to the extent permitted under Sections 409A and 457A of the Code, either (i) prior to the close of the preceding calendar year or (ii) at any time to the extent such deferral will not, within applicable guidance at the time, result in constructive receipt by the Management Company or an income inclusion under Section 409A(a) of the Code (the amount of Management Fees deferred is referred to herein as the “**Deferred Management Fees**”). The Partnership shall pay any Deferred Management Fees to the Management Company at the time specified in the deferral notice (or any additional deferral notices provided by the Management Company prior to the expiration of a deferral notice, provided that any additional deferral notice shall not take effect until at least twelve (12) months after the date on which such additional deferral notice is given and shall be subject to the other requirements of Section 409A(a)(4)(C) of the Code, although the restrictions of this proviso shall not apply to the extent that Section 409A of the Code is amended or interpreted to remove their applicability to such additional deferral notice), which payment may be made from available cash including proceeds from (i) dispositions of Assets, (ii) all other current income of the Partnership and (iii) Capital Contributions. Any Deferred Management Fees shall remain an obligation of the Partnership until paid in full to the Management Company.

(f) The amount of the Management Fee for any fiscal year shall be reduced by an amount equal to amounts received by General Partner Affiliates under Section 6.1.8(b) of this Agreement with respect to third party co-investments plus that portion of any directors’, advisory, monitoring, acquisition, sales, brokerage, disposition, breakup, origination, underwriting, investment banking, other transaction fees or non-monetary compensation (e.g. stock options), valued at the time such non-monetary compensation is monetized and received by the General Partner, the Management Company or their respective Affiliates, net of reasonable related expenses not paid by the Partnership, based on the Partnership’s pro rata portion of any such investment; provided, however, that the annual Management Fee may not be reduced below zero, and provided further, that if such fees exceed the Management Fee otherwise payable during such year, the excess shall be carried forward and shall reduce the Management Fee payable in the next year or years, until such fees are fully offset. If, at the termination of the Partnership pursuant to Section 13, any such fees received by General Partner Affiliates have not been fully offset against Management Fees, such amount will be paid to the Partnership and credited to the Capital Accounts of the Limited Partners in accordance with the manner in which such fees would have offset their Management Fees. Any remaining non-monetary special income shall be valued in accordance with Section 8.4 of this Agreement. For the avoidance of

doubt, this Section 9.2(f) does not apply to amounts received from any Permitted Investment Vehicle.

(g) In the event of a default by a Partner during the Initial Period, the Management Fee payable by the Partnership shall not be based on the defaulting Partner's Commitment and shall not be reallocated among or charged against the non-defaulting Partners; provided, however, that nothing contained in this Section shall limit the ability of the General Partner or Management Company to collect the Management Fee attributable to such defaulting Partner from such defaulting Partner.

(h) To receive the benefit of the reduced Management Fee percentage applicable during the period commencing on the Initial Closing and ending on the last day of the Commitment Period, each Discounted Fee Partner shall be entitled to have apportioned to it, for purposes of distributions pursuant to Section 7.1.3 of this Agreement, an additional cash distribution from the Partnership (the "**Management Fee Distribution**") equal to the difference between (i) its respective share of the Management Fee during the Investment Period calculated at a rate equal to one and one-half percent (1.5%) per annum of its Commitment (i.e., as if there were no reduction of the Management Fee with respect to it) and (ii) its respective share of the Management Fee as actually determined in accordance with Section 9.2(a) of this Agreement, in each case, after giving effect to Section 9.2(b) of this Agreement, subject, however, to the General Partner's right to a Carried Interest with respect to such additional distribution to the extent that it represents additional profits to the Discounted Fee Partner.

9.3. Expenses of General Partner and Management Company. Except as otherwise provided in Section 9.4 of this Agreement, the General Partner and Management Company shall bear all routine, normal operating expenses associated with their duties and services to be rendered hereunder on the terms and conditions herein set forth. Routine, normal operating expenses include compensation and expenses of the officers and employees of the General Partner and Management Company and of partners and members of the General Partner and Management Company, including salaries and benefits of the officers and employees of the General Partner and Management Company and of partners and members of the General Partner and Management Company; and fees and expenses for administrative, bookkeeping, clerical and related support services, insurance, office space and facilities, utilities, telephone and facsimile of the General Partner and Management Company. Except as may be approved by a majority of the Executive Board, or except as specifically permitted herein, for so long as the Management Fee is being paid to the General Partner or Management Company, neither the General Partner nor any officer or employee of the General Partner, nor any partner of the General Partner shall receive any salary or other compensation (other than the Management Fee) from the Partnership.

9.4. Expenses of the Partnership. Routine, normal operating expenses exclude (and, accordingly, expenses which shall be paid by the Partnership and not the General Partner or Management Company), without limitation, Organizational Expenses (to the extent permitted under Section 9.1 of this Agreement), Management Fees, liquidation expenses of the Partnership; any sales or other taxes which may be assessed against the Partnership; the costs and out-of-pocket expenses, including, without limitation (but subject to Section 9.1 of this Agreement), reasonable travel and out-of-pocket travel related expenses, commissions, placement fees relating to the Assets, brokerage fees, investment banking fees or similar charges, incurred in

connection with the investigation, identification, evaluation, holding, purchase or sale of Assets, whether or not any such purchase or sale is consummated; debt service attributable to borrowed money; all out-of-pocket expenses relating to litigation and threatened litigation involving the Partnership, including indemnification expenses permitted pursuant to Section 10.1 of this Agreement; expenses attributable to normal and extraordinary investment banking, accounting, appraisal, third party valuation, third party legal, custodial, and registration services provided to the Partnership, including services with respect to the proposed purchase or sale of Assets by the Partnership (whether or not any such purchase or sale is consummated); costs and out-of-pocket expenses associated with financial research and market analysis, due diligence and underwriting including third-party consultants and subscriptions; the costs of risk management services and appropriate insurance coverage for the Partnership including, without limitation, premiums for liability insurance to protect the Partnership, the General Partner, the Management Company and the partners, members and Affiliates of the General Partner and the Management Company in connection with the performance of Partnership activities; third-party fund administration expenses (including accounting, reporting (including investor reporting) and expenses associated with Partner distributions and capital calls); interest and taxes related to the purchase, holding or sale by the Partnership of any Asset; costs incurred in registering (or obtaining exemptions from registration for) securities owned by the Partnership with the Securities and Exchange Commission, and any securities exchange or any other similar authority; costs incurred in qualifying and maintaining qualifications of such securities under applicable state "Blue Sky" laws, other costs of acquisition, disposition and holding of Assets; fees or other expenses incurred in connection with the investigation, prosecution or defense of any claims by or against any governmental authority, agency or body, which fees and expenses are subject to indemnification pursuant to Section 10.1 of this Agreement; reports to governmental authorities; the preparation of annual audits of the Partnership and other reports to the Limited Partners (including any internal printing and copying costs of the Management Company and its Affiliates incurred in preparing such reports); out-of-pocket expenses relating to meetings of the Partners, Executive Board and Advisory Committee; and all other expenses properly chargeable to the activities of the Partnership, including fees payable to third parties in connection with the selection, identification, analysis or evaluation and holding of prospective or consummated investments of the Partnership. All expenses chargeable to both the Partnership and one or more Parallel Funds shall be allocated among the Partnership and such Parallel Funds (x) for general expenses, in proportion to the relative aggregate Commitments of the Partners and the commitments of the partners of such Parallel Fund or Parallel Funds, (y) for Asset-related expenses, in proportion to the investment that each of the Partnership and each such Parallel Fund has made in the Asset or (z) on any other basis determined by the General Partner with the consent of the Executive Board. Notwithstanding the foregoing, all UBTI Structuring Costs shall be borne solely by the Capital Fund.

## **SECTION 10. INDEMNIFICATION**

### **10.1. General Provisions.**

(a) The General Partner, the Management Company, their partners, members, officers, directors, employees and members of their committees, Independence Capital Partners, LLC and its employees, members of any committees of the Partnership, including current and former members of the Executive Board and Advisory Committee and the Limited

Partner represented by such member of the Executive Board and Advisory Committee, each member of any other committee, each employer of each member of the foregoing, and in the General Partner's reasonable discretion, each person engaged by the Partnership as a consultant in connection with an investment or proposed investment and any Person who serves or has served as a director, officer, partner, or employee, at the request of the Partnership (each such Person herein referred to as an "Indemnitee"), shall be indemnified by the Partnership (only out of Partnership assets, including the proceeds of liability insurance) against any claim, demand, controversy, dispute, cost, loss, damage, expense (including reasonable attorneys' fees), judgment and/or liability incurred by or imposed upon the Indemnitee in connection with any action, suit or proceeding (including any proceeding before any administrative or legislative body or agency) to which the Indemnitee may be a party or otherwise involved, or with which the Indemnitee may be threatened, by reason of any action or omission of the Indemnitee (or the Indemnitee's employee) in connection with the conduct of Partnership affairs and in its capacity, at the time the cause of action arose or thereafter, as the General Partner (including the General Partner acting as Tax Matters Partner), the LLC, the Management Company, a partner, member, employee, officer, director or Affiliate thereof, an officer, director or other Person who serves or served at the request of the General Partner on behalf of the Partnership as an officer, advisor, director, partner or employee of any other entity (or its employee) (whether or not the Indemnitee or its employee continues to serve in such capacity at the time such action, suit or proceeding is brought or threatened), or member of any committee of the Partnership, including the Executive Board and Advisory Committee. The foregoing indemnification right does not apply in the case of Indemnitees who are not or were not Limited Partner representative members of the Advisory Committee or Executive Board or the Limited Partner represented by such member of the Advisory Committee or Executive Board, with respect to actions or omissions of the Indemnitee (or its employee) which have been finally adjudicated in any such action, suit or proceeding, to (i) constitute (1) fraud, (2) gross negligence, (3) willful misconduct, (4) a material breach of the General Partner's duties under this Agreement, (5) a material violation of the law that has a material adverse effect on the Partnership, (6) a breach of the General Partner's fiduciary duties under this Agreement and those provided under applicable Delaware law or (7) bad faith; (ii) result from such Person's own failure to exercise the care, skill, prudence and diligence under the circumstances then prevailing that a person acting in a like capacity and familiar with such matters would exercise in the conduct of a pooled real estate investment fund with similar purposes; or (iii) results from such person participating in an internal dispute solely among one or more of the General Partner, the Management Company, the LLC or one of their Affiliates. Members of the Advisory Committee or Executive Board or the Limited Partner represented by such member of the Advisory Committee or Executive Board shall be entitled to indemnification to the fullest extent permitted by law as provided in the first sentence of this Section 10.1(a). The foregoing right of indemnification shall be in addition to any rights to which any Indemnitee may otherwise be entitled and shall inure to the benefit of the executors, administrators, personal representatives, successors or assigns of each such Indemnitee.

(b) If any Indemnitee seeks indemnification from the Partnership pursuant to this Section 10.1, it shall so notify the Partnership and the Executive Board.

If the Executive Board approves any such settlement arrangement, the Indemnitee shall be entitled to indemnification

under this Section 10.1 and such determination shall be binding on the Partners and the Partnership.

10.2. Advance Payment of Expenses.

10.3. Insurance. The General Partner, on behalf of the Partnership, shall cause the Partnership to purchase and maintain insurance with such limits or coverages as the General Partner reasonably deems appropriate, at the expense of the Partnership and to the extent available, for the protection of any Indemnitee against any liability incurred by such Indemnitee in any such capacity or arising out of his, her or its status as such, provided such coverages are consistent with the Partnership's power to indemnify such Indemnitee against such liability. The General Partner shall purchase and maintain insurance on behalf of the Partnership for the protection of any officer, director, employee, consultant or other agent of any other organization in which the Partnership owns an interest against similar liabilities. Any amounts payable by the Partnership to an Indemnitee pursuant to the provisions of Section 10.1 of this Agreement shall be payable first from the proceeds of any insurance recovery pursuant to policies purchased by the Partnership pursuant to this Section 10.3 and then from the other assets of the Partnership; provided, that the foregoing shall not affect the Partnership's obligation to advance expenses pursuant to Section 10.2 of this Agreement in circumstances in which the insurance company who has issued such policy will not advance such expenses. The General Partner shall use its best efforts to seek reimbursement from any such insurance or any other available sources before making a capital call to fund the indemnification obligation hereunder.

