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EXECUTION COPY

SILVERPEAK LEGACY PENSION PARTNERS II, L.P.

(A DELAWARE LIMITED PARTNERSHIP)

SIXTH AMENDED AND RESTATED AGREEMENT

OF

LIMITED PARTNERSHIP

Dated as of January 24, 2011

THE LIMITED PARTNER INTERESTS OF SILVERPEAK LEGACY PENSION PARTNERS II, L.P. HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), THE SECURITIES LAWS OF ANY STATE OR ANY OTHER APPLICABLE U.S. OR NON-U.S. SECURITIES LAWS, IN EACH CASE IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. THE LIMITED PARTNER INTERESTS MAY BE ACQUIRED FOR INVESTMENT ONLY, AND NEITHER THE INTERESTS NOR ANY PART THEREOF MAY BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH (I) THE SECURITIES ACT, ANY APPLICABLE STATE SECURITIES LAWS AND ANY OTHER APPLICABLE SECURITIES LAWS; (II) THE TERMS AND CONDITIONS OF THIS PARTNERSHIP AGREEMENT; AND (III) THE TERMS AND CONDITIONS OF THE SUBSCRIPTION AGREEMENT AND THE INVESTMENT REPRESENTATIONS FOR THE LIMITED PARTNER INTERESTS. THE LIMITED PARTNER INTERESTS WILL NOT BE TRANSFERRED OF RECORD EXCEPT IN COMPLIANCE WITH SUCH LAWS, THIS PARTNERSHIP AGREEMENT, THE SUBSCRIPTION AGREEMENT AND THE INVESTMENT REPRESENTATIONS. THEREFORE, PURCHASERS OF THE INTERESTS WILL BE REQUIRED TO BEAR THE RISK OF THEIR INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

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SIXTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF SILVERPEAK LEGACY PENSION PARTNERS II, L.P.

(A Delaware Limited Partnership)

This SIXTH AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP (the "Agreement") of Silverpeak Legacy Pension Partners II, L.P., a Delaware limited partnership (the "Partnership"), is made as of the 24th day of January, 2011 (the "Effective Date"), by and among Lehman Brothers Real Estate Associates II, L.P., a Delaware limited partnership, as general partner (the "General Partner"), Silverpeak Real Estate Partners L.P., a Delaware limited partnership, as investment advisor (the "Investment Advisor"), and the parties whose names and business addresses are listed from time to time as limited partners on Annex A hereto, as limited partners.

W I T N E S S E T H:

WHEREAS, the Partnership was originally formed under the name Lehman Brothers Real Estate Pension Partners II, L.P. pursuant to an agreement of limited partnership, dated as of October 14, 2004, (the "Original Agreement of Limited Partnership") between the General Partner and the Initial Limited Partner (as defined below), and a Certificate of Limited Partnership of the Partnership, dated as of October 14, 2004, which was executed by the General Partner and filed in the office of the Secretary of State of the State of Delaware on October 14, 2004;

WHEREAS, on December 23, 2004 and in connection with the Initial Closing, the Original Agreement of Limited Partnership was amended and restated to admit certain Limited Partners (as defined below) and to make other modifications (the "Amended and Restated Agreement of Limited Partnership");

WHEREAS, on May 25, 2005, the General Partner, pursuant to its authority provided in Section 11.3(a) hereof, amended and restated the Amended and Restated Agreement of Limited Partnership to make certain changes and to admit additional Limited Partners (the "Second Amended and Restated Agreement of Limited Partnership");

WHEREAS, effective May 19, 2006, the Fund Partners approved an amendment to the Second Amended and Restated Agreement of Limited Partnership to modify Section 6.9(c) and the General Partner amended and restated the Second Amended and Restated Agreement of Limited Partnership to incorporate that modification (the "Third Amended and Restated Agreement of Limited Partnership");

WHEREAS, on December 31, 2008, the General Partner amended and restated the Third Amended and Restated Agreement of Limited Partnership under its authority provided in Section 11.3(a) hereof and in accordance with the notice of amendments distributed to the Limited Partners on April 21, 2008 and approved on May 5, 2008, pursuant to and as part of a plan of

restructuring of the ownership of certain French assets in which the Partnership has an indirect interest (the "Fourth Amended and Restated Agreement of Limited Partnership");

WHEREAS, the Fund Partners approved various amendments to the Fourth Amended and Restated Agreement of Limited Partnership of the Partnership and, effective as of May 29, 2010, the General Partner amended and restated the Fourth Amended and Restated Agreement of Limited Partnership of the Partnership to incorporate those modifications and admit each LTI Limited Partner as a limited partner (the "Fifth Amended and Restated Agreement"); and

WHEREAS, the General Partner wishes to enter into this Sixth Amended and Restated Agreement of Limited Partnership to make certain changes, all of which, pursuant to Section 11.3(b), do not require the consent of any Limited Partner.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein made and intending to be legally bound hereby, the parties hereto agree to amend and restate the Fifth Amended and Restated Agreement of Limited Partnership in its entirety to read as follows:

ARTICLE I

Definitions

As used herein, the following terms shall have the following meanings and all such terms that relate to accounting matters shall be interpreted in accordance with United States generally accepted accounting principles in effect from time to time except as otherwise specifically provided herein:

Act: The Delaware Revised Uniform Limited Partnership Act, as amended from time to time.

Additional Investments: As defined in Section 2.4(e).

Adjusted Amount: The Capital Commitment of a Partner, minus (i) with respect to a New Partner, the amount by which such New Partner's Capital Contributions made on the date of a Subsequent Closing is higher than it otherwise would be as a result of an upward revaluation of one or more existing Portfolio Investments pursuant to Section 3.1(l), plus (ii) with respect to a New Partner, the amount by which such New Partner's Capital Contributions made on the date of a Subsequent Closing is lower than it otherwise would be as a result of a downward revaluation of one or more existing Portfolio Investments pursuant to Section 3.1(l). The Adjusted Amount of each LTI Limited Partner shall, for all purposes of this Agreement, be $100.00.

Adjustment Amount: As defined in Section 3.2(f).

Administrative Expenses: As defined in Section 7.1(a).

Advisers Act: The Investment Advisers Act of 1940, as amended from time to time.

Affiliate: When used with reference to a specified Person at a specified time, (a) any Person that, at such specified time, directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with the specified Person, (b) any Person who, at such specified time, is (i) an officer or director of a specified Person or (ii) a spouse or immediate family relative of, or a trust created by or established primarily for the benefit of, a specified Person or (c) any Person that, at such specified time, directly or indirectly, is the beneficial owner of a majority of the voting ownership interests of the specified Person, which definition shall, as applied to the General Partner, specifically include the constituent general partners of the General Partner at such specified time, and any employee of Lehman Brothers who is a partner of the General Partner. Notwithstanding the foregoing, none of the Investment Advisor, ManageCo, the Real Estate Principals or any officers and directors of the Investment Advisor or ManageCo nor their respective Affiliates shall be deemed an Affiliate of Lehman Brothers or the General Partner hereunder.

After-Tax Amount: As defined in Section 3.4(b).

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

Allocation Provisions: As defined in Section 3.2(e).

Alternative Investment Vehicle: As defined in Section 6.8(d).

Amended and Restated Agreement of Limited Partnership: As defined in the recitals.

Assignee: As defined in Section 9.4(b).

Authorized Investments: As defined in Section 5.1(b).

Available Assets: Cash and other assets of the Partnership that the General Partner reasonably determines are available for distribution. Available Assets shall not include, without limitation, any amounts determined by the General Partner to be reasonably necessary for (i) the payment of the Partnership's current liabilities and other current obligations (including, without limitation, Operating Expenses and Organizational Expenses), (ii) the establishment of reserves for other liabilities and obligations (including, without limitation, Operating Expenses and Organizational Expenses) and making Permitted Temporary Investments, (iii) the maintenance of adequate working capital for the continued conduct of the Partnership's business and for the ownership and operation of Portfolio Investments, including, without limitation, to pay Operating Expenses and/or Organizational Expenses (but not to make Portfolio Investments other than Additional Investments), (iv) making payments under Sections 4.5(c) or 7.3(e), (v) during the Commitment Period, reinvestment in Real Estate Assets and/or Portfolio Companies and (vi) at any time, reinvestment in Portfolio Investments, including making Additional Investments.