10.4. Sharing of Indemnification Expenses with Parallel Funds. It is understood and agreed that, with regard to any claim for indemnification pursuant to this Section 10 which relates to a common activity of the Partnership and any Parallel Fund, the Partnership shall be obligated to provide indemnity hereunder up to, but only to the extent of, its pro rata share of the total of any such amounts so paid by any or all of the Partnership and any Parallel Fund in proportion to the respective amounts of capital contributed to the Partnership or such Parallel Fund; provided, if the indemnification expense relates to a specific Asset, the expense shall be

allocated in proportion to the amounts invested by the Partnership or such Parallel Fund in such Asset.

**SECTION 11. ADMISSION OF ADDITIONAL OR SUBSTITUTE GENERAL PARTNER**

Persons who own Interests in the Partnership may be admitted to the Partnership as additional or substitute General Partners with such Person's written consent, the consent of the then current General Partner and a majority of the Fund Interest of the non-defaulting Limited Partners of the Partnership and the non-defaulting limited partners of any Parallel Fund voting together as a single class.

**SECTION 12. TRANSFERABILITY OF PARTNERSHIP INTERESTS; WITHDRAWAL OF PARTNERSHIP INTERESTS**

12.1. General Partner.

(a) The General Partner may not sell, transfer or otherwise assign all or any part of its interest as a General Partner without the consent of [REDACTED] of the Fund Interest of the non-defaulting Limited Partners and the non-defaulting limited partners of any Parallel Fund voting together as a single class, and the assignee shall thereupon be admitted to the Partnership as a General Partner with all the rights and duties of his, her or its assignor with respect to the interest assigned.

(b) (i)

[REDACTED]

(ii) Notwithstanding anything to contrary set forth in Section 12.1(b)(i) of this Agreement, Mr. Lubert and/or Mr. Adler shall be permitted to transfer their direct or indirect economic ownership interest in the General Partner for estate planning purposes provided that such Person continues to maintain its respective voting interest of the General Partner.

(c) Upon the occurrence as to the General Partner of any event described in clause (4) of Section 17-402(a)(4) of RULPA (generally, events of bankruptcy), the interest of the General Partner shall automatically convert into a special limited partner interest, which shall be entitled to the allocations and distributions under Section 7 of this Agreement attributable to the General Partner. The holder of record of such special limited partner interest shall have the same right to vote as other Limited Partners.

## 12.2. Assignment by Limited Partners.

(a) An Interest may be sold, transferred or otherwise assigned, in whole or in part, by a Limited Partner only upon (i) obtaining the written consent of the General Partner, which consent may be withheld in the General Partner's sole and absolute discretion, except that any Interest may (A) pass without the consent of the General Partner to the heirs, legatees, executors, administrators or personal representatives of such Limited Partner upon his or her death, bankruptcy, adjudication of incompetency or by operation of law or to his or her spouse or children or trusts for their benefit (B) be transferred to an Affiliate of any Partner with the written consent of the General Partner, which consent shall not be unreasonably withheld, and (C) with respect to any ERISA Partner, pass without consent of the General Partner to a successor trustee, or to effect a merger, consolidation, or transfer of assets and liabilities of one or more plans funded by an ERISA Partner in compliance with Section 414(l) of the Code, provided that any heir, legatee, executor, administrator, personal representative, spouse, child or trust (in the case of clause (A)), any such Affiliate (in the case of clause (B)) or any such successor trustee or successor plan (in the case of clause (C)) shall be an assignee and shall not be admitted to the Partnership as a substitute Limited Partner except upon compliance with Section 12.3(a) of this Agreement and (ii) obtaining and delivering to the Partnership any and all consents required under any applicable state law and, if requested by the General Partner in its sole discretion, an opinion of counsel as specified in Section 12.2(b) of this Agreement provided that no opinion shall be required with respect to transfers to Affiliates if the transferring Limited Partner delivers to the General Partner a written statement that the Limited Partner has determined in good faith that such transfer will satisfy Section 12.2(b) clause (z) of this Agreement. No transfer by any Limited Partner of any limited partnership interest hereunder, nor the substitution of any party as a Limited Partner, shall be permitted unless the actions to be taken in connection with such transfer (1) may be effected without registration of the Interest under the Securities Act of 1933, as amended, (2) does not cause the violation of any state securities law (including any investment suitability standards) applicable to the Partnership, (3) would not cause the Partnership to be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code and does not have any adverse tax result for the Partnership, the General Partner, or the Limited Partners, and (4) will not cause the Partnership or any entity in which the Partnership invests to be subject to any additional regulatory requirements (including, without limitation, those imposed by ERISA, or the registration requirements of the Investment Company Act, or to lose the "safe harbor" exemption from such registration which relates to the number of investors). Each assignee of a Partnership interest shall, prior to or upon the effectiveness of such transfer, execute an agreement in form reasonably satisfactory to the General Partner under which such assignee shall assume all of the obligations of the assigning Partner hereunder and agree to be bound by the terms hereof. No assignee of a Partnership interest shall become a substitute Limited Partner without executing a copy of this Agreement or an amendment hereto in form and substance satisfactory to the General Partner. Any substituted Limited Partner admitted to the Partnership pursuant to this Section 12.2(a) shall have the same rights and responsibilities under this Agreement as such Person's assignor and shall succeed to the Capital Account and balance thereof.

(b) The opinion of counsel referred to in Section 12.2(a)(ii) of this Agreement shall be (x) obtained at the expense of the transferor, (y) from counsel reasonably acceptable to the General Partner, and (z) to the effect that such transfer or assignment (i) may be

effected without registration of the Interest under the Securities Act of 1933, as amended, (ii) does not cause the violation of any state securities law (including any investment suitability standards) applicable to the Partnership, (iii) would not cause the Partnership to be treated as a “publicly traded partnership” within the meaning of Section 7704 of the Code and does not have any adverse tax result for the Partnership, the General Partner, or the Limited Partners, and (iv) will not cause the Partnership or any entity in which the Partnership invests to be subject to any additional regulatory requirements (including, without limitation, those imposed by ERISA, or the registration requirements of the Investment Company Act, or to lose the “safe harbor” exemption from such registration which relates to the number of investors). The transferor and/or the transferee(s) will pay any additional costs associated with the transfer, including the cost of the Partnership’s legal counsel in analyzing and implementing the transfer, unless such costs are deemed to be immaterial by the General Partner in its sole discretion, in which case such costs will be borne by the Partnership.

### 12.3. Substitution of Limited Partners.

(a) No assignee of an Interest from a Limited Partner shall have the right to be admitted to the Partnership as a substitute Limited Partner unless all of the following conditions are satisfied:

(i) a fully executed and acknowledged written instrument of assignment has been filed with the General Partner setting forth the intention of the assignor that the assignee become a Limited Partner in his, her or its place;

(ii) the assignor and assignee execute and acknowledge such other instruments as the General Partner may reasonably deem necessary or desirable to effect such admission, including the written acceptance and adoption by the assignee of the provisions of this Agreement (including the Power of Attorney contained in Section 17 of this Agreement) and the assumption by the assignee of all obligations of the assignor under this Agreement;

(iii) the assignee has paid all reasonable expenses incurred by the Partnership (including any legal and accounting fees) in connection with such transfer, including but not limited to the cost of the preparation, filing and publishing of any amendment to the Partnership’s Certificate or any amendments or filings under fictitious name registration statutes;

(iv) the General Partner has consented in writing to the substitution, which consent may be withheld in its sole and absolute discretion, except that such consent shall not be unreasonably withheld on transfers to an Affiliate of a Limited Partner and such consent shall not be required for transfers in accordance with Section 12.2(a)(i)(C) of this Agreement;

(v) the assignor and assignee shall supply information as to the purchase price, their respective tax bases in the Interest (or rights) transferred, and any other information reasonably necessary to enable the Partnership to complete required tax reporting, make any tax elections as the General Partner may choose and determine whether the transferee

could be considered an affiliate of the General Partner for the purposes of certain laws and regulations; and

(vi) the General Partner shall have received the opinions referred to in Section 12.2(b) of this Agreement.

(b) Once the applicable conditions have been satisfied, an assignee shall become a Limited Partner on the first day of the following calendar month. Any person so admitted to the Partnership as a Limited Partner shall be subject to all provisions of this Agreement as if originally a party hereto.

12.4. Withdrawal of Partnership Interests. No Partner shall have the right to withdraw its capital and profits from the Partnership, except as provided in Section 12.5 of this Agreement with respect to ERISA Partner withdrawal and as provided in Section 18.19 of this Agreement.

12.5. ERISA Partner Withdrawal.

(a) Notwithstanding any provision in this Agreement to the contrary, any Limited Partner which is an ERISA Partner may elect, upon written notice of such election to the General Partner, to withdraw from the Partnership, or upon written demand by the General Partner shall withdraw from the Partnership, at the time and in the manner hereinafter provided, if either such ERISA Partner or the General Partner shall obtain and deliver to the other an opinion of counsel (which counsel shall be reasonably acceptable to both such ERISA Partner and the General Partner) to the effect that (a) such ERISA Partner (or any employee benefit plan or any plan assets which are held by such ERISA Partner) may be in violation of ERISA, the Code or rules or regulations promulgated thereunder by reason of such ERISA Partner continuing as a Limited Partner, or (b) the fiduciaries of such ERISA Partner (or fiduciaries of an employee benefit plan or plan the assets of which are held by such ERISA Partner, as applicable), would have liability for the acts or omissions of the General Partner, notwithstanding the provisions of Section 405(d) of ERISA, or (c) the Partnership or the General Partner may or would be in violation of ERISA or the Code by continuing to have such ERISA Partner as a Partner. In the event of the issuance and delivery of such opinion of counsel, the General Partner shall promptly provide to each Partner a copy thereof, together with a copy of the written notice of the election of such ERISA Partner to withdraw or the written demand of the General Partner for withdrawal, as the case may be.

(b) The General Partner shall have, in its sole discretion, a period of ninety (90) days following receipt of such counsel's opinion to attempt to eliminate the necessity for such withdrawal to the reasonable satisfaction of such ERISA Partner and the General Partner, whether by correction of the condition giving rise to the necessity of such ERISA Partner's withdrawal, by amendment of this Agreement, by effectuation of a transfer of such ERISA Partner's interest in the Partnership to a substituted Limited Partner at a fair and reasonable price (provided such ERISA Partner consents to such transfer) or otherwise. If such cause for withdrawal is not cured within such ninety (90) day period, then such ERISA Partner shall withdraw from the Partnership as of the date following the expiration of such ninety (90) day period (or, if the General Partner elects in writing not to attempt so to cure, as of the date following such election) which is the earlier of (a) the last day of the fiscal year of the

Partnership during which such ninety (90) day period expires or during which the General Partner so elects not to attempt a cure, as the case may be, and (b) the last day of the fiscal quarter of the Partnership during which such ninety (90) day period expires or during which the General Partner so elects not to attempt a cure, as the case may be, provided that the last day of such fiscal quarter is recommended for withdrawal by counsel in such opinion (the earlier of (a) and (b) being herein referred to as the “**ERISA Withdrawal Date**”). The reasonable costs of obtaining or seeking an opinion of counsel for purposes of this Section 12.5, whether or not such opinion is to the effect specified above or results in the withdrawal of the ERISA Partner, shall be borne by the ERISA Partner.