Bank Regulated Limited Partner: A Limited Partner subject to regulation under the Bank Holding Company Act of 1956, as amended, and the rules and regulations promulgated thereunder.

Breach of the Standard of Care: As defined in the Investment Advisory Agreement.

Business Day: Any day on which commercial banking institutions in the City of New York are not authorized or required to close.

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

Capital Commitment: For any Partner, the amount set forth opposite its name on Annex A hereto, as amended from time to time (x) to take account of additional Capital Commitments made at Subsequent Closings and (y) as otherwise provided in this Agreement.

Capital Contribution: With respect to any Partner, at any time, the amount of capital actually contributed to the Partnership by such Partner on or prior to such time, either in the aggregate or with respect to specified Portfolio Investments, Organizational Expenses or Operating Expenses, as the context may require. For avoidance of doubt, the term "Capital Contribution" shall exclude the payment of Management Fees and any amount paid by a New Partner in connection with a Subsequent Closing pursuant to Section 3.1(l) as a cost of carry or as payment for the Management Fee (or the cost of carry thereon) that would have been paid if such New Partner had been admitted at the Initial Closing.

Capital Demand Date: As defined in Section 3.1(c).

Capital Demand Notice: As defined in Section 3.1(c).

Capital Transaction: A sale, exchange, transfer, assignment, redemption or other disposition of all or any portion of a Portfolio Investment, any extraordinary dividend, recapitalization, refinancing, merger or other restructuring transaction (or portion thereof) in lieu of disposition determined to be a Capital Transaction pursuant to Section 4.7(a) or a transaction specified in Section 4.7(c).

Carrying Value: With respect to any asset, the asset's adjusted basis for United States federal income tax purposes, except that the Carrying Values of all Partnership assets shall be adjusted to equal their respective Fair Values, on the occurrence of any event described in Section 3.2(d). In the case of an event described in Section 3.1(l), such adjustment shall be made pursuant to the provisions of that Section. Upon an adjustment to the Carrying Value (i) for capital account maintenance purposes and for purposes of computing Net Income and Net Loss (but not for purposes of requiring actual distributions under Article IV nor for purposes of determining the applicable Priority Return), it shall be as though the asset were sold at Fair Value, and gain or loss shall be allocated to Capital Accounts pursuant to Section 3.3 as though the proceeds of such sale had been distributed; and (ii) upon an adjustment, pursuant to the definition of Carrying Value, to the Carrying Value of any Partnership property subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or other amortization attributable to such property shall for purposes of Capital Account maintenance equal an amount that bears the same ratio to the Carrying Value at the beginning of such year or other period as the United States federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to the property's adjusted tax basis at the beginning of such year or other period; provided that where such property has no remaining tax basis at the beginning of such year or other period, deductions for depreciation,

cost recovery or other amortization attributable to such property for purposes of Capital Account maintenance shall be computed using any reasonable method as selected by the General Partner.

Cash Disposition: As defined in Section 4.4(a).

Cause: (i) A finding by any court or governmental body of competent jurisdiction in a final, non-appealable judgment (other than in the context of a temporary, preliminary or similar injunction), or an admission by the Investment Advisor in a settlement of any lawsuit, that the Investment Advisor has committed (x) a willful and material breach of its duties under this Agreement or the Investment Advisory Agreement, as the case may be, or (y) fraud or willful misconduct in connection with the performance of its duties under the terms of this Agreement or the Investment Advisory Agreement, as the case may be, (ii) a felony conviction (other than in connection with a motor vehicle violation) of any Real Estate Principal, or (iii) the bankruptcy of the Investment Advisor (in each case of clauses (i) and (ii) above, which has a material adverse effect on the business of the Partnership).

Certificate: The Certificate of Limited Partnership of the Partnership, dated as of October 14, 2004, which was executed by the General Partner and filed in the office of the Secretary of State of the State of Delaware on October 14, 2004, and all subsequent amendments thereto and restatements thereof.

Closing Date: As defined in Section 3.1(a).

Closings: As defined in Section 3.1(a).

Code: The Internal Revenue Code of 1986, as amended from time to time, including successor provisions of succeeding law.

Co-Investment Opportunities: Opportunities that the General Partner, in its sole discretion, elects to provide to Persons to invest in Portfolio Investments alongside with the Partnership.

Collateral: As defined in Section 9.7(g).

Commitment Period: The period from the Initial Closing through the Expiration Date.

Contingent Disposition Fee: At any time, the cumulative amounts that have been paid to the Investment Advisor, the General Partner and/or one or more of their respective Affiliates pursuant to Section 4(e) of the Investment Advisory Agreement.

Deemed Contribution: As defined in Section 3.1(q).

Deemed Distribution: As defined in Section 4.3(b).

Defaulting Partner: As defined in Section 9.7(a).

Delegated Duties: As defined in Section 6.5.

Designated Advisory Committee Member: As defined in Section 6.9(a).

Disabling Event: The occurrence of an event set forth in Section 17-402 of the Act.

Disposition Fee: An amount paid in accordance with Section 7.4 and Sections 4(a), (b), (c) and (d) of the Investment Advisory Agreement equal to 0.55% of the net cash proceeds received by the Partnership in respect of any Disposition Fee Transaction.

Disposition Fee Transaction: (i) The full or partial sale (including condominium sales), casualty, merger or other disposition of a Portfolio Company or Portfolio Investment, or (ii) any non-recourse financing, restructuring or refinancing of a Portfolio Company or Portfolio Investment. For the avoidance of doubt, a Disposition Fee Transaction shall not include (x) cash distributions and dividends related to the ordinary net income generated by the Partnership, Portfolio Investments or Portfolio Companies and (y) any proceeds of a casualty which does not give rise to a distribution pursuant to Section 4.2 or a deemed distribution pursuant to Section 7.3(e).

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

Distributable Proceeds: The cash proceeds from the disposition, refinancing or casualty, in whole or in part, of a Portfolio Investment, or any cash dividends, interest income, rental income or other items of ordinary income received from a Portfolio Investment, in each such case (x) after distribution of the LTI Amount, if any, (y) net of all related costs and expenses (including Disposition Fees and Contingent Disposition Fees) and (z) only to the extent of Available Assets; provided, however, that for the purposes of the determination of the LTI Amount, notwithstanding anything herein to the contrary, (1) the amount of Distributable Proceeds subject to the LTI Amount shall be determined prior to the reduction attributable to the LTI Amount or Contingent Disposition Fee and (2) such Distributable Proceeds shall be deemed to include the amounts identified in subclause (iv) of the definition of Available Assets.

Distributed Proceeds: As defined in Section 3.5.

Effective Date: As defined in the preamble.

Employee Fund: Any investment entity organized primarily for the direct investment by directors, officers, employees and consultants (including related family members) of Lehman Brothers, whether existing on or formed after the date hereof.

ERISA: The United States Employee Retirement Income Security Act of 1974, as amended from time to time.

ERISA Partner: A Limited Partner (other than a Governmental Plan Partner) that is an "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) subject to ERISA or any entity deemed to hold "plan assets" of the foregoing under the Plan Asset Regulations.

Event of Dissolution: As defined in Section 10.1.

Excess Profits Interest: As defined in Section 3.4(b)(i).

Excluded Portfolio Investment: A Portfolio Investment with respect to which the Partnership (i) no longer has direct or indirect legal ownership, and (ii) no longer conducts business activities.

Expiration Date: As defined in Section 3.1(a).

Fair Value: The value of any security or other asset of the Partnership determined by the General Partner as follows: (a) Marketable Securities that are traded on a national securities exchange or over the counter shall be valued based on the average of the closing prices for such securities during the 10-trading-day period ending on the date of determination (which, in the case of any distribution in kind pursuant to Section 4.4, shall be the date of notice of such distribution), and as adjusted by such factors as the General Partner determines are appropriate under the circumstances in its discretion and (b) all other Portfolio Investments, Permitted Temporary Investments, securities or other assets shall be valued at their fair value as determined by the General Partner in its discretion, with the General Partner taking into account factors that it determines to be appropriate under the circumstances, including without limitation available appraisals, the discounted present value of estimated future cash flows, replacement costs and comparable market prices.

Fifth Amended and Restated Agreement of Limited Partnership: As defined in the recitals.

Final Closing: The last Subsequent Closing (as such term is also defined in the limited partnership agreements of the Parallel Funds), which occurred on May 25, 2005.

Final Distribution: The distribution described in Section 10.3.

First Refusal Offer: As defined in Section 9.4(b).

First Refusal Period: As defined in Section 9.4(c).

Former Investment Advisor: Lehman Brothers Private Equity Advisers LLC, a Delaware limited liability company.

Fourth Amended and Restated Agreement of Limited Partnership: As defined in the recitals.

Fractions Rule: As defined in Section 3.2(e).

French Tax Advances: As defined in Section 4.5(b)(ii).

Fund Experts: As defined in Section 11.15.

Fund Partners: The Partners of this Partnership, together with the partners of each Parallel Fund and the Lehman Side by Side Investment, but excluding the LTI Limited Partners.

General Partner: Lehman Brothers Real Estate Associates II, L.P., a Delaware limited partnership, and/or any successor or additional general partner admitted pursuant to the terms hereof, in its capacity as a general partner of the Partnership.

Governmental Plan Partner: A Limited Partner that is a "governmental plan" as defined in Section 3(32) of ERISA.

GP Tax Distribution: As defined in Section 4.5(c)(i).

Group Trust: A Limited Partner that is a trust formed for the purpose of investing as a Limited Partner pursuant to a declaration of group trust.

IAC Referred Matter: As defined in Section 6.9.

Indemnified Party: As defined in Section 6.6(a).

Initial Capital Demand Notice: As defined in Section 3.1(a)(ii).

Initial Closing: The earliest date that a Closing (as such term is also defined in the limited partnership agreements of the Parallel Funds) occurs in the Partnership or in any Parallel Fund as determined by the General Partner in its sole discretion.

Initial Limited Partner: Steven Berkenfeld.

Interest: At any time, the interests entitled to vote, as determined on the basis of Capital Commitments (with respect to Partners), capital commitments to the Parallel Funds (with respect to partners of such Parallel Funds) and the capital commitment of the Lehman Side-by-Side Investment; provided, however, that the interest of any Fund Partner or of the Lehman Side-by-Side Investment, if not entitled to vote on the issue at hand, shall not be included in any such calculation regarding the issue at hand.

Internal Dispute: As defined in Section 6.7(f).

Investment Advisor: Silverpeak Real Estate Partners L.P., a Delaware limited partnership or any entity substituted therefore pursuant to Section 9.2 that is appointed by the General Partner on behalf of the Partnership to act as investment advisor of the Partnership and may receive, as determined by the General Partner, the Management Fee as compensation for certain services to be provided to the Partnership.

Investment Advisory Agreement: As defined in Section 6.1(c).

Investment Company Act: The Investment Company Act of 1940, as amended from time to time.

Investment-Specific Giveback: As defined in Section 3.5.

Investment-Specific Liability: As defined in Section 3.5.

Investor Advisory Committee: The Investor Advisory Committee established pursuant to Section 6.9, which shall constitute a "committee of the limited partnership" for purposes of the Act.

Key Group Event: As defined in Section 6.18.

Lehman Aggregate Interest: As defined in Section 9.1(e)(ii).

Lehman Brothers: Lehman Brothers Holdings Inc., a Delaware corporation, together with its subsidiaries and Affiliates, including the General Partner, the Lehman Side-by-Side Investment and any Employee Fund, but excluding the Partnership and any Parallel Fund.

Lehman Mezzanine Fund: As defined in Section 6.8(a)(i).

Lehman Side-by-Side Investment: The aggregate amount of capital invested, directly or indirectly through one or more entities, by Lehman Brothers or any Affiliate of Lehman Brothers (including employees or former employees of Lehman Brothers) in the Partnership, the Parallel Funds or on a side-by-side basis with the Partnership and the Parallel Funds.

Leverage Threshold: As defined in Section 5.2.

Limited Exclusion Right: As defined in Section 3.1(e).

Limited Opt-Out Right: As defined in Section 3.1(o).

Limited Partners: The parties listed as limited partners in Annex A hereto, as amended from time to time, in their capacities as limited partners of the Partnership, and, for purposes of the allocation and distribution provisions contained in Article III, Article IV and Article IX hereof, an Assignee. For purposes of the Act, the Limited Partners shall constitute one class or group of limited partners. For the avoidance of doubt, the term "Limited Partners" shall exclude the LTI Limited Partners (except as otherwise provided herein).

Liquidated Portfolio Investments: At any time, those Portfolio Investments that are the subject of one or more Capital Transactions, or, in the case of one or more dispositions of a portion of a Portfolio Investment representing, in the aggregate, 30% or more thereof (by value, as determined by the General Partner) in a Capital Transaction, the disposed-of portion of such Portfolio Investment.

Losses: As defined in Section 6.7(a).

LTI Amount: With respect to any Distributable Proceeds that, but for distribution pursuant to Section 4.2(b), would otherwise be distributed pursuant to Section 4.2(a) or deemed distributed pursuant to Sections 4.5(c) or 7.3(e), the excess (if any) of (i) the sum of (A) 3.25% multiplied by the LTI First Base Amount, plus (B) 1.75% multiplied by the LTI Second Base Amount over (ii) all amounts previously distributed to the LTI Limited Partners pursuant to Section 4.2(b).

LTI Base Threshold: $445,396,000, as such amount shall be increased from time to time by the sum of (i) the amount of Capital Contributions made by the Partners, and (ii) Management Fees paid by the Partners to the Investment Advisor or its designated Affiliate or paid by the General Partner on behalf of each Limited Partner to the Investment Advisor or its designated Affiliate in accordance with Section 7.3(e), in each case, at any time after June 30, 2009.

LTI Condition: Distribution on or after June 30, 2009 by the Partnership of an aggregate amount of Distributable Proceeds equal to the LTI Base Threshold.

LTI First Base Amount: From and after the satisfaction of the LTI Condition, with respect to any distribution pursuant to Section 4.2, the sum of (i) the amount of such distribution plus (ii) all previous distributions on or after June 30, 2009, in each case, in excess of the LTI Base Threshold but, when added to the LTI Base Threshold, do not exceed the LTI First Threshold.

LTI First Threshold: $779,444,000, as such amount shall be increased from time to time by the sum of (i) the amount of Capital Contributions made by the Partners, and (ii) Management Fees paid by the Partners to the Investment Advisor or its designated Affiliate or paid by the General Partner on behalf of each Limited Partner to the Investment Advisor or its designated Affiliate in accordance with Section 7.3(e), in each case, at any time after June 30, 2009.

LTI Interest: An interest as a limited partner in the Partnership entitling the holder of such interest to receive distributions and allocations in respect of the LTI Amount, if any, distributable in accordance with Section 4.2(b) hereof from time to time.

LTI Limited Partners: One or more designated Affiliates of the Investment Advisor and/or one or more designated Affiliates of the General Partner, as the case may be, admitted to the Partnership as a limited partner in accordance with Section 3.1(b) hereof for the purpose of receiving the LTI Interest.

LTI Percentage: The percentage of LTI Amount distributions to which each LTI Limited Partner is entitled as determined by the General Partner and the Investment Advisor.

LTI Second Base Amount: From and after satisfaction of the LTI Condition, with respect to any distribution pursuant to Section 4.2, the sum of (i) the amount of such distribution plus (ii) all previous distributions on or after June 30, 2009, in each case, in excess of the LTI First Threshold.

LTI Tax Distribution: As defined in Section 4.5(c)(ii).

ManageCo: REPE CP ManageCo LLC, a Delaware limited liability company, together with its international Affiliates, if any.

Management Fee: As defined in Section 7.3(a).

Marketable Securities: Securities of a class that are, or are convertible or exchangeable into securities of a class that are, (i) traded on a securities exchange, (ii) quoted on the Nasdaq Stock Market or (iii) otherwise traded over-the-counter and for which quotations of market

prices are readily available; provided that any such securities are not subject to any contractual lock-up or similar restriction at the time of their distribution.

Maximum Amount: As defined in Section 4.2(a).

Mezzanine Investment: As defined in Section 6.8(a)(i).