(c) In the event that for any reason, including, without limitation, a breach of this Agreement resulting from the failure of the General Partner to perform the undertakings set forth in Section 6.1.10(a) of this Agreement, any assets of the Partnership shall be deemed to constitute “plan assets” of any “benefit plan investor” under ERISA, within the meaning of the Plan Assets Regulations, the General Partner shall not, nor cause the Partnership to, enter into any transaction which could reasonably be expected to constitute a “prohibited transaction” as defined in Section 406 of ERISA or Section 4975 of the Code for which no regulatory or statutory exemption applies; provided, however, that the obligations of the General Partner under this Section 12.5(c) shall be subject to the receipt of the General Partner from each ERISA Partner of such information as may be necessary to permit the General Partner to determine whether any such transaction could constitute a “prohibited transaction.” As used in this Section 12.5, all terms surrounded by quotation marks (“ ”) and not in bold shall have the meanings assigned thereto in the Plan Assets Regulations.

(d) Effective upon the ERISA Withdrawal Date, such ERISA Partner shall cease to be a Partner of the Partnership for all purposes and, except for its right to receive payment for its Partnership interest as hereinafter provided, shall no longer be entitled to the rights of a Partner under this Agreement, including without limitation the right to receive allocations pursuant to Section 7.2 of this Agreement, the right to receive distributions during the term of the Partnership pursuant to Section 7.1 of this Agreement and upon liquidation of the Partnership pursuant to Section 13.2 of this Agreement and the right to vote on Partnership matters as provided in this Agreement. Notwithstanding the foregoing, as a condition of its withdrawal from the Partnership, such ERISA Partner shall be required to fund its pro rata portion of the outstanding balance of the Credit Facility, based on the ratio of the ERISA Partner’s Unfunded Commitment at such time to the aggregate amount of Unfunded Commitments of all Partners at such time. Anything herein to the contrary notwithstanding, the right of withdrawal of any ERISA Partner under this Section 12.5 shall be the sole and exclusive remedy for a breach by the General Partner of any of its agreement or covenants contained in this Section 12.5.

(e) As promptly as practicable following the ERISA Withdrawal Date, there shall be distributed to such ERISA Partner, in full payment and satisfaction of its interest in the Partnership, an amount equal to the amount which such ERISA Partner would have been entitled to receive pursuant to Section 13.2 of this Agreement if the Partnership had been liquidated on and as of the ERISA Withdrawal Date and all of the Partnership’s assets had been sold on such date for their fair market value. No approval of the Partners shall be required prior to the making of such distribution. For purposes of determining the amount of the distribution to

be made to such ERISA Partner, and the value of the Partnership's assets, the Partnership's annual or quarterly financial statements, as the case may be, prepared in accordance with Section 15.3 of this Agreement for the period which includes the ERISA Withdrawal Date shall be deemed to be conclusive. Such distribution to the withdrawing ERISA Partner shall be payable in cash or cash equivalents.

(f) Upon the withdrawal of any ERISA Partner from the Partnership pursuant to this Section 12.5, the Partners (including the withdrawing ERISA Partner) shall enter into an amendment to this Agreement reflecting such withdrawal and amending such provisions of this Agreement, including without limitation the provisions regarding allocations and distributions during the term of the Partnership and upon its liquidation, as may be appropriate, so that the intent, spirit, operation and effect of such allocation, distribution and other provisions shall, to the maximum extent possible, be preserved after taking into account the withdrawal of such ERISA Partner.

### **SECTION 13. TERMINATION OF THE PARTNERSHIP**

#### **13.1. Dissolution.**

(a) The Partnership shall be dissolved and its affairs wound up upon the happening of any of the following events:

(i) An event of withdrawal of a General Partner under Section 17-402 of RULPA, as same may be amended, unless:

(y) there is then at least one remaining General Partner, in which event such remaining General Partner shall continue as the General Partner and shall continue the Partnership and its business, or

(z) if there is then no remaining General Partner, within ninety (90) days after such event, non-defaulting Limited Partners making a majority of the Commitments (A) agree to continue the Partnership and its business and (B) elect a substitute General Partner effective as of the date of the event of withdrawal, and such substitute General Partner agrees in writing to accept such election;

(ii) The sale or other disposition (not including an exchange) of all or substantially all of the Partnership's Assets, except under circumstances where all or a portion of the purchase price is payable after the closing of the sale or disposition;

(iii) The insolvency or bankruptcy of the Partnership, or an assignment by the Partnership for the benefit of creditors;

(iv) The expiration of the term of the Partnership in accordance with Section 5 of this Agreement;

(v) The vote of the Executive Board in accordance with Section 6.3.3(a) of this Agreement or vote of the non-defaulting Limited Partners and non-

defaulting limited partners of any Parallel Fund voting together as a single class in accordance with Section 6.1.13 of this Agreement;

(vi) A determination by the General Partner, which determination shall be approved by [REDACTED], that the Partnership should be dissolved; provided that any Parallel Fund is simultaneously dissolved in accordance with the terms of their organizational documents; or

(vii) Upon the occurrence of an event specified under the laws of the State of Delaware as one effecting dissolution, except that where, under the terms of this Agreement, the Partnership is not to dissolve, then the Partnership shall immediately be reconstituted and reformed on all the applicable terms, conditions, and provisions of this Agreement.

(b) After dissolution of the Partnership, the Partnership shall not terminate until the Partnership's Certificate shall have been canceled and the Assets of the Partnership shall have been distributed as provided in Section 13.2 of this Agreement. Notwithstanding the dissolution of the Partnership, prior to the termination of the Partnership as aforesaid, the business of the Partnership and the affairs of the Partners, as such, shall continue to be governed by this Agreement, including, without limitation, the continuing obligation of the Partners to make Additional Capital Contributions in connection with the winding up and liquidation of the Partnership.

(c) The bankruptcy, insolvency, dissolution, death or adjudication of incompetency of a Limited Partner shall not cause the dissolution of the Partnership. In the event of the bankruptcy, death or adjudication of incompetency of a Limited Partner, his, her or its executors, administrators or legal representatives shall, subject to the requirements of Section 12 of this Agreement, have the same rights that such Limited Partner would have if he or she had not suffered the foregoing, and the interest of such Limited Partner in the Partnership shall, until the termination of the Partnership, be subject to the terms, provisions and conditions of this Agreement as if such Limited Partner had not suffered the foregoing.

### 13.2. Winding Up/Liquidation.

(a) Except as otherwise provided in this Agreement, upon dissolution of the Partnership, the General Partner shall liquidate the Assets of the Partnership, apply and distribute the proceeds thereof as contemplated by this Agreement and cause the cancellation of the Partnership's Certificate. As soon as possible after the dissolution of the Partnership, a full account of the assets and liabilities of the Partnership shall be taken, and a statement shall be prepared by the independent accountants then acting for the Partnership setting forth the assets and liabilities of the Partnership. A copy of such statement shall be furnished to each of the Partners within ninety (90) days after such dissolution. Thereafter, the Assets shall be liquidated as promptly as possible and the proceeds thereof shall be applied in the following order:

(i) The expenses of liquidation and the debts (including any payment due under a Credit Facility) of the Partnership, other than the debts owing to the

Partners, shall be paid by the Partnership. Any reserves shall be established or continued which the General Partner deems reasonably necessary for any liabilities to be satisfied in the future, for any contingent or unforeseen liabilities or obligations of the Partnership or for its liquidation. Such reserves shall be held by the Partnership for the payment of any of the aforementioned contingencies and at the expiration of such period as the General Partner shall reasonably deem advisable, the Partnership shall distribute the balance thereafter remaining;

(ii) Such debts as are owing to the Partners, including in the case of the General Partner unpaid expense accounts or advances made to or for the benefit of the Partnership, shall be paid;

(iii) The balance in accordance with Section 7.1.3 of this Agreement.

(iv) provided, that all such distributions in this Section 13.2(a) shall be subject to (A) the right of the General Partner to receive the distributions, if any, to which it is entitled pursuant to Section 7.11 of this Agreement and to receive the accrued, but not yet distributed, Special GP Distributions, if any (any such Special GP Distribution shall be applied under this Section 13.2(a)(iv)), (B) the right of any Discounted Fee Partner to receive the accrued, but not yet distributed, Management Fee Distributions or portions thereof, if any, to which it is still entitled (any such Management Fee Distribution shall be applied under this Section 13.2(a)(iv) as set forth in Section 9.2(h) of this Agreement) and (C) the right of any Affiliate of the General Partner to receive the accrued, but not yet distributed, Special Affiliate Distributions, if any (any such Special Affiliate Distribution shall be applied under this Section 13.2(a)(iv) as set forth in Section 9.2 of this Agreement).

In the event the foregoing order of distribution is not permitted by the Delaware Act, distributions shall be made as permitted therein. To the extent permissible under the Delaware Act and if the General Partner determines that the circumstances are appropriate, the General Partner may form a liquidating trust in connection with the dissolution of the Partnership to hold assets pending final distributions to the Partners.

Subject to the order of priorities set forth in this Section 13.2, if the General Partner determines, in its sole judgment, that an immediate sale of part or all of the assets of the Partnership would be impractical, would cause undue loss to the Partners or otherwise would not optimize the return to the Limited Partners, the General Partner may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors). The provisions of this Agreement shall remain in effect among the Partners during the period of liquidation (including, but not limited to, the provisions relating to the amendment of, or granting waivers or consents under, this Agreement).

(b) Upon dissolution of the Partnership, except as otherwise may be provided in this Agreement or as required by law, each Limited Partner shall look only to the assets of the Partnership for the return of his, her or its investment, and if the Partnership's assets remaining after payment and discharge of debts and liabilities of the Partnership, including any debts and liabilities owed to any one or more of the Partners, are not sufficient to satisfy the

rights of the Limited Partners, they shall have no recourse or further right or claim against the Partnership, any General Partner or any other Partner.

(c) The General Partner shall use its commercially reasonable efforts to liquidate all of the assets of the Partnership by the Termination Date (or by the expiration of any extension of such date as set forth in Section 5 of this Agreement). The General Partner shall not distribute any assets in kind without the approval of the Executive Board. If any assets of the Partnership are to be distributed in kind, such assets shall be distributed on the basis of the fair market value thereof, and any Partner entitled to any interest in such assets shall receive such interest therein as a tenant-in-common with all other Partners so entitled; provided, however, that those assets that can be readily divided and distributed to Partners shall be distributed so that each Partner receives an undivided ownership interest in such assets. The fair market value of such assets shall be determined by the General Partner in accordance with the provisions of Section 8 of this Agreement. The General Partner shall provide a minimum of at least ten (10) business days' prior written notice to each Limited Partner prior to any distribution in kind. In the event that the General Partner shall make a distribution upon liquidation of the Partnership of assets which are not Public Securities, any Partner may within the ten (10) business days' notice period described above elect, by written notice to the General Partner or a liquidating trustee, as applicable, to decline the receipt of distributions in kind, in which case such distribution to such Partner shall be made by depositing such assets in a liquidating trust established by the General Partner (or liquidator if not the General Partner) in the name and for the benefit of the applicable Partners; provided that each Partner shall bear its pro rata share of the out of pocket expenses of such liquidating trust. The General Partner (or liquidator if not the General Partner) shall designate the trustee of such liquidating trust, provided that no Limited Partner shall be designated trustee without their consent. Assets in the liquidating trust shall be disposed of at the same time and on the same terms and conditions as those governing a disposition by the General Partner holding the same class of assets (or its principals holding such assets if the General Partner has been liquidated, and the General Partner shall not be liable for any loss or reduction in gain which result to a Limited Partner in connection with the deposit of such assets in the trust and their disposition therefrom).

### 13.3. Liabilities of the General Partner Upon Dissolution.

(a) Upon completion of the dissolution and liquidation of the Partnership and the distribution of all of the Partnership's assets, and anytime thereafter if the General Partner recalls capital from the Partners pursuant to Section 6.3.1(a) of this Agreement, the General Partner shall repay to the Partnership, for distribution to the Limited Partners, in accordance with Section 13.2(a)(iii) of this Agreement, the Total Shortfall Amount as determined in Section 13.3(b) of this Agreement.