Net Income or Net Loss: For the purpose of this Agreement, the terms "Net Income" and "Net Loss" mean, respectively, for each taxable year or other period, the Partnership's taxable income or loss for such taxable year or other period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss) and otherwise in accordance with the methods of accounting followed by the Partnership for federal income tax purposes, adjusted as follows:

(i) any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition shall be added to such taxable income or loss;

(ii) depreciation, amortization and other cost recovery deductions, as well as gain or loss recognized upon the sale or exchange of Partnership assets, taken into account in computing such taxable income or loss shall be determined by taking into account any increase or decrease in the Carrying Value of Partnership assets;

(iii) any items that are specially allocated pursuant to Sections 3.3(c)(i), 3.3(c)(ii) and 3.3(c)(iii), Section 3.3(e) or the proviso in Section 3.3(f) shall not be taken into account in computing Net Income or Net Loss; and

(iv) any expenditure of the Partnership described in Section 705(a)(2)(B) of the Code (or treated as such under Regulation Section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition shall be deducted from such taxable income or loss.

New Entity: As defined in Section 6.8(a)(ii).

New Partners: As defined in Section 3.1(l).

Offer Closing Date: As defined in Section 9.4(b).

Offered Interest: As defined in Section 9.4(b).

Operating Expenses: As defined in Section 7.1(b).

Opt-Out Notice: As defined in Section 3.1(p).

Opt-Out Period: As defined in Section 3.1(p).

Organizational Expenses: As defined in Section 7.2.

Original Agreement of Limited Partnership: As defined in the recitals.

Original Calculation: As defined in Section 4.2(a).

Parallel Fund: Entities that invest in Portfolio Investments side-by-side with the Partnership, generally on the basis of capital commitments available to make the investment (as determined in good faith by the General Partner from time to time, taking into account, among other things, the portion of the Partnership's and the Parallel Fund's capital commitments allocated to investments meeting certain property type, geographic focus, special strategy, diversification and other criteria, if any), in each case on substantially the same terms and conditions as the Partnership. One or more Parallel Funds have terms and conditions that are different from those of the Partnership, including with respect to the amount of the Management Fee, the Priority Return and the distribution formula set forth in Section 4.2.

Participating Plans: Certain plans or funds that have established the Group Trust through which investments by such plans are being made in the Partnership.

Partners: The General Partner and the Limited Partners; "Partner" means the General Partner or any Limited Partner. For the avoidance of doubt, the term "Partner" or "Partners" shall not include the LTI Limited Partners (except as otherwise provided herein).

Partnership: Silverpeak Legacy Pension Partners II, L.P., a Delaware limited partnership.

Percentage Interest: With respect to each Partner (including the LTI Limited Partners), the Adjusted Amount of such Partner divided by the aggregate Adjusted Amounts of all Partners; provided, however, that the Percentage Interests of the Partners in Portfolio Investments shall be adjusted by the General Partner to take into account the exercise of any Limited Exclusion Rights, Limited Opt-Out Rights and the existence of any Defaulting Partners.

Permitted Temporary Investments: Short-term investments in money-market funds, bank accounts and other similar investments (including (i) such fund investments managed, advised, or distributed by, or otherwise associated with, Lehman Brothers and (ii) such account deposits or certificates of deposit with Lehman Brothers) determined by the General Partner in good faith to be of high credit quality.

Permitted Transaction: Any acquisition, investment or other transaction by Lehman Brothers or an Affiliate of Lehman Brothers (but not including the General Partner) with respect to: (i) investments that require $5 million or less in equity capital; (ii) investments that have been reviewed and declined by the Screening Committee; (iii) investments in debt instruments or securities; (iv) investments (including acquisitions) that are made or received as a form of compensation for or in connection with Lehman Brothers' other businesses and operations, including Lehman Brothers' sales and trading and financing activities; (v) investments that the Partnership is restricted from making (either due to an explicit restriction or a good faith determination by the General Partner to implement restrictions based on the investments previously made by the Partnership and the desired diversification of investments to be held by the Partnership); (vi) investments that are not within the investment objectives of the Partnership; (vii) investments made by or in conjunction with the Prior Funds, the Lehman Mezzanine Fund or New Entities; (viii) investments made pursuant to any commitment of Lehman Brothers or its

Affiliates prior to the Initial Closing; (ix) passive investments and investments in portfolios which do not consist substantially of assets meeting the Partnership's investment objectives; (x) investments pursuant to an offer made on an unsolicited basis specifically to Lehman Brothers for investment only by Lehman Brothers; and (xi) investments relating to Lehman Brothers' occupancy of office facilities.

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

Plan Asset Regulations: The final regulations promulgated by the United States Department of Labor found at 29 C.F.R. 2510.3-101.

Portfolio Companies: Companies (whether corporations, partnerships, limited liability companies or other entities) with interests in Real Estate Assets, or that are otherwise involved in the ownership, operation, management or development of Real Estate Assets or in other real estate-related businesses or assets in which the Partnership owns a direct or indirect interest, including, without limitation, real estate investment trusts and service companies ancillary to the real estate industry.

Portfolio Investments: Investments made by the Partnership and/or one or more of the Parallel Funds and the Lehman Side-by-Side Investment in Real Estate Assets, Portfolio Companies and other assets, either directly, through entry into joint ventures or through the acquisition of or investment in Portfolio Companies, Additional Investments or otherwise. Any such assets acquired as part of a single portfolio or in a series of related transactions, including, without limitation, a series of investments in the same Portfolio Company, shall constitute one Portfolio Investment.

Portfolio Investments in Progress: Any potential Portfolio Investment under review (i) prior to the Final Closing or (ii) on or about the Expiration Date, regardless of whether a Capital Demand Notice has been delivered in respect of such Portfolio Investment, if either a letter of intent or similar written agreement, agreement in principle, option, acquisition agreement or other definitive agreement to invest (which in any case may be subject to conditions precedent or other provisions with the effect of making such agreement non-binding) has been entered into by, or on behalf of, the Partnership with respect to such Portfolio Investment.

Pre-Removal Investments: As defined in Section 9.1(e).

Prior Funds: Lehman Brothers Merchant Banking Partners I L.P., Lehman Brothers Merchant Banking Partners II L.P., Lehman Brothers Merchant Banking Partners III L.P., Lehman Brothers Communications Partners L.P., Lehman Brothers Capital Partners I L.P., Lehman Brothers Capital Partners II L.P., Lehman Brothers Capital Partners III L.P., Lehman Brothers Capital Partners IV L.P., Lehman Brothers Venture Partners, L.P., Lehman Brothers Venture Partners 2003, L.P., Lehman Brothers Real Estate Partners, L.P., Lehman Brothers European Mezzanine Partners 2003 – A, L.P. and any affiliated parallel funds or alternative investment vehicles of any of the foregoing.

Priority Return: 10% per annum, compounded annually.

Profits Interest: As defined in Section 9.1(e).

Ratio: As defined in Section 3.1(l).

Real Estate Assets: Equity interests, debt interests, debt or equity-related interests, participations, leasehold interests, or other interests, direct or indirect, in or relating to single or multiple real estate properties or assets (including, for all purposes hereunder, land, buildings and other improvements and related personal or intangible property), pools or portfolios of real estate properties or assets, partial interests or rights in real estate properties or assets, options, rights of refusal, rights of offer and similar rights in respect of real estate assets or properties or portions thereof, interests in real estate operating or service companies, real estate holding corporations, and real estate investment trusts or other entities that are taxed as real estate investment trusts for federal income tax purposes.

Real Estate Principals: Each of Rodolpho Amboss, Brett Bossung, Kevin Dinnie, Mark H. Newman and Mark A. Walsh.

Regulation: U.S. Treasury regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

Regulation Y: As defined in Section 6.11.

Required Interest: As defined in Section 11.3(a).

Revaluation Profit: With respect to a Limited Partner, the distributions received by such Limited Partner pursuant to Section 3.1(l) that represent, as a result of a revaluation of one or more Portfolio Investments under Section 3.1(l), such Limited Partner's share of any unrealized profit from such Portfolio Investments that such Limited Partner is deemed to have sold to New Partners.

ROFR Purchaser: As defined in Section 9.4(b).

Screening Committee: A committee comprised of the Real Estate Principals.

Second Amended and Restated Agreement of Limited Partnership: As defined in the recitals.

Subscription Agreements: Each of the several Subscription Agreements between the Partnership and the Limited Partners.

Subscription Facility: As defined in Section 5.3(a).

Subsequent Closing: As defined in Section 3.1(a).

Substitute Limited Partner: As defined in Section 9.5.

Tax Advances: As defined in Section 4.5(a).

Tax Distributions: As defined in Section 4.5(c)(ii).

Termination Event: As defined in Section 6.5(a).