(b) If (i) the aggregate amount of distributions received by any Limited Partner (excluding, in the case of the General Partner, distributions received by the General Partner in respect of the Carried Interest or in respect of Section 7.1.3(f) of this Agreement; but including, in the case of all Partners, any distributions received from funds which the General Partner paid back to the Partnership pursuant to its restoration obligations in Section 7.1.3(f) and Section 7.14 of this Agreement) from all sources from the beginning of the Partnership through and including the date of the Partnership's final liquidating distribution does

not equal or exceed (ii) an amount equal to (A) such Limited Partner's Capital Contributions to the Partnership, plus (B) its First Priority Return, then the Shortfall Amount shall be equal to the excess of the amount set forth in clause (ii) above over the amounts set forth in clause (i) above. If there is no such excess, the "Shortfall Amount" shall be zero dollars (\$0). Additionally, if (iii) the amount received by the General Partner in respect of the Carried Interest with respect to such Limited Partner represents more than (iv) twenty percent (20%) of the difference between (x) distributions from all sources to such Limited Partner plus Carried Interest distributed to the General Partner in respect of such Limited Partner from the beginning of the Partnership through and including the date of the Partnership's final liquidating distribution and (y) contributions by such Limited Partner to the Partnership, then the "Additional Shortfall Amount" for such Limited Partner shall be equal to the excess of the amount set forth in clause (iii) above over the amounts set forth in clause (iv) above. If there is no such excess, the Additional Shortfall Amount shall be zero dollars (\$0). The "Total Shortfall Amount" shall equal the lesser of (Y) the greater of (A) the sum of the Additional Shortfall Amounts computed pursuant to this Section 13.3 for each Limited Partner and (B) the sum of the Shortfall Amounts computed pursuant to this Section 13.3 for each Limited Partner and (Z) the aggregate amounts distributed to the General Partner in respect of the Carried Interest reduced by the federal, state, local and foreign income tax liability of the General Partner or partners of the General Partner resulting from the original inclusion of the income in respect of the Carried Interest determined by applying the highest federal, state and local marginal income tax rates for individuals, residing in Philadelphia, Pennsylvania, taking into account the character of the income allocated and the Assumed Tax Benefit, if any, of the payment and actual foreign tax rates in effect at the determination time to the extent realized in the year of payment and reduced further by any amounts previously repaid to the Partnership pursuant to this Section 13.3 and pursuant to Section 7.14 of this Agreement. The determination of the Shortfall Amount, Additional Shortfall Amount and Total Shortfall Amount shall be made on a partner-by-partner basis and shall take into account any remedies imposed upon Partners who were defaulting Partners during the term.

(c) To the extent not appropriately treated as a makeup contribution of a deficit in the General Partner's Capital Account for income tax purposes pursuant to the provisions of Section 704 of the Code and the Regulations thereunder, the Total Shortfall Amount shall be accounted for as part of a cumulative guaranteed payment for all relevant income tax purposes.

13.4. Additional Obligations. To the extent that the assets of the General Partner are insufficient to satisfy its obligations to the Partnership pursuant to Section 13.3 of this Agreement, Dean S. Adler and Ira M. Lubert hereby guarantee, jointly and severally, the obligations of the General Partner to the Partnership under Section 13.3 of this Agreement.

## **SECTION 14. PARTNERSHIP FUNDS**

All deposits in and withdrawals from Partnership bank accounts shall be made by the General Partner or such other Person or Persons employed or authorized by the Partnership as the General Partner may from time to time designate. Pending utilization of funds in the operations of the Partnership, such funds may be deposited by the General Partner in savings or checking accounts, short-term interest-bearing securities, including U.S. government securities,

certificates of deposit and bankers' acceptances or such other short-term investments as it deems desirable.

## **SECTION 15. BOOKS AND RECORDS; REPORTS; TAX ELECTIONS; MEETINGS**

15.1. Books and Records. The General Partner, on behalf of the Partnership, shall keep adequate books and records at the principal place of business of the Partnership or at such other place as the General Partner may determine, setting forth a true and accurate account of all business transactions arising out of and in connection with the conduct of the Partnership. Such books and records shall be kept during the term of the Partnership and for at least five (5) years following the dissolution of the Partnership. Upon ten (10) days' prior written notice to the General Partner, at any time while the Partnership continues and for five (5) years thereafter, each Partner (or the designee thereof) may fully examine during normal business hours and without undue disruption the Partnership's books, records, accounts, assets, including bank balances, and such other information as is reasonably necessary to enable the requesting Partner (or the designee thereof) to review the state of the investment activities of the Partnership, and may make, or cause to be made, any such examination at such Partner's expense. Notwithstanding the provisions of this Section 15.1, the management of the affairs of the Partnership shall be in the complete control of the General Partner and the Partnership shall not be required to disclose any confidential or proprietary information received by the Partnership pursuant to contractual restrictions in connection with its investment operations.

15.2. Accounting Method. The books of the Partnership shall be kept in accordance with generally accepted accounting principles, consistently applied, and the fiscal year of the Partnership shall end on December 31 of each year.

### 15.3. Financial Statements and Reports.

(a) Annual Financial Statements. The General Partner shall use its best efforts to transmit to each Partner, within ninety (90) days after the close of each fiscal year, the financial statements of the Partnership for such fiscal year. Such financial statements shall include balance sheets of the Partnership as of the end of such fiscal year and of the preceding fiscal year, statements of income and loss of the Partnership for such fiscal year and for the preceding fiscal year and a list of the Partnership's investments, valued at fair market value as of the end of such fiscal year (in accordance with Section 8 of this Agreement), all prepared in accordance with generally accepted accounting principles consistently applied in accordance with the terms of this Agreement, audited by a Big Four firm of independent public accountants. The General Partner shall also furnish upon request a statement of changes in such Partner's Capital Account for such fiscal year. Without the consent of the Executive Board, the General Partner shall not knowingly and willfully take or fail to take any action within the General Partner's control that would cause the auditor's report to include any qualifications due to scope limitations, lack of sufficient competent evidential matter, or a departure from generally accepted accounting principles. The General Partner shall use its best efforts to transmit to each Partner, within ninety (90) days after the close of each fiscal year, a report indicating such Partner's share of all items of income or gain, expense, loss or other deduction and tax credit of the Partnership for such year, as well as the status of its Capital Account as of the end of such year, and such additional information as it reasonably may request to enable it to complete its tax returns or to

fulfill any other reporting requirements (including a Schedule K-1). Upon request, the General Partner shall use its commercially reasonable efforts to transmit to such Partner, within thirty (30) days after the transmission of financial statements of the Partnership to the Partners, a confirmation from the Partnership's auditors confirming that all distributions and allocations by the Partnership to the Partners have been made in accordance with this Agreement, subject to agreed upon procedures between the accountants and the Partnership. For information purposes, the General Partner shall also furnish to each Partner, as promptly as practicable after the close of each fiscal year, a brief narrative report as to the status and operations of each of the Partnership's investments.

(b) Other Reports. The General Partner shall use its best efforts to furnish to each Partner, within forty five (45) days after June 30 and December 31 of each fiscal year of the Partnership, reports of the Partnership for the six-month periods then ended, which shall contain a narrative report as to the status and operations of each Partnership investment. The General Partner shall furnish unaudited quarterly financial statements at the written request of any Limited Partner within forty five (45) days after each quarter.

#### 15.4. Tax Elections.

(a) The General Partner may, if it so determines, make the election under Section 754 of Code on behalf of the Partnership. In no event shall the Partnership or the General Partner be held responsible or liable for the failure to make such election. Any Partner who desires such election to be made shall give the General Partner notice of the event giving rise to an adjustment for which such election is desired within thirty (30) days after the close of the fiscal year within which the event occurs.

(b) The Partners acknowledge that IRS Notice 2005-43 announces a future Safe Harbor Election, to become operative when certain future guidance is issued by the IRS, which will consist of the filing of an election that the Partnership intends to treat the issuance of a profits interest in exchange for services as the issuance of an interest which has no capital account or current liquidation value and thus to take no deduction for it, and agree that the General Partner shall be authorized to make such Safe Harbor Election as set forth in Notice 2005-43 in accordance with such future guidance, if any, as may be applicable at the time of an issuance of a profits interest by the Partnership. Each Partner agrees to comply with all requirements of the Safe Harbor, including, without limitation, filing its income tax returns consistently with the intended treatment under such Safe Harbor. A Partner's obligations to comply with the requirements of this Section 15.4(b) shall survive such Partner's ceasing to be a Partner of the Partnership and/or termination, dissolution, liquidation and winding up of the Partnership, and, for purposes of this Section 15.4(b), the Partnership shall be treated as continuing in existence.

(c) All other tax elections on behalf of the Partnership may be made or rescinded in the sole discretion of the General Partner.

15.5. Meetings. The General Partner shall call an annual meeting of all Partners to review the status of the Partnership. Such meeting shall be at the time and place designated by

the General Partner in a written notice to all Partners at least thirty (30) days prior to the date scheduled for such meeting.

## **SECTION 16. WAIVER OF PARTITION**

Except as may be otherwise provided by law in connection with the dissolution, winding up and liquidation of the Partnership, the Partners hereby waive any right of partition, appraisal or any right to take any other action which otherwise might be available to them for the purpose of severing their relationship with the Partnership or their interest in assets held by the Partnership from the interest of the other Partners.

## **SECTION 17. POWER OF ATTORNEY**

### **17.1. Grant of Power.**

(a) Each Partner hereby irrevocably constitutes and appoints the General Partner (and each future General Partner) such Partner's true and lawful attorney-in-fact, with full power of substitution, with such attorney-in-fact having full power and authority in the Partner's name, place and stead to execute, acknowledge, deliver, swear to, certify, verify, publish, file and record at the appropriate public offices all in accordance with the terms of this Agreement, all instruments, documents and certificates which may from time to time be required by the laws of the United States of America, the State of Delaware, any other jurisdiction in which the Partnership conducts or plans to conduct its affairs, or any political subdivision or agency thereof to effectuate, implement and continue the valid existence and affairs of the Partnership, including the power and authority to verify, swear to, acknowledge, deliver, record and file such documents as may be necessary or appropriate to carry out the provisions of this Agreement, as follows:

(i) all certificates and other instruments (including, without limitation, counterparts of this Agreement and amendments to the Partnership's Certificate necessary or appropriate to reflect the admission of additional Limited Partners or any other change in the Partnership and fictitious name certificates), and any amendment thereof, which the General Partner deems appropriate to qualify or continue the Partnership as a partnership in which the Limited Partners have limited liability in the jurisdictions in which the Partnership may conduct business;

(ii) all instruments which the General Partner deems appropriate to reflect a change or modification of the Partnership that is made to comply with or conform to RULPA and is not disadvantageous to any Limited Partner or is made in accordance with the terms of this Agreement;

(iii) all instruments necessary to effect a dissolution, termination and liquidation of the Partnership and cancellation of the Certificate to the extent such dissolution, termination and liquidation is pursuant to the terms of this Agreement; and

(iv) any other document or instrument necessary or appropriate to carry out the execution and/or filing of (i) documents necessary to evidence and/or perfect the security interest granted by the Limited Partners pursuant to Section 6.3.2 of this Agreement and

(ii) documents necessary to effectuate the transfer of the Interests of a defaulting Limited Partner pursuant to Section 6.3.2 of this Agreement.

(b) Each Partner gives such attorney-in-fact full power and authority to do and perform each and every act or thing whatsoever requisite to be done in and about the foregoing as fully and to the same extent as such Partner might or could do if personally present, hereby ratifying and confirming all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof; provided that in no event may the General Partner utilize this power of attorney to (i) cast any vote or consent of a Partner entitled to vote under the terms of this Agreement or by law, or (ii) increase in any way the liability of a Limited Partner beyond the liability expressly set forth in this Agreement. Each Partner hereby agrees to respond reasonably to any request from the General Partner to execute any and all additional forms, documents or instruments as may be reasonably necessary or required by the General Partner to evidence the power of attorney granted in this Section.

17.2. Survival of Power. The appointment by all Partners of the General Partner as attorney-in-fact shall be deemed to be a power coupled with an interest, in recognition of the fact that each of the Partners under this Agreement will be relying upon the power of the General Partner to act as contemplated by this Agreement in any filing and other action on behalf of the Partnership, and shall survive the bankruptcy, death or incompetence of any Partner hereby giving such power and the sale, transfer or other assignment of all or any part of the interest of such Partner; provided, however, that in the event of the assignment by a Partner of all or any part of such Partner's interest, the foregoing power of attorney shall terminate as to the assignor Limited Partner if, and at such time as, a substitute Limited Partner is admitted to the Partnership with respect to the assigned interest and all required documents and instruments including, without limitation, a power of attorney executed by the substitute Limited Partner shall have been duly executed, filed and recorded to effect such substitution in accordance with Section 12.3 of this Agreement.

## **SECTION 18. GENERAL PROVISIONS**

### 18.1. Amendments.

(a) Except as otherwise provided in this Section 18.1, no waiver, alteration, modification or amendment of this Agreement shall be made unless approved in writing by the General Partner and a [REDACTED]; provided, that no provision of this Agreement requiring a vote of Limited Partners constituting a [REDACTED], altered, modified or amended without the written consent of the non-defaulting Limited Partners constituting at least such percentage of the non-defaulting Limited Partners; provided, further, that no waiver, alteration, modification or amendment of any section hereof may be implemented to the extent it would dilute the relative interest of a Limited Partner to distributions or share of income or loss (except such dilution as may result from additional Commitments from Limited Partners or the admission of additional Limited Partners prior to the date of the Final Closing) or by its terms disproportionately adversely affect the economic interests of such Limited Partner or affect the limited liability of an individual Limited Partner without the consent of such Limited Partner. Notwithstanding the foregoing, no increase in the amount required to be contributed to the

Partnership by the Limited Partners, other than as required herein or under applicable law, may be made without the consent of all the Limited Partners. In addition, notwithstanding any provision hereof to the contrary, no alteration, modification or amendment of any section hereof which would increase the penalties against a defaulting Partner may be made without the consent of all Limited Partners. In addition, any changes to the economic provisions of this Agreement (including methods of distribution, allocation, management fees and clawbacks) may only be made with the consent of [REDACTED]. The provisions of Sections 6.1.12, 6.3.1(d), 6.3.1(e), 12.2(a)(i)(C), 12.5, 18.17 and 18.19 of this Agreement cannot be amended without the written consent of any Partner which would be adversely affected thereby. The provisions of this Section 18.1 shall not be modified or amended without the consent of all Limited Partners.

(b) Any provision to the contrary contained herein notwithstanding, the General Partner may, without the consent or approval of any Limited Partner (except with respect to subsection (iv) below), make such amendments to this Agreement binding on the Limited Partners, which are necessary (i) to add to the representations, duties or obligations of the General Partner, (ii) to admit additional Limited Partners or accept increased Commitments from existing Limited Partners prior to the Final Closing, (iii) to correct a typographical error, (iv) to correct any manifest error, correct or supplement any provision which may be inconsistent with any other provisions, provided that no amendment may be made pursuant to this subsection (iv) without the prior approval of the Executive Board, (v) to delete from or add to any provision required to be so deleted or added by a state securities commission, which addition or deletion is deemed by such commission to be for the benefit or protection of all Limited Partners and (vi) at any time prior to the Final Closing if in each case such amendment is not materially adverse to the interests of any Limited Partner; provided, however, that, in each case, the General Partner shall provide notice to each Limited Partner following such amendment, and provided further, however, that no amendment shall be adopted pursuant to this Section 18.1(b) or the applicable section of the partnership agreement of any Parallel Fund unless the adoption thereof does not affect the status of the Partnership as a partnership for federal income tax purposes.

(c) In connection with the admission of Additional Limited Partners or increases in Commitments from existing Limited Partners on or prior to the Final Closing, the General Partner, in its discretion, may establish reduced Management Fee rates or Carried Interest breaks for Limited Partners and limited partners of the Parallel Fund with certain minimum Commitments and commitments to the Parallel Fund; provided, that (i) any such reduced Management Fee rate or Carried Interest break shall be applied equally to all such Limited Partners and limited partners of the Parallel Fund having Commitments or commitments to the Parallel Fund of at least such minimum thresholds, (ii) any such reduced Management Fee rate or Carried Interest break shall not adversely affect any existing Limited Partner's interest in the Profits or capital of the Partnership or in the allocations or distributions attributable to the ownership of an Interest in the Partnership and (iii) all amendments to this Agreement (or the Management Agreement) as contemplated by this Section 18.1(c) shall be made on or prior to the Final Closing and shall be limited only to such changes as are reasonably necessary to implement the reduced Management Fee rate or Carried Interest breaks applied to such eligible Limited Partners. The General Partner may amend this Agreement (and, to the extent necessary, the Management Agreement) without the consent of any Limited Partner or any limited partner of the Parallel Fund to effectuate the intent of this Section 18.1(c).

(d) Except as otherwise expressly provided for herein, whenever the General Partner desires to take any action which requires the consent or approval of all or a portion of the Limited Partners, the General Partner shall give written notice thereof (delivered in accordance with the requirements of Section 18.2 of this Agreement) to each Partner from which any consent or approval is required describing the proposed action. As soon as practicable thereafter, each such Partner shall give the General Partner written notice (delivered in accordance with the requirements of Section 18.2 of this Agreement) that such Partner either consents to or approves or does not consent to or approve the proposed action.

(e) Notwithstanding the foregoing, any amendment, consent, waiver, modification or termination of any term or provision of this Agreement which is substantially identical to a term or provision contained in the limited partnership agreements of the Parallel Funds, if such amendment, consent, waiver, modification or termination is to be made to all such agreements and would result in the same economic and legal consequences to each Limited Partner and to each of the limited partners of the Parallel Funds, shall be approved and given effect with the prior written consent of the General Partner and the written consent of non-defaulting Limited Partners and non-defaulting limited partners of the Parallel Funds voting together as a single class, constituting, in the aggregate, the specified Fund Interest of all such non-defaulting Limited Partners and non-defaulting limited partners of the Parallel Funds voting together as a single class.

## 18.2. Notices.

(a) Any notice to be given under this Agreement shall be made in writing and sent by express, registered or certified mail, return receipt requested, postage prepaid, or by commercial delivery service, addressed as set forth below:

(i) If to the General Partner:

Lubert-Adler Group VII, LLC  
2929 Arch Street, Suite 1650  
The Cira Centre  
Philadelphia, PA 19104-2868

(ii) If to the Partnership:

c/o Lubert-Adler Group VII, L.P.

2929 Arch Street, Suite 1650  
The Cira Centre  
Philadelphia, PA 19104-2868

(iii) If to any Limited Partner, such notice shall be mailed to the address of the Limited Partner appearing on the records of the Partnership.

(b) Any Partner may change the address to which notice is to be sent by giving notice of such change to the Partnership, and to each Limited Partner in the case of a change by a General Partner, in conformity with this Section 18.2.

(c) Any such notice shall be deemed to have been given or delivered as of the business day personally delivered or sent by facsimile electronically confirmed, as of the fifth (5th) business day after being so mailed or as of the first (1st) business day after being dispatched by overnight courier. Any notice given to or by a Limited Partner whose address is outside the continental United States shall be given both in writing as provided above and simultaneously by facsimile electronically confirmed, telex, telegraph or cable.

(d) In addition, any notice or other information provided hereunder shall be deemed to have been duly given if sent by electronic mail, IntraLinks® or similar electronic means, and such notice or information shall be deemed to have been given as of the day sent; provided, that a written copy of notices and other information provided by such electronic means shall be provided, in accordance with the other provisions of this Section 18.2, to any Limited Partner who requests (either prospectively or subsequently) written copies of such notices and information.

18.3. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware as interpreted by the courts of said State, notwithstanding any rules regarding choice of law to the contrary.

18.4. Binding Nature of Agreement. Except as otherwise provided, this Agreement shall be binding upon and inure to the benefit of the Partners and their personal representatives, successors and assigns.

18.5. Additional Partners. Each substitute, additional or successor Partner shall become a signatory hereof by signing such number of counterparts of this Agreement and such other instrument or instruments and in such manner, as the General Partner shall determine. By so signing, each substitute, additional or successor Partner, as the case may be, shall be deemed to have adopted and to have agreed to be bound by all the provisions of this Agreement; provided, however, that no such counterpart shall be binding until it shall have been signed by the General Partner.

18.6. Validity. In the event that all or any portion of any provision of this Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

18.7. Entire Agreement. This Agreement, together with the Subscription Agreements and any other written agreements (including any Side Letters as defined below) between the

General Partner or the Partnership and a Limited Partner set forth the entire understanding among the parties relating to the subject matter of this Agreement and supersedes all prior agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein or in the Memorandum. No promises, covenants, representations or warranties of any character or nature other than those expressly stated in this Agreement, any Subscription Agreement or Side Letter have been made to induce any party to enter into this Agreement. This Agreement may not be modified or amended other than by an agreement in writing. In the event of an inconsistency between this Agreement and the Memorandum, this Agreement shall control. Notwithstanding the provisions of this Agreement, it is hereby acknowledged and agreed that the General Partner on its own behalf or on behalf of the Partnership, without the approval of any Limited Partner or any other person, may enter into a side letter or similar agreement (each a “**Side Letter**”) to or with a Limited Partner which has the effect of establishing rights under, or altering or supplementing the terms of, this Agreement or of any Subscription Agreement. The parties hereto agree that any terms contained in a Side Letter to or with a Limited Partner shall govern with respect to such Limited Partner notwithstanding the provisions of this Agreement or of any Subscription Agreement.

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

18.9. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of such shall together constitute one and the same instrument.

18.10. Paragraph. The paragraph headings in this Agreement are for convenience only, form no part of this Agreement, and shall not affect its interpretation.

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

18.12. Number of Days. In computing the number of days for the purpose of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then such final day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

18.13. Interpretation. No provision of this Agreement is to be interpreted for or against any party because that party or that party’s legal representative drafted such provision.

18.14. Corporate Authority. Any corporation or trust signing this Agreement represents and warrants that the execution, delivery and performance of this Agreement by such corporation or trust has been duly authorized by all necessary corporate or trustee action.

18.15. Third Party Beneficiaries. Notwithstanding anything herein to the contrary, no provision of this Agreement is intended to benefit any party other than the Partners hereto and their successors and assigns in the Partnership and shall not be enforceable by any other party.

18.16. Controversies with Internal Revenue Service. The General Partner is hereby designated as the tax matters partner of the Partnership pursuant to Section 6231(a)(7) of the Code (“**Tax Matters Partner**”). In the event of any controversy with the Internal Revenue Service or any other taxing authority involving the Partnership or any Partner, the outcome of which may adversely affect the Partnership, directly or indirectly, or the amount of allocation or income, gains, credits or losses of the Partnership to an individual Partner, the General Partner may, at its option, incur expenses it deems necessary or advisable in the interest of the Partnership in connection with any such controversy, including without limitation, attorneys’ and accountants’ fees.

18.17. Action by Limited Partners.

(a) Whenever action is required by this Agreement to be taken by a specified percentage in interest of the Limited Partners and limited partners of any Parallel Fund, such action shall be deemed to be valid if taken upon written vote or written consent by those non-defaulting Limited Partners and non-defaulting limited partners of any Parallel Fund whose Fund Interests represent the specified percentage. By way of example, 

 Where an action is required to be taken by a specified percentage in interest of the Limited Partners in the Partnership only (and not the Fund Interest) such action shall be deemed to be valid if taken upon written vote or written consent by those non-defaulting Limited Partners whose Commitments represent the specified percentage. Limited Partners that are Affiliates of the General Partner shall not be entitled to cast a vote in determining whether the requisite voting percentage has been met on any action requiring the vote of the Limited Partners. For purposes of calculating the voting percentages of Limited Partners, Affiliates of the General Partner who are Limited Partners shall not be included in either the numerator or denominator of the calculation.