Termination Notice: As defined in Section 6.5(a).

Third Amended and Restated Agreement of Limited Partnership: As defined in the recitals.

Transfer: With respect to any Partner's interest in the Partnership, the sale, exchange, transfer, assignment, pledge, creation of a security interest in or encumbrance on or other disposition of such interest or any economic interest therein (including, without limitation, as a result of any participation or swap transaction).

Unacceptable Investor: Any Person who is a: (1) person or entity who is a "designated national," "specially designated national," "specially designated terrorist," "specially designated global terrorist," "foreign terrorist organization," or "blocked person" within the definitions set forth in the Foreign Assets Control Regulations of the United States Treasury Department; (2) person acting on behalf of, or an entity owned or controlled by, any government against whom the United States maintains economic sanctions or embargoes under the Regulations of the United States Treasury Department—including, but not limited to—the "Government of Sudan," the "Government of Iran," the "Government of Libya" and the "Government of Iraq"; (3) person or entity who is within the scope of Executive Order 13224—Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, effective September 24, 2001; or (4) person or entity subject to additional restrictions imposed by the following statutes or Regulations and Executive Orders issued thereunder: the Trading with the Enemy Act, the Iraq Sanctions Act, the National Emergencies Act, the Antiterrorism and Effective Death Penalty Act of 1996, the International Emergency Economic Powers Act, the United Nations Participation Act, the International Security and Development Cooperation Act, the Nuclear Proliferation Prevention Act of 1994, the Foreign Narcotics Kingpin Designation Act, the Iran and Libya Sanctions Act of 1996, the Cuban Democracy Act, the Cuban Liberty and Democratic Solidarity Act, and the Foreign Operations, Export Financing, and Related Programs Appropriations Act, or any other law of similar import as to any non-U.S. country, as each such Act or law has been or may be amended, supplemented, adjusted, modified, or reviewed from time to time.

Unfunded Capital Commitment: With respect to a Limited Partner, the amount by which (i) the sum of (1) such Limited Partner's Capital Commitment plus (2) distributions to such Limited Partner in respect of a return of Capital Contributions pursuant to Section 3.1(l) (other than such Limited Partner's Revaluation Profit) plus (3) the amount of any distributions made to such Limited Partner pursuant to Section 4.2(a)(i) prior to the Expiration Date (subject to the maximum set forth in Section 4.7(d)), exceeds (ii) the sum of (1) the aggregate of all Capital Contributions made to the Partnership by such Limited Partner plus (2) the aggregate amount of any Management Fees paid directly or indirectly by such Partner to the Investment Advisor (or the Former Investment Advisor, as the case may be) pursuant to Section 7.3.

VCOC: A "venture capital operating company" as such term is defined in the Plan Asset Regulations.

ARTICLE II

General Provisions

2.1 Continuation and Withdrawal. The parties hereto hereby continue a limited partnership heretofore formed under and pursuant to the Act.

2.2 Name. The name of the Partnership shall be "Silverpeak Legacy Pension Partners II, L.P." The General Partner is authorized to make any variations in the Partnership's name that the General Partner may deem necessary or advisable. The General Partner shall provide written notice to each Limited Partner of any change in the name of the Partnership.

2.3 Organizational Certificates and Other Filings. If requested by the General Partner, the Limited Partners, including the LTI Limited Partners, shall immediately execute all certificates and other documents, and any amendments or renewals of such certificates and other documents as thereafter reasonably required, consistent with the terms of this Agreement, necessary for the General Partner to accomplish all filing, recording, publishing and other acts as may be appropriate to comply with all requirements for (a) the formation, continuation and operation of the Partnership as a limited partnership under the laws of the State of Delaware, (b) if the General Partner deems it advisable, the operation of the Partnership as a limited partnership, or partnership in which the Limited Partners have limited liability, in all jurisdictions where the Partnership proposes to operate and (c) all other filings required to be made by the Partnership.

2.4 Purpose and Powers. The Partnership is organized for the object and purpose of making investments in Real Estate Assets and Portfolio Companies and other assets in accordance with the investment criteria described in Section 5.1 hereof, owning, managing, supervising and disposing of such investments, sharing the profits and losses therefrom and engaging in such activities necessary, incidental or ancillary thereto and to engage in any other lawful act or activity for which limited partnerships may be organized under the Act in furtherance of the foregoing. Notwithstanding any other provision of this Agreement, the Partnership, and the General Partner on behalf of the Partnership, may execute, deliver and perform such agreements and documents as the General Partner determines are necessary or desirable for the formation and organization of the Partnership. In furtherance of this purpose, the Partnership shall have all powers necessary, suitable or convenient for the accomplishment of the aforesaid purpose, subject to the limitations and restrictions set forth in Sections 5.1 and 5.2 or elsewhere in this Agreement, as principal or agent, including, without limitation, all of the powers that may be exercised by the General Partner on behalf of and, except as specifically provided herein, at the expense of the Partnership pursuant to this Agreement or the Act, and further including, without limitation, the following:

(a) to engage in investment activities as the General Partner may determine, including, without limitation, to purchase, sell, exchange, write, receive, invest and reinvest in, and otherwise trade, directly or indirectly, in and with (i) Real Estate Assets, Portfolio Companies

and in service companies ancillary to the real estate industry, (ii) capital stock, preorganization certificates and subscriptions, warrants, trust receipts, bonds, notes, convertible debt, bank loans and any other evidences of indebtedness (in each case, whether senior or subordinated or secured or unsecured), and other restricted or marketable, equity, debt, or equity- or debt-related securities, obligations or interests including any combination of the foregoing and including direct or indirect interests or participations therein or other similar securities, obligations or interests, including, without limitation, shares of beneficial interest, warrants, rights or options (including puts and calls) to purchase equity, debt or equity- or debt-related securities, obligations or interests, limited and general partnership interests, trade credits or obligations, or debt-related securities, obligations or interests issued, in each case, in connection with Real Estate Assets and Portfolio Companies and (iii) other Partnership property and funds;

(b) to borrow money, encumber assets (including a pledge of Unfunded Capital Commitments as security for any Subscription Facility) and otherwise incur recourse and non-recourse indebtedness (including the issuance of guarantees of the payment or performance obligations by any Person) in connection with or in furtherance of the acquisition of or the financing of a Portfolio Investment;

(c) to improve, develop, redevelop, construct, reconstruct, maintain, renovate, rehabilitate, reposition, manage, lease, mortgage and otherwise deal with the assets and/or businesses constituting the Portfolio Investments;

(d) to alter or restructure the Partnership's investment in any Portfolio Investment at any time during the term of the Partnership without any precondition that the General Partner make any distributions to the Partners in connection therewith;

(e) to, subsequent to the Partnership's initial investment in any Portfolio Investment, make additional investments in such Portfolio Investment (including additional investments made to finance acquisitions by any Portfolio Company or any capital improvements, tenant improvements or other improvements or alterations to any property constituting a Portfolio Investment or otherwise to protect the Partnership's investment in any Portfolio Investment or to provide working capital for any Portfolio Investment) (the "Additional Investments");

(f) to invest Partnership funds in Permitted Temporary Investments;

(g) to pay the commissions, fees or other charges to Persons (including Lehman Brothers and its Affiliates) that may be applicable in connection with any transactions entered into by or on behalf of the Partnership;

(h) to seek representation in the management of Portfolio Companies (and otherwise, if applicable, in connection with other Portfolio Investments), which representation may involve, without limitation, securing representation on boards of directors of Portfolio Companies, creditors' committees, management committees of partnerships, property owners' associations or other entities or other similar boards, committees or other governing bodies in respect of such companies or investments, or the employment on behalf of the Partnership of experts to render managerial assistance to such companies or investments and such other rights as may be necessary to maintain the status of the Partnership as a VCOC;

(i) to, either by itself or by contract with others, including a Person whose stockholders, owners, partners, officers or employees are stockholders, owners, partners, officers or employees of the General Partner or an Affiliate thereof, have and maintain one or more offices within or without the State of Delaware and in connection therewith to rent, lease or purchase office space, facilities and equipment, to engage and pay personnel and do such other acts and things and incur such other expenses on its behalf as may be necessary or advisable in connection with the maintenance of such office or offices and the conduct of the business of the Partnership;

(j) to open, maintain and close accounts with brokers;

(k) to open, maintain and close bank accounts and draw checks and other orders for the payment of moneys;

(l) to engage outside accountants, custodians, appraisers, investment advisors, attorneys, asset and property managers, leasing brokers and any and all other third-party agents and assistants, both professional and nonprofessional, and to compensate them in such reasonable degree and manner as the General Partner may deem necessary or advisable;

(m)to enter into, make and perform all contracts, agreements and other undertakings as may be necessary or advisable or incident to carrying out its purpose, including, without limitation, such agreements as are contemplated by the definition of "Portfolio Investments in Progress" contained in Article I;

(n) to Transfer, reallocate or acquire Partnership interests pursuant to Article IX hereof and to permit the withdrawal and admission of Limited Partners among the Partnership and the Parallel Funds;

(o) to sue and be sued, to prosecute, settle or compromise all claims against third parties, to compromise, settle or accept judgment with respect to claims against the Partnership and to execute all documents and make all representations, admissions and waivers in connection therewith;

(p) to register or qualify the Partnership under any applicable United States federal or state laws or foreign laws, or to obtain exemptions under such laws, if such registration, qualification or exemption is deemed necessary or desirable by the General Partner;

(q) to form one or more corporations or partnerships or other entities, to register or qualify such entities as provided in clause (p) above and to utilize such corporations, partnerships or other entities as vehicles for making investments and to otherwise carry out the business of the Partnership and to cause such partnerships, corporations or other entities to take any action which the General Partner would have the authority to take on behalf of the Partnership;

(r) to reinvest Distributable Proceeds in Real Estate Assets and Portfolio Companies during and after the Commitment Period;

(s) to make any and all elections and filings, including any ruling requests, for United States federal, state, local and foreign tax purposes including those to adjust the basis of

Partnership property pursuant to Sections 734(b), 743(b) and 754 of the Code or comparable provisions of state, local or foreign law;

(t) to purchase liability insurance or other specialized forms of insurance relating to the Partnership's business or in respect of any liabilities for which the General Partner, the Investment Advisor or any other indemnified party would otherwise be entitled to indemnification under this Agreement;

(u) to enter into and perform the terms of any Subscription Facility, including repaying borrowings under any Subscription Facility on behalf of the Partnership;

(v) so long as the Investment Advisory Agreement (or any investment advisory agreement entered into by the General Partner pursuant to Section 6.5(b) hereof) remains in full force and effect, to delegate any of its rights, powers and obligations under this Agreement to the Investment Advisor, to the extent permitted by applicable law;

(w) to take such other actions as may be necessary to further the business of the Partnership; and

(x) to assist certain tax-exempt Persons in forming and maintaining the Group Trust for the purpose of making their investment in the Partnership.

2.5 Principal Place of Business. The Partnership shall maintain its office and principal place of business at, and its business shall be conducted from, c/o Silverpeak Real Estate Partners L.P. - Finance Group, 1271 Avenue of the Americas, 38th Floor, New York, New York 10020, or such place or places inside or outside the United States as the General Partner may decide.

2.6 Registered Office and Registered Agent. The address of the Partnership's registered office in the State of Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. The name and address of the Partnership's registered agent for service of process in the State of Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

2.7 Term. The term of the Partnership commenced upon the filing of the Certificate in the office of the Secretary of State of the State of Delaware and shall continue through the close of business on the fifth anniversary of the Expiration Date, unless extended pursuant to Section 10.1(a) or unless the Partnership is earlier dissolved pursuant to Section 10.1.

2.8 Fiscal Year. The fiscal year of the Partnership shall end on December 31, unless otherwise required under Section 706 of the Code. The Partnership shall have the same fiscal year for United States federal and state income tax purposes and for financial and partnership accounting purposes.

2.9 Initial Limited Partner. Upon the admission of the Limited Partners to the Partnership at the Initial Closing, the Initial Limited Partner (a) received a return of his original capital contribution of $100.00, (b) withdrew as the Initial Limited Partner of the Partnership and (c) has no further right, interest or obligation of any kind whatsoever as a partner in the Partnership.

ARTICLE III

Capital Contributions, Capital Accounts and Allocations

3.1 Capital Contributions. (a) Limited Partners shall be admitted to the Partnership at the Initial Closing and at one or more subsequent closings to be held not later than 9 months after the Initial Closing (each a "Subsequent Closing", and together with the Initial Closing, the "Closings"), each such Closing to be held on such date as may be specified by the General Partner in a written notice to the Limited Partners (the date of such Closing being referred to as a "Closing Date"). After being admitted, each Limited Partner shall make contributions to the Partnership on Capital Demand Dates upon receipt of Capital Demand Notices, in accordance with and subject to the limitations set forth in this Section 3.1. Except as contemplated by Section 3.1(j), no Capital Demand Date shall occur after the date that represents the fourth anniversary of the Initial Closing (such date, or such earlier date as is contemplated by Sections 3.1(m) or 9.1(b), the "Expiration Date").

(i) Except as specified below with respect to the Initial Capital Demand Notice, on any Capital Demand Date, each Limited Partner shall contribute to the Partnership in United States dollars an amount equal to such portion of its Unfunded Capital Commitment as shall be specified by the General Partner in a Capital Demand Notice delivered in respect of such Capital Demand Date, and the General Partner shall contribute to the Partnership on such Capital Demand Date an amount in United States dollars equal to 1% of the aggregate Capital Contributions to be made on such date by all Partners (including the General Partner).

(ii) The first Capital Demand Notice (the "Initial Capital Demand Notice") may be delivered by facsimile or e-mail upon the Initial Closing and shall be payable on the third Business Day after the Initial Closing. As set forth in the Subscription Agreements, all Partners shall pay the required Capital Contribution on the Capital Demand Date specified in the applicable Capital Demand Notice; provided, however, that notwithstanding any provision in this Agreement to the contrary, no ERISA Partners shall be required to pay the otherwise required Capital Contribution until such date as the General Partner delivers an opinion of counsel (in customary form and subject to customary qualifications and assumptions) to the effect that on the date of such contribution the Partnership should qualify as a VCOC.

(b) Each LTI Limited Partner shall be admitted to the Partnership as a limited partner upon (i) its execution of this Agreement and (ii) the payment of a one time capital contribution to the Partnership in the amount of $100.00 in respect of the LTI Interest received by such LTI Limited Partner, and thereafter shall not be obligated to make any further capital contributions to the Partnership. For the avoidance of doubt, the admission of an LTI Limited Partner as a limited partner of the Partnership shall not be considered a Subsequent Closing and shall not be subject to Section 3.1(l), and such LTI Limited Partner shall not be considered a New Partner.

(c) For purposes of this Agreement, (i) a "Capital Demand Date" shall mean a date on which Partners are required by the General Partner to contribute capital to the Partnership, which

date (A) shall be specified by the General Partner in a Capital Demand Notice delivered by the General Partner to each of the Limited Partners, (B) except in the case of a capital call made in accordance with the five-day period set forth in Section 3.1(p), shall be no less than 10 Business Days from the date of delivery of a Capital Demand Notice by the General Partner and (C) shall in no event, except as contemplated in Section 3.1(j) hereof, occur after the Expiration Date; and (ii) a "Capital Demand Notice" shall mean a written notice requiring the contribution of capital to the Partnership, which notice shall (A) be delivered by the General Partner to each Limited Partner, (B) call for contribution to the Partnership by each Partner of the amount of capital determined in the sole discretion of the General Partner to be appropriate to fund existing or contemplated Portfolio Investments (including Additional Investments), make payments due under any Subscription Facility or meet the expenses of the Partnership permitted to be paid by the Partnership hereunder (including for the payment of any Organizational Expenses, indemnification obligations and other Operating Expenses), in each case consistent with clause (C) of this Section 3.1(c)(ii), and (C) subject to Section 3.1(l), call for a contribution of capital by each Limited Partner in an amount that represents such Partner's Percentage Interest of the aggregate of the amounts payable by all Partners on the relevant Capital Demand Date, as adjusted by the General Partner to take account of the exercise of any Limited Exclusion Rights and Limited Opt-Out Rights and the existence of any Defaulting Partners. Notwithstanding the foregoing, the General Partner, by prompt notice to each Partner by e-mail or facsimile, which shall be delivered at least 5 Business Days prior to the Capital Demand Date, may postpone the Capital Demand Date one or more times for any reason to a specific date, or to a future date to be confirmed on 3 Business Days' notice; provided, however, that, except as permitted under Section 3.1(j), no Capital Demand Date may be postponed to a date later than the Expiration Date; provided, further, that notwithstanding anything to the contrary in any Capital Demand Notice, any amounts contributed by the Partners prior to the Effective Date and not used for the purpose set forth in such Capital Demand Notice may be used to pay any installment of Management Fees payable by such Partner (in which case it shall be deemed distributed to such Partner pursuant to Section 4.2(a) and paid by such Partner to the Investment Advisor pursuant to Section 7.3 for all purposes hereof) or to fund such Partner's pro rata portion (as determined by subclause (C) of this Section 3.1(c)(ii)) of existing or contemplated Portfolio Investments (including Additional Investments), payments due under any Subscription Facility or Operating Expenses, as determined by the General Partner.