(b) Anything contained herein to the contrary notwithstanding, no Regulated Partner shall have the right to vote (whether in person, by proxy, by execution of a written consent or otherwise) on any matter presented to the Partners or the Limited Partners pursuant to this Agreement solely to the extent that the exercise of such voting rights would cause such Regulated Partner to violate any applicable law, statute, regulation, order or rule of any governmental authority (including, without limitation, Regulation Y) with respect to its ownership of limited partnership interests in the Partnership as determined in the sole discretion of such Regulated Partner. In calculating Commitments of the Partners or Limited Partners, as the case may be, for purposes of any such vote, a portion of each Regulated Partner’s Commitment shall be excluded from such calculation of the total amount of such Commitments to the extent necessary to comply with the foregoing sentence.

18.18. Confidentiality.

(a) Unless the General Partner gives its prior written consent, each Limited Partner agrees to maintain the confidentiality of information and documents relating to the Partnership and its affairs, and the General Partner, including any information relating to an Asset or information provided to the Limited Partner during the term of the Partnership, except (i) as otherwise required by applicable law, regulation, subpoena or legal process, (ii) for disclosure by such Limited Partner to directors, trustees, officers, partners, members, employees of, agents, legal counsel, independent auditors, Persons that provide data collection and reporting services, advisors or consultants for, such Limited Partner responsible for matters relating to the Partnership which such disclosed information shall itself be held in confidence by the receiving party, (iii) to regulators who assert jurisdiction over such Limited Partner or the investments of such Limited Partner, in connection with compliance with any law or regulation, or (iv) where such information being disclosed is otherwise generally available to the public. Prior to any disclosure of information by a Limited Partner pursuant to subsections (i) or (iii), such Limited Partner shall use reasonable best efforts to give the General Partner written notice at least seventy-two (72) hours in advance of any such anticipated disclosure and shall cooperate with the General Partner to preserve the confidentiality of such information consistent with applicable law. Notwithstanding the foregoing, (x) each Limited Partner that itself is an investment partnership or other collective investment vehicle having reporting obligations to its investors may provide summary financial information relating to the Partnership's performance and the valuation of such Limited Partner's interest in the Partnership to its investors for their use in furtherance of their interests as investors in such investment partnership, provided, that the General Partner has consented to the form and scope of the content of any such information, (y) Partners that are subject to any laws, regulations or other requirements which require such Partner to publicly disclose information regarding the Partnership or its investments (such as state "right-to-know" or "freedom of information" laws), may disclose the name of the Partnership, the fact that such Partner is a Partner, such Partner's Commitment and such other information that the General Partner reasonably agrees may be disclosed, and (z) Partners (and each employee, representative, or other agent of each Partner) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to the Partners relating to such tax treatment and tax structure, it being understood that the names of Assets are not part of the tax treatment or tax structure.

(b) The Partners hereby consent to the General Partner disclosing information it has collected regarding the Partners to the Partnership's Affiliates, employees and agents, to third parties, including government agencies, lenders and regulators, when necessary to accomplish the acquisition, financing, operation or holding of Assets and as otherwise may be required by law. The General Partner shall provide the Executive Board with prior notice of any disclosure to any third party other than the Partnership's Affiliates, employees and agents, unless it is not reasonably practicable for the General Partner to provide such notice prior thereto, in which case the General Partner shall provide the Executive Board with such notice promptly thereafter.

## 18.19. Compliance with Laws and Regulations.

18.19.1 Information Requests. In order for the Partnership to comply with applicable laws, rules, regulations, orders, directives, special measures that may be required by government regulators or interpretation thereof by the appropriate regulatory authority having jurisdiction, and to which Partnership or General Partner is subject, at the request of the General Partner and in the timeframes determined by the General Partner, Partners shall use reasonable best efforts to provide the General Partner additional documentation verifying, among other things, such Partner's identity, including the identity of such Partner's owners, partners, members and/or stockholders, and the source and type of funds used to purchase its Interest. Requests for documentation may be made at any time during which the particular Partner holds an Interest. The Partners acknowledge that if required by law (i) the General Partner may provide this information, or report the failure to comply with such requests, to governmental authorities and (ii) make such disclosure or report without notifying the Partner that the information has been provided.

### 18.19.2 Partner Withdrawal.

(a) Notwithstanding any provision in this Agreement to the contrary, upon written demand by the General Partner, a Partner shall either (i) reduce its total Commitment to the amount of its Commitment which has been funded (at which time the Schedule of Partners shall be deemed amended to reflect such reduction), (ii) have the distributions to which such Partner would otherwise be entitled be deposited into an escrow account or (iii) withdraw from the Partnership (such Partner being a "**Withdrawing Partner**"), effective immediately (the "**Forced Withdrawal Date**"), at the time and in the manner hereinafter provided, if the General Partner shall obtain and deliver to the affected Partner an opinion of counsel to the effect that the Partnership or the General Partner bears a material risk that it would be in violation of any applicable law, rule, regulation, order, directive, special measure that may be required by government regulators, or interpretation thereof by the appropriate regulatory authority having jurisdiction, and to which the Partnership or General Partner is subject, by continuing to have such Partner as a Partner. In the event of the issuance and delivery of such opinion of counsel, the General Partner shall promptly provide to each Partner a copy thereof, together with a copy of the written demand of the General Partner sent to the affected Partner.

(b) Effective upon the Forced Withdrawal Date, the Withdrawing Partner shall cease to be a Partner of the Partnership for all purposes and, except for its right to receive payment for its Partnership interest as hereinafter provided, shall no longer be entitled to the rights of a Partner under this Agreement, including without limitation the right to receive allocations pursuant to Section 7.2 of this Agreement, the right to receive distributions during the term of the Partnership pursuant to Section 7.1 of this Agreement and upon liquidation of the Partnership pursuant to Section 13.2 of this Agreement and the right to vote on Partnership matters as provided in this Agreement.

(c) As promptly as practicable following the Forced Withdrawal Date, there shall be distributed to the Withdrawing Partner, in full payment and satisfaction of its interest in the Partnership, an amount equal to the amount which such Withdrawing Partner

would have been entitled to receive pursuant to Section 13.2 of this Agreement if the Partnership had been liquidated on and as of the Forced Withdrawal Date and all of the Partnership's assets had been sold on such date for their fair market value. No approval of the Partners shall be required prior to the making of such distribution. For purposes of determining the amount of the distribution to be made to such Withdrawing Partner, and the value of each of the Partnership's assets, the Partnership's annual or quarterly financial statements, as the case may be, prepared in accordance with Section 15.3 of this Agreement for the period which includes the Forced Withdrawal Date shall be deemed to be conclusive unless the Withdrawing Partner objects to such valuation within twenty (20) days of receipt of the General Partner's determination of the amount of the distribution to be made to such Withdrawing Partner, in which case, the General Partner shall choose a nationally prominent appraisal firm or investment bank and the Withdrawing Partner shall choose a second nationally prominent appraisal firm or investment bank. Each such approved firm or investment bank shall then mutually select a third nationally prominent appraisal firm or investment bank who shall appraise the Partnership's assets and determine the amount of its liabilities at their respective present values to arrive at the net asset value of the Partnership. Such appraisal shall be completed within one hundred eighty (180) days after the Forced Withdrawal Date and shall be conclusive and binding on the parties. If, after taking into account the appraisal made by the selected appraiser, the net asset value of the Partnership as determined pursuant to this Section 18.19.2 is (1) greater than the net asset value as determined by the General Partner by ten percent (10%) or more, the Partnership shall bear the expense of the appraisal, or (2) less than the net asset value as determined by the Withdrawing Partner by ten percent (10%) or more, the Withdrawing Partner shall bear the expense of the appraisal and in any other case, the Partnership and the Withdrawing Partner shall each bear half of the expense of the appraisal. Such distribution to the Withdrawing Partner shall be payable in cash or cash equivalents.

(d) Upon the withdrawal of any Withdrawing Partner from the Partnership pursuant to this Section 18.19.2, the Partners (including the Withdrawing Partner) shall enter into an amendment to this Agreement reflecting such withdrawal and amending such provisions of this Agreement, including without limitation the provisions regarding allocations and distributions during the term of the Partnership and upon its liquidation, as may be appropriate, so that the intent, spirit, operation and effect of such allocation, distribution and other provisions shall, to the maximum extent possible, be preserved after taking into account the withdrawal of such Withdrawing Partner.

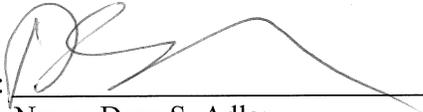
[SIGNATURES CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

GENERAL PARTNER:

**LUBERT-ADLER GROUP VII, L.P.**

By: Lubert-Adler Group VII, LLC,  
(the General Partner's sole general partner)

By:   
Name: Dean S. Adler  
Title: Member

The Limited Partners listed on the Schedule of Partners have signed this Agreement by their signature on their respective Subscription Agreements by which they acquired their Limited Partnership Interests.

The undersigned execute this Agreement of Limited Partnership of Lubert-Adler Real Estate Fund VII, L.P. only for the purpose of agreeing to the provisions of Sections 12.1(b) and 13.4 of this Agreement.

  
Dean S. Adler

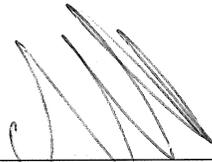
  
Ira M. Lubert

EXHIBIT A  
FORM OF CO-INVESTMENT OPPORTUNITY LETTER

Lubert-Adler Group VII, L.P.  
2929 Arch Street, Suite 1650  
The Cira Centre  
Philadelphia, PA 19104-2868

Re: Commitment to Invest in [ ] (the "Co-Investment Opportunity")

The undersigned Investor has received the Co-Investment Opportunity Memorandum. By executing this Commitment Letter, the Investor commits to invest in the Co-Investment Opportunity an amount up to, but not to exceed, the Requested Co-Investment Amount, as determined by the General Partner pursuant to Section 6.1.8(b) of the Partnership Agreement. The Investor agrees that this commitment is irrevocable and not subject to any contingencies on the part of the Investor.

Requested Co-Investment Amount: \$\_\_\_\_\_

Agreed to by:

Name of Investor: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**THIS COMMITMENT LETTER MUST BE RECEIVED BY THE GENERAL PARTNER NOT LATER THAN 15 DAYS FROM THE RECEIPT OF THE CO-INVESTMENT OPPORTUNITY MEMORANDUM.**

**LUBERT-ADLER REAL ESTATE FUND VII, L.P.**  
**c/o Lubert-Adler Group VII, L.P.**  
**2929 Arch Street, Suite 1650**  
**The Cira Centre**  
**Philadelphia, PA 19104-2868**

July 11, 2014

Kentucky Retirement Systems and  
Kentucky Retirement Systems Insurance Fund  
1260 Louisville Rd  
Frankfort, KY 40601  
Attn. Thomas Masthay

Re: Investment in Lubert-Adler Real Estate Fund VII, L.P.

Ladies and Gentlemen:

This letter agreement (this “**Agreement**”) is being written and delivered to confirm certain agreements with regard to the investment made by the Kentucky Retirement Systems and the Kentucky Retirement Systems Insurance Fund (collectively, “**Investor**”) in Lubert-Adler Real Estate Fund VII, L.P., a Delaware limited partnership (the “**Partnership**”), pursuant to the Amended & Restated Agreement of Limited Partnership of the Partnership, dated as of March 21, 2014 (as amended from time to time, the “**Partnership Agreement**”), and the Subscription Agreement between the Partnership and Investor dated as of July 11, 2014 (the “**Subscription Agreement**”). Capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Partnership Agreement or incorporated therein by reference in the Confidential Private Placement Memorandum issued by the Partnership, dated February 2013 (as amended and supplemented from time to time, the “**Memorandum**”).