(d) If any Partner becomes a Defaulting Partner:

(i) interest shall accrue on the outstanding unpaid balance of such called-for percentage, from and including the date such payment was due until the earlier of the date of payment to the Partnership of such called-for percentage (together with accrued interest thereon) or such time as the General Partner may determine in its sole discretion at the lesser of (x) the rate of 10% per annum and (y) the maximum rate permitted by applicable law, and

(ii) the General Partner (or, if the General Partner or any Affiliate of the General Partner is the Defaulting Partner, the Investor Advisory Committee) shall have the right, in addition to its other rights hereunder or under applicable law, to provide to all Partners other than such Defaulting Partner a Capital Demand Notice calling for contribution to the Partnership of the Capital Contribution that the Defaulting Partner

failed to make. Any such capital call shall not increase any non-Defaulting Partner's Capital Commitment (or Unfunded Capital Commitment), and any amount contributed by any Partner pursuant to a Capital Demand Notice made under Section 3.1(c)(ii) shall reduce such Partner's Unfunded Capital Commitment in accordance with the definition of such term.

(e) Prior to investing in any Portfolio Investment, the General Partner shall have the right (a "Limited Exclusion Right"), pursuant to the procedures set forth in paragraph (f) below, to exclude any Limited Partner from participating in the investment in such Portfolio Investment and in any item of income, gain, loss, deduction, credit or distribution with respect thereto if the General Partner determines in good faith that:

(i) participation by such Limited Partner in the Partnership's investment in such Portfolio Investment will (A) result in a violation by the Partnership of the provisions of any statute, rule, regulation or order of any federal, state or other regulatory agency or other governmental body applicable to the Partnership, the Parallel Funds, the Lehman Side-by-Side Investment, such Portfolio Investment or any other Fund Partner or (B) subject the Partnership, the Parallel Funds, the Lehman Side-by-Side Investment, such Portfolio Investment or any other Fund Partner to any material penalty under any such statute, rule, regulation or order;

(ii) participation by such Limited Partner in the Partnership's investment in the Portfolio Investment would require the Partnership to register as an investment company under the Investment Company Act or would require the General Partner, the Investment Advisor, or any of their Affiliates to register as an investment adviser under the Advisers Act; or

(iii) participation by such Limited Partner in the Partnership's investment in the Portfolio Investment would cause (or be reasonably likely to cause) a significant delay, extraordinary expense or a material adverse effect on the Partnership or its Affiliates, such Portfolio Investment, a Partner or a Parallel Fund.

Additionally, the General Partner may in its discretion, with the consent of a Limited Partner, excuse or exclude such Limited Partner from making all or any part of a particular investment for any reason or no reason.

(f) If the General Partner exercises its Limited Exclusion Right hereunder, it shall so notify each Limited Partner to be excluded at least 5 days prior to investing in any Portfolio Investment. Such notice shall be accompanied by reasonable detail of the basis therefor, including a summary of the facts leading to the General Partner's exercise of its Limited Exclusion Right. The General Partner shall give at least 5 days' notice to the nonexcluded Limited Partners of the amount of any additional capital that they are required to contribute in order to consummate the proposed investment as to which such Limited Exclusion Right has been exercised.

(g) During the Commitment Period, proceeds previously distributed to the Partner pursuant to Section 4.2(a)(i) may be recalled for reinvestment by the General Partner; provided that at no time shall a Partner have aggregate capital at risk in excess of its Capital Commitment.

(h) The Initial Closing shall occur at any time as determined by the General Partner.

(i) To the extent that the General Partner exercises its Limited Exclusion Right or any Limited Partner exercises its Limited Opt-Out Right with respect to an investment in a Portfolio Investment, then the Capital Commitment of any such excluded or opting-out Limited Partner shall not be reduced thereby and the General Partner shall interpret (and amend to the extent necessary or appropriate) this Agreement with respect to each such excluded or opting-out Limited Partner and with respect to the other Limited Partners for all purposes as if such Limited Partner were not a Limited Partner hereunder with respect to that particular investment in a Portfolio Investment and shall make all allocations and distributions pursuant to Article III and Article IV hereof on a Partner-by-Partner basis taking into account only those Portfolio Investments in which each such Partner participated and, in making any calculations with respect to a particular Portfolio Investment, calculating Available Assets with respect to any Partner only with respect to such Portfolio Investment, and related Permitted Temporary Investment, in which such Partner participated. At the sole discretion of the General Partner, the aggregate amount not contributed by a Limited Partner as a result of the General Partner's exercise of the Limited Exclusion Right or a Limited Partner's exercise of its Limited Opt-Out Right may be called by the General Partner for any of the purposes permitted herein on a proportionate or disproportionate basis.

(j) Contributions of capital by the Limited Partners shall be made in United States dollars by wire transfer of federal funds to an account or accounts of the Partnership specified in the applicable Capital Demand Notice. Other than as set forth in this Article III, no Partner shall be entitled to any interest or compensation by reason of its Capital Contributions or by reason of serving as a Partner. No Partner shall be required to lend any funds to the Partnership. Upon the Expiration Date, the amount of each Limited Partner's Unfunded Capital Commitment shall be canceled, and the General Partner shall not have the right to deliver Capital Demand Notices, except that such Unfunded Capital Commitments shall continue, and the General Partner shall continue to have the right to deliver Capital Demand Notices, to the extent necessary (A) to complete Portfolio Investments In Progress, (B) to fund Additional Investments for a period up to 2 years after the Expiration Date, (C) to repay all principal, interest and other amounts owing, or that may become due, under any Subscription Facility or any other current or future Partnership or Portfolio Investment debt, (D) to pay Operating Expenses and any remaining Organizational Expenses and (E) to fund reasonable reserves. The General Partner shall have the right to deliver Capital Demand Notices with respect thereto after the Expiration Date. Notwithstanding the foregoing, the Limited Partners shall not be obligated to make Capital Contributions after the Expiration Date to fund Additional Investments that in the aggregate exceed, for the period after the Expiration Date, 20% of the aggregate amount of the Capital Commitments of all Limited Partners (but such Additional Investments and any Operating Expenses (including indemnification obligations of the Partnership under Section 6.7) and Organizational Expenses may be funded by the General Partner (both before and after the Expiration Date) from funds that would otherwise be Distributable Proceeds or from other funds of the Partnership). For the avoidance of doubt, Partners shall be obligated to pay the Management Fee both before and after the Expiration Date.

(k) At each Subsequent Closing, Annex A hereto shall be amended appropriately to reflect the admission of additional Limited Partners and, if applicable, the increase in Capital

Commitments by Partners and the General Partner shall take any appropriate action in connection therewith. Further, the General Partner shall cause Annex A hereto to be amended from time to time to reflect the Transfer of Limited Partner interests and changes in Capital Commitments that are accomplished in accordance with the provisions hereof.