The General Partner, on behalf of the Partnership, and Investor agree that the terms of this Agreement shall be applicable to the investment by Investor in the Partnership, notwithstanding anything to the contrary contained in the Partnership Agreement or the Subscription Agreement.

1. **Most Favored Nations Rights**: The Partnership and the General Partner represent and warrant that none of the Partnership, the General Partner or the individual partners of the General Partner has entered or will enter into any side letter or similar agreement prior to the date hereof with any investor or Partner in the Partnership or with any investor in a Parallel Fund or side-by-side fund in connection with the admission of such investor or Partner to the Partnership, a Parallel Fund or side-by-side fund except as disclosed to the Investor in writing prior to the date hereof. The Investor acknowledges that they have reviewed all side letters or similar agreements provided to them prior to the date hereof and that all provisions contained in such side letters or similar agreements that the Investor desires to be made applicable to the Investor have been incorporated into this Agreement. If the Partnership, the General Partner or the individual

partners of the General Partner shall enter into a side letter or similar agreement with an existing or future investor on or after the date hereof, the Investor shall promptly be given a copy of such agreement and the opportunity to obtain the same rights and benefits of such side letter or similar agreement with any Limited Partner whose Commitment is not greater than that of the Commitment of the Investor (other than any appointment of a representative to serve on the Advisory Committee or the Executive Board, any rights granted to an investor permitting the transfer of an Interest in the Partnership on terms other than those provided in the Partnership Agreement and rights that are required by a statute or regulation specifically applicable to the recipient (which is not also specifically applicable to the Investor)); provided, that (i) the circumstances particular to the recipient of the side letter or similar agreement that lead to the rights granted in such side letter or similar agreement are generally applicable to the Investor, (ii) the Investor acknowledges that the granting of any right pertaining to an exemption from an obligation under the Credit Facility is contingent on the Partnership or the Parallel Fund receiving the consent of the lender under the Credit Facility to such exemption, and (iii) the Investor notifies the General Partner in writing within 30 days of receipt by the Investor of copies of such side letters or similar agreements that the Investor wishes to obtain some or all of such rights.

2. Public Records. The Investor has informed the General Partner that the Investor is a public entity and that as a public entity, the Investor may be required to disclose confidential information pursuant to the laws and regulations of the Commonwealth of Kentucky, including, without limitation, Kentucky Revised Statutes Sections 61.870 to 61.884 (collectively, the “**Open Records Act**”). The Investor has informed the General Partner, and the General Partner acknowledges that the Investor, under the Open Records Act, is required and intends to disclose periodically (i) the name of the Partnership, (ii) the date of the Investor’s admission to the Partnership, (iii) the Investor’s Commitment, (iv) the amount of the Investor’s Capital Contributions, (v) the distributions made to the Investor by the Partnership, (vi) the Management Fees allocated to or paid by the Investor, (vii) the market value of the Investor’s investment in the Partnership, and (viii) the net internal rate of return to the Investor and the investment multiple of the Investor’s investment in the Partnership, with the information described in clauses (vii) and (viii) above to be calculated by the Investor in each case using the information provided by the General Partner that is described in clauses (ii) through (vi) above. The General Partner consents in advance to such ordinary course disclosure with respect to the Partnership, and any such disclosure shall not constitute a breach of the Partnership Agreement.

3. Tax Withholding. The Investor represents that it is a tax-exempt entity under U.S. Federal, state and local laws, and has never been subject to, and is unlikely to be subject to, any tax withholding requirements of the U.S. Federal, state, or local laws. Based on the foregoing, the General Partner shall not withhold taxes from income distributable to Investor unless required to do so under applicable law. In the event that withholding is required or a taxing authority makes a claim for taxes attributable to Investor’s income, the General Partner shall notify Investor in advance of making the required tax payments and provide Investor with a reasonable opportunity to establish its tax exempt status, provided that the Partnership would not be subject to any liability to such taxing authority for the withholding and payment. In the event that Investor incurs the payment of any taxes imposed by a foreign taxing authority, the General Partner shall, at Investor’s sole cost and expense, seek a refund of such tax payments. The General Partner agrees to furnish to Investor at its request any information Investor may

reasonably require in order to file tax returns and reports resulting from an investment made by the Partnership.

4. Certain Tax Matters. The General Partner agrees to provide to the Investor on an annual basis a description of taxes paid or withheld (including taxes related to interest, dividends, income, and capital gains) with respect to the Investor.

5. Advisory Committee. The General Partner agrees that if the Investor's representative is unable to attend meetings of the Advisory Committee, Investor will be provided (or have access via a link) all meeting materials of the Advisory Committee.

6. Executive Board Meeting Materials. The General Partner agrees to provide to the Investor all non-confidential meeting materials of the Executive Board.

7. Sovereign Immunity. Investor has asked the General Partner to confirm and the General Partner does confirm that, pursuant to Section 6.4.2 of the Partnership Agreement, Investor reserves all immunities, defenses, rights or actions arising out of its sovereign status under the laws of the Commonwealth of Kentucky, including those under the Eleventh Amendment to the United States Constitution. No provision of the Partnership Agreement or the Subscription Agreement shall be construed as a waiver or limitation of such immunities, defenses, rights or actions; provided, however, that nothing in this paragraph shall relieve Investor of any obligation that Investor may have to make Capital Contributions or for the Partnership to utilize any Capital Contributions by Investor for expenses permitted under the Partnership Agreement or the repayment of borrowings incurred in connection with any Credit Facility (as described in Section 6.9 of the Partnership Agreement).

8. Transfer. The General Partner confirms that, pursuant to Sections 12.2(a)(i)(B) and 12.3(a)(iv) of the Partnership Agreement, the Investor shall be permitted to transfer its Interest to an Affiliate of the Investor with the consent of the General Partner, whose consent shall not be unreasonably withheld, provided the Investor complies with the requirement of such Sections. Upon the consummation of any transfer and the admission of such Affiliate as a substituted Limited Partner, the provisions of this Agreement shall automatically become applicable to the transferee upon the transferee's execution of a counterpart to this Agreement to the extent such provisions are applicable to the transferee.

9. Publicity. Except as required by law, regulation or legal process, the General Partner shall not disclose the identity of the Investor as a Limited Partner in any marketing materials, including news releases, without the Investor's prior written consent, which consent shall not be unreasonably withheld; provided that the participation of the Investor in the Partnership may be disclosed to the Limited Partners and prospective Limited Partners that in the course of their due diligence require disclosure of the identity of the existing Limited Partners in the Partnership.

10. Anti-money laundering; PATRIOT; OFAC ("AML"). The General Partner acknowledges that the Partnership and the General Partner, to the General Partner's knowledge, in material compliance with applicable United States laws and regulations relating to anti-money laundering, including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 and the Bank Secrecy Act, as amended

(collectively the “**U.S. AML Laws and Regulations**”) as if such laws were applicable to the Partnership and the General Partner.

11. **Distribution Reporting.** The General Partner agrees that, in connection with each distribution made by the Partnership to the Limited Partners, the General Partner shall provide to the Investor, simultaneously with such distribution, written notice stating (i) the general source of the proceeds or specific securities so distributed, (ii) valuation of any securities so distributed, (iii) the total amount of proceeds and/or securities distributed to the Partners, (iv) total amount of proceeds and/or securities distributed to Investor and (v) total amount of proceeds and/or securities distributed to the General Partner pursuant to Section 7.1.3 of the Partnership Agreement.

12. **Representations.** The General Partner represents and warrants as follows:

(a) The Memorandum, the Subscription Agreement, and the Partnership Agreement, when read in conjunction with each other, do not, as of the date hereof, taken as a whole, contain any untrue statement of material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not materially misleading except that, with respect to information in the Memorandum obtained from third parties, the representation and warranty made in this paragraph is to the “Knowledge” of the General Partner. For purposes of this paragraph, the “**Knowledge**” of the General Partner means the General Partner’s actual knowledge, after reasonable investigation.

(b) Assuming (i) the due authorization, execution and delivery to the General Partner of the Subscription Agreement by the Investor and (ii) the payment by the Investor to the General Partner or the Partnership of the full consideration then due from the Investor in respect of the limited partner interest subscribed to by it, the limited partner interest to be acquired by the Investor pursuant to the Investor’s Subscription Agreement represents a duly and validly issued interest in the Partnership.

(c) As of the date hereof, there are no actions, proceedings or investigations pending (or, to its knowledge, threatened) against the General Partner, the Management Company or the Approved Person (each, a “**GP Affiliate**” and collectively, the “**GP Affiliates**”) which action, proceeding or investigation (i) would have a material adverse effect on the ability of any GP Affiliate to be actively involved in the investment decisions of the Partnership or otherwise to act on behalf of the General Partner or the Management Company, (ii) would have a material adverse effect on the ability of the General Partner to discharge any of its duties or obligations under the Partnership Agreement, (iii) challenges the validity or purpose of the Partnership or (iv) would have a material adverse effect on the operations, properties or business of the General Partner or the Partnership.

(d) As of the date hereof, no governmental approvals are required (other than securities law filings related to the Offering), to enable the Partnership and the General Partner or the Manager to operate substantially in accordance with the Partnership Agreement’s terms.

(e) During the past five (5) years, there has been no litigation or governmental investigation resulting in a finding or admission that the Partnership, the General Partner, the

Manager or any of their Affiliates were guilty of fraud, willful misconduct, breach of fiduciary duty or violation of the securities acts.

(f) As long as Investor is a Limited Partner, the General Partner shall not, and shall cause the Partnership not to, make any payment to any Person that is, to the General Partner's Knowledge, in violation of the U.S. Foreign Corrupt Practices Act, as amended.

(g) In the event the Partnership makes investments subject to the law of the United Kingdom, the General Partner shall fully comply with the United Kingdom Bribery Act of 2010.

[REDACTED]

14. Delivery of Closing Documents. Within thirty (30) days of the closing date on which the Investor is admitted as a Limited Partner, the General Partner agrees to provide an executed copy of (i) the Partnership Agreement, (ii) this Agreement and (iii) the Subscription Agreement to the Investor, with an email-only copy to jsnellman@reinhardt.com.

15. Placement Agent Fees.

(a) The Investor has asked the General Partner to confirm and General Partner does confirm that no placement fees, finder's fees or commissions have been paid by or on behalf of the General Partner or its Affiliates to any third party placement agent, finder, individual or entity that are not Affiliates, "in connection with Investor's investment" (as defined below), or which could be charged to the Investor directly or indirectly.

(b) To the actual knowledge of the General Partner, as of the date hereof, none of (i) the General Partner, (ii) any placement agent, solicitor, broker-dealer or other similar "agent" (as defined below) engaged by the General Partner in connection with the Offering or (iii) any Affiliate of the General Partner, has a commercial, investment, or business or other similar relationship with a Covered Person (as defined below), or within the last six (6) months has engaged in any financial or other transaction with a Covered Person (for the avoidance of doubt, other than the relationships and transactions contemplated in this Agreement, the Partnership Agreement, and the Subscription Agreement). "Covered Person" means: (i) any Enumerated Person (as defined below), (ii) anyone known to the General Partner to be an immediate family member of an Enumerated Person (i.e., a spouse, parent, child or sibling), and (iii) anyone known to the General Partner to be an Affiliate of any of the foregoing. "Enumerated Person" means (i) any member of the KRS Board of Trustees as of the date hereof and as set forth on

Exhibit A, and (ii) any person who is a staff member or employee of the Investor who actively participated in discussions relating to Investor's investment in the Partnership.

(c) Neither the General Partner nor any Affiliate or agent of the General Partner, has offered, promised, or provided, directly or indirectly, anything of substantial economic value to any Covered Person "in connection with Investor's investment" (as defined below). For purposes of this paragraph 15(c), items of substantial economic value may include (by way of example, but not by way of limitation) any economic opportunity, future employment, gift, loan, gratuity, campaign contribution, finder's fee, placement fee, discount, trip, favor, or service, in each case, of substantial economic value.

(d) Neither the General Partner, nor any Affiliate of the General Partner, has been convicted of bribery or attempting to bribe an officer or employee of the Commonwealth of Kentucky, nor have any of them made an admission of guilt of such conduct.

(e) The term "in connection with Investor's investment," as used in this paragraph 15, means (i) obtaining an introduction to the Investor or any of the Investor's officers or employees, and (ii) obtaining a favorable recommendation with respect to the Investor's investment. The term "agents," as used in this paragraph 15, includes anyone who is acting at the behest of any of the persons identified above.

(f) The General Partner agrees to provide Investor notice within 5 business days if it becomes aware that any of the provisions in this paragraph are not true and accurate, either on the date on which made or on any subsequent date.

16. Credit Facility. Notwithstanding anything to the contrary in the Partnership Agreement, solely in consideration of the Investor's status as an agency of the Commonwealth of Kentucky subject to the Constitution of Kentucky and the internal policies of the Investor with respect to credit facilities entered into by investment funds in which the Investor holds an interest, and the Credit Facility lender's acknowledgement thereof and acceptance of this provision, except as provided in this paragraph, the Investor shall not be obligated to provide or deliver any information, documentation, opinion, or certification called for in connection with any Credit Facility other than an authority certificate, substantially in the form attached hereto as Exhibit B, regarding the Investor's due formation, valid existence and good standing, the due authorization, execution, delivery and enforceability of the Partnership Agreement and the Subscription Agreement and that any sovereign immunity Constitutional provisions, statutes or regulations applicable to the Investor either have been waived or do not apply to any requirement that the Investor contribute capital to the Partnership in accordance with the Partnership Agreement.

17. Opinion of Counsel. For purposes of the Partnership Agreement with respect to any requirement that the Investor deliver an opinion of counsel, the General Partner agrees that the opinion of internal counsel of the Investor shall be deemed to be acceptable to the General Partner for all purposes of the Partnership Agreement, provided that as to opinions that deal with specialized areas of law in which such counsel does not have expertise, Investor will provide, or such counsel will base his or her opinion on, a written opinion of counsel that has the requisite expertise and that is selected by Investor and that is reasonably acceptable to the General

Partner.. The General Partner shall provide to the Investor all information that is reasonably requested in order to enable the Investor's counsel to render any such opinion.

18. Additional Financial Information. At the time of the delivery of the annual financial reports delivered to Investor pursuant to Section 15.3 of the Partnership Agreement, the General Partner hereby agrees to furnish Investor with the following information (to the extent not otherwise provided in the annual financial reports:

(a) description of the amount and use of all material outstanding recourse debt guarantees of the Partnership (which for clarity, excludes non-recourse carveout guarantees);

(b) a description of the amount of Management Fees paid and distributions representing carried interest made to the General Partner; and

(c) the amount of any Management Fee offsets under Section 9.2(f) of the Partnership Agreement.

19. Notice of Certain Events. [REDACTED]

20. Additional Notifications: [REDACTED]

(a) [REDACTED]

(b) [REDACTED]

21. Notice of Material Events. The General Partner agrees that it will provide the Investor with prompt notification if the General Partner takes or fails to take any action that: (i) removes the current auditors; (ii) would materially reduce the scope of functions to be performed by the auditors; (iii) would cause the auditor's report to the audited annual financial statements provided by the General Partner to include any qualification due to scope limitations, lack of sufficient competent evidential matter, or a departure from generally accepted accounting principles.

22. Schedule of Partners. The General Partner agrees that it will furnish to the Investor the Schedule of Partners, in modified form to preserve the confidentiality of the Partners, within 30 days after the Final Closing.

23. Website Information. If the General Partner designates a website to disseminate information about the Partnership, the General Partner agrees that if the terms of use or other confidentiality, end-user or license agreements of such website are inconsistent with or contrary

to the terms of the Partnership Agreement, the Subscription Agreement or this Letter Agreement, the terms of the Partnership Agreement, the Subscription Agreement or this Letter Agreement, as applicable, shall control.

The following paragraphs 24-37 have been included in this Agreement based on provisions contained in other side letters as of the date of this Agreement.

24.

25. Parallel Funds: Investor shall not be required to be admitted to a Parallel Fund without its prior written consent, which consent may be withheld in Investor's discretion, or before Investor is given a reasonable opportunity to review the organizational documents of the Parallel Fund.

26.

27. Removal of General Partner: The General Partner confirms that in the event of a removal without cause pursuant to and in accordance with Section 6.1.14, that the determination of such removal shall be final and the General Partner will have no basis to object thereto.

28. Reliance on Information: The list of documents described in Section 3(a) of the Subscription Agreement on which Investor is relying and basing its decision to invest, is hereby expanded to include this Agreement, certain legal opinions of counsel for the General Partner concerning the Partnership's due formation, tax status and other matters, and responses and exhibits to Investor's Due Diligence Questionnaire.

29. Allocation of Investment Opportunities: Investment opportunities shall be allocated between the Partnership and other entities in a fair and equitable manner and utilizing a methodology based upon the General Partner's allocation policy consistent with the provisions of the Partnership Agreement.

30. Investment Policy: The General Partner has received and reviewed Investor's Statement of Investment Policy, dated November 20, 2013 (the "Investment Policy"). So long as Investor is a Partner in the Partnership, the General Partner and Manager will comply with all applicable

concepts and guidelines set forth in the Investment Policy so long as such concepts and guidelines (a) are not in violation of any statute, governmental rule or regulation, or judicial or governmental order, judgment or decree; (b) do not conflict with the Partnership Agreement and Memorandum and (c) do not impose additional material requirements on the Partnership than is otherwise required under the Partnership Agreement and Memorandum.

31. Fiduciary Duties: Investor has asked the General Partner to confirm, and the General Partner does confirm, that the General Partner has to the Partnership and the Limited Partners the fiduciary duty of loyalty and the duties of good faith and fair dealing, in each case, arising under the RULPA, as well as a fiduciary duty of care which shall be defined to mean the exercise of care, skill, prudence and diligence under the circumstances then prevailing that a person acting in a like capacity and familiar with such matters would exercise in the conduct of a pooled real estate investment fund with similar purposes, as described in Section 10.1 of the Partnership Agreement. To the extent that compliance with any of the provisions herein would cause either the General Partner or its Affiliates to violate their respective fiduciary obligations to other clients or to violate any applicable laws as determined by any court or the Securities and Exchange Commission or any other regulatory authority having jurisdiction over the General Partner or its Affiliates, non-compliance by the General Partner or its Affiliates with any such provision shall not be deemed to be a breach of this Agreement, and Investor shall not compel compliance with any such provision to the extent such compliance would cause any such violation.

32. Limited Partner Meeting Materials: If Investor cannot attend a meeting of the Limited Partners, the General Partner agrees that a copy of any materials distributed at such meeting will be sent to Investor, upon Investor's written request, within a reasonable time after the meeting.

33. Interest Rate and/or Currency Hedging Arrangements: The General Partner agrees that the Partnership shall not engage in interest rate and currency hedging arrangements for speculative purposes.

34. Federal Securities Matters: In the event that the General Partner determines to (i) register the Partnership under the Investment Company Act or (ii) register the Interests as registered securities or (iii) operate the Partnership so as to be deemed to be a public-utility company under the Public Utility Company Holding Act of 2005, the General Partner shall provide Investor written notice at least ten (10) days prior to such registration and the Partnership shall thereafter be required to provide Investor with information necessary for Investor to comply with (y) any federal and state securities law obligations Investor may have as a result of such registration or (z) any federal and state law obligations Investor may have as a result of such operation.

35. Information Rights: The General Partner agrees that, in addition to the reports that it is required to furnish to Investor pursuant to the Partnership Agreement, the General Partner will prepare and furnish to Investor, at Investor's expense, such information relating to Assets of the Partnership and such other financial information relating to the Partnership or Investor's Interest as Investor may reasonably request in writing.

36. No Waiver of Rights: Investor has asked the General Partner to confirm and the General Partner does confirm that the funding of a capital call by Investor does not waive Investor's right to assert independently any claim Investor may have against any Partner or the Partnership.
37. Co-investment. The Investor has asked the General Partner to confirm, and the General Partner confirms, that any co-investment by the Investor pursuant to Section 6.1.8(b) of the Partnership Agreement shall not be subject to the Management Fee or the provisions of Section 7.2.1 of the Partnership Agreement.
38. Amendments; Waivers. The parties may amend or supersede this Agreement only by a written instrument executed and delivered by the parties hereto. No waiver of this Agreement will be effective unless it is in writing and signed by the parties. No waiver of satisfaction of a condition or nonperformance of an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation.
39. Severability. If any provision of this Agreement is unenforceable to any extent, the remainder of this Agreement, or application of that provision to any persons or circumstances other than those as to which it is held unenforceable, will not be affected by the unenforceability and will be enforceable to the fullest extent permitted by law.
40. Binding Agreement. The General Partner hereby agrees that upon the execution hereof, the terms of the Partnership Agreement, the Subscription Agreement and the documents referred to therein constitute the entire agreement among the parties hereto relating to Investor's investment in the Partnership. The provisions of this Agreement are binding on the Partnership, notwithstanding any contrary provisions in the Partnership Agreement, and in the event of a conflict between the provisions of this Agreement and the provisions of the Partnership Agreement and/or the Subscription Agreement, the provisions of this Agreement shall control.
41. Rights and Obligations. Investor's rights and the General Partner's obligations under this Agreement shall remain in effect as long as Investor is a non-defaulting Limited Partner of the Partnership. If Investor is a defaulting Limited Partner under the Partnership Agreement (which, if applicable, has been provided notice and the period to cure such default has expired without such default being cured as provided under the Partnership Agreement), its rights and the General Partner's obligations hereunder shall be suspended until such default is cured or waived by the General Partner in its sole discretion.
42. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Delaware without regard to its conflicts of laws principles, *provided that* the rights and obligations and other covenants of the parties hereto specified in paragraphs 2 and 7 of this Agreement that relate to Kentucky law shall be interpreted and enforced in accordance with and governed by the laws and procedural rules of the Commonwealth of Kentucky, without regard to principles of conflicts of law.
43. Amendments to Agreement. This Agreement may be amended only by a written instrument executed by the parties hereto.

44. Counterparts. This Agreement may be executed in multiple counterparts which, taken together, shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Please sign the enclosed copy of this Agreement in the place provided below acknowledging receipt of this Agreement and confirming that this Agreement reflects your understanding with respect to the matters set forth herein.

Sincerely,

**LUBERT-ADLER REAL ESTATE FUND VII, L.P.**

By: LUBERT-ADLER GROUP VII, L.P.,  
its general partner

By: Lubert-Adler Group VII, LLC,  
its sole general partner

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

Agreed to and accepted as  
of the date first written above:

**KENTUCKY RETIREMENT SYSTEMS**

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

Name:

Title:

**KENTUCKY RETIREMENT SYSTEMS INSURANCE FUND**

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

Name:

Title:

[Signature Page to KRS Side Letter]

## **Exhibit A**

Kentucky Retirement Systems Board of Trustees as of July 11, 2014

Thomas K. Elliott, Chair  
Dr. Daniel Bauer, Vice Chair  
Mike Cherry  
Edwin Davis  
J.T. Fulkerson  
Joseph Hardesty  
Vince Lang  
Tim Longmeyer, Personnel Secretary – Ex-Officio  
Randy Overstreet  
Mary Helen Peter  
David Rich  
Randy K. Stevens  
William Summers

**Exhibit B**

Authority Certificate