(l) In the event that interests in the Partnership are sold to Limited Partners at Subsequent Closings (including, without limitation, the sale of additional interests to previously admitted Limited Partners), such Limited Partners shall fund their proportionate share (based upon Capital Commitments after giving effect to the Subsequent Closing and, if the General Partner has so elected as described below, adjusted to reflect the valuation (as set forth below) of existing Portfolio Investments) of any Portfolio Investment made prior to such Subsequent Closing and any Capital Contributions made for Organizational Expenses or Operating Expenses prior to such Subsequent Closing, plus, in the case of Organizational Expenses and Operating Expenses, cost of carry at the rate of 10% per annum. Such amounts shall be paid to the Partnership and such amounts shall then be distributed to the preexisting Partners in proportion to their Percentage Interests (and shall increase such Partners' Unfunded Capital Commitments pursuant to the definition thereof). Each Limited Partner who is sold an interest in the Partnership at any Subsequent Closing (including, without limitation, the sale of additional interests to previously admitted Limited Partners) shall also pay to the General Partner a Management Fee in an amount equal to any Management Fees that would have accrued pursuant to Section 7.3 for the period between the Initial Closing and such Subsequent Closing if such Limited Partner had purchased its interest in the Partnership at the Initial Closing, plus cost of carry at 10% per annum. For purposes of this Section 3.1(l), Portfolio Investments generally will be valued at original cost plus a cost of carry equal to the rate of 10% per annum, unless there has been a change or event relating to any Portfolio Investment that would, in the sole opinion of the General Partner, render it more appropriate to revalue such Portfolio Investment, in which case the Portfolio Investment will be valued at the revalued amount. For purposes of Article III and Sections 4.2 and 4.4, any amounts contributed to the Partnership by Limited Partners at Subsequent Closings ("New Partners," including, without limitation, amounts resulting from the sale of additional interests to previously admitted Limited Partners) shall be treated as if the New Partners have purchased a pro rata share of the interests in the Partnership from the preexisting Partners, and a portion of the Capital Account of each preexisting Partner shall be allocated to such New Partners so that after such allocation the Capital Account of such New Partners and such preexisting Partners are in proportion to their Percentage Interests. In the event of a downward revaluation of one or more existing Portfolio Investments, a New Partner's Unfunded Capital Commitment shall be reduced by the amount necessary so that the ratio (the "Ratio") that such New Partner's Unfunded Capital Commitment bears to its Adjusted Amount is the same as the Ratio of previously admitted Limited Partners. Each Limited Partner that purchases an interest in the Partnership at a Subsequent Closing shall be deemed to have made a Capital Contribution with respect to each Portfolio Investment made prior to such Limited Partner's date of admission or date of increase in its Capital Commitment in an amount equal to the product of (i) a fraction, the numerator of which is the aggregate amount of such Limited Partner's Capital Contributions to the Partnership after giving effect to such admission or increase (excluding any cost-of-carry payment and any payments in respect of Organizational Expenses or Operating Expenses) and the denominator of which is the aggregate amount of all Partners' Capital Contributions to the Partnership after giving effect to such admission or increase (excluding any cost-of-carry payment and any payments in respect of Organizational Expenses or Operating

Expenses), and (ii) the amount of all Partners' Capital Contributions with respect to such Portfolio Investment (excluding any cost-of-carry payment and any payments in respect of Organizational Expenses or Operating Expenses).

(m)Upon the earliest to occur of: (i) the General Partner determining (A) that at least 80% of the aggregate Capital Commitments have been invested (including any amounts committed for investment and amounts reserved for Additional Investments) and (B) to terminate the Commitment Period, (ii) the General Partner determining that changes in laws or regulations applicable to the Partnership or changes in business conditions make termination of the Commitment Period necessary or advisable or (iii) 75% in Interest of the Fund Partners (excluding the Affiliates of the General Partner and the Lehman Side-by-Side Investment) voting to terminate the Commitment Period, the General Partner, upon written notice to all Partners, shall cancel all outstanding Capital Commitments to the extent that there are then Unfunded Capital Commitments, in each case subject to the continuation of Capital Commitments to the extent provided in Section 3.1(j). Upon the cancellation of all then Unfunded Capital Commitments, the Commitment Period shall terminate.

(n) The Lehman Side-by-Side Investment shall be co-invested by Lehman Brothers directly or indirectly with the Partnership in each Portfolio Investment on substantially the same terms and conditions as the Partnership including the sharing of Organizational Expenses and Operating Expenses pro rata generally based on the ratio of the capital commitment of the Lehman Side-by-Side Investment to the aggregate Capital Commitments of the Partners and the capital commitments of the Parallel Funds as of the time such Portfolio Investment is made (as determined in good faith by the General Partner from time to time, taking into account, among other things, the portion of the Lehman Side-by-Side Investment's, the Partnership's and the Parallel Funds' capital commitments allocated to investments meeting certain property type, geographic focus, special strategy, diversification and other criteria, if any). Lehman Brothers may allocate the amount to be co-invested in any Portfolio Investment to one or more of its Affiliates (including any Employee Fund) in such manner and in such amounts as Lehman Brothers in its discretion shall determine, and such allocation may be, in Lehman Brothers' sole discretion, different for each Portfolio Investment. Lehman Brothers shall only sell or otherwise dispose of any portion of any co-investment in a Portfolio Investment pursuant to the Lehman Side-by-Side Investment generally concurrent with the sale or disposition of such Portfolio Investment by the Partnership, and such sale or disposition shall be consummated on substantially the same price and terms as those applicable to the Partnership.

(o) A Limited Partner may elect, pursuant to the procedures set forth in paragraph (p) below, not to participate in the investment in one or more Portfolio Investments and in any item of income, gain, loss, deduction, credit or distribution with respect thereto (such right of nonparticipation being referred to herein as a "Limited Opt-Out Right") if (i) such Limited Partner provides a written opinion of the Limited Partner's counsel (which counsel shall be reasonably acceptable to the General Partner) addressed to the General Partner and the Partnership (or the General Partner accepts a written confirmation from such Limited Partner to the same effect as such opinion or otherwise waives such requirement) and providing that participation by the Limited Partner in the Partnership's investment in the Portfolio Investment would result in a violation of (x) the provisions of any statute, rule, regulation, administrative procedure of general applicability or order of any federal, state or other regulatory agency or

other governmental body applicable to the Limited Partner or its Affiliates or subject such Limited Partner or any such Affiliate to any penalty under law, in any such case that cannot be cured without a material cost to such Limited Partner or (y) any written investment policy or restriction applicable to such Limited Partner (if it has notified the General Partner of such policy in writing prior to its admission to the Partnership and such policy or restriction continues in effect as of the date such excuse is sought) and (ii) such potential violation was disclosed in writing in connection with such Limited Partner's execution of the Subscription Agreement and acknowledged in writing by the General Partner. In the event the General Partner intends to use the proceeds of the Subscription Facility to acquire a Portfolio Investment, and the General Partner has been appropriately notified of specific, applicable investment limitations, the General Partner may request Opt-Out Notices from the electing Limited Partners prior to issuance of a Capital Demand Notice. In such event, electing Limited Partners shall respond to such request within five (5) Business Days by providing the information described in paragraph (p) below. If an electing Limited Partner validly exercises its Limited Opt-Out Right with respect to the applicable investment, the Capital Demand Notices, if any, ultimately issued to repay the borrowings under the Subscription Facility which were used to acquire such Portfolio Investment shall be increased appropriately for all of the participating Limited Partners in the manner described herein.

(p) As part of the Capital Demand Notice, if the General Partner has been appropriately notified of specific, applicable investment limitations, the General Partner shall provide such information believed by the General Partner to be reasonably sufficient for each Limited Partner to determine whether it is entitled to exercise its Limited Opt-Out Right with respect to such Portfolio Investment pursuant to Section 3.1(o) hereof. Each Limited Partner shall have the right to exercise its Limited Opt-Out Right with respect to the Portfolio Investment described in the applicable Capital Demand Notice in accordance with Section 3.1(o) by notifying the General Partner in writing (each such notice, an "Opt-Out Notice"), within 5 days after the delivery of such Capital Demand Notice, time being of the essence (the "Opt-Out Period"), of such election. Every Limited Partner that does not expressly exercise its Limited Opt-Out Right within the Opt-Out Period shall have forever waived its right to exercise its Limited Opt-Out Right with respect to the Portfolio Investment that is the subject of the applicable Capital Demand Notice. Each Opt-Out Notice shall be accompanied by the opinion or written confirmation called for in Section 3.1(o) above, which opinion or written confirmation shall state in reasonable detail the basis therefor. Upon receipt of any such notification, the General Partner shall give at least 5 days' notice to the nonelecting Limited Partners of the amount of any additional capital that they are required to contribute in order to consummate the proposed investment as to which such Limited Opt-Out Rights have been exercised.

(q) The general partner of an Alternative Investment Vehicle may, in its sole and absolute discretion, determine that all or some of the cash amounts available to that Alternative Investment Vehicle be used to repay amounts owed under one or more of the Partnership's Subscription Facilities. Any such amounts shall be distributed by an Alternative Investment Vehicle to the Partners which are also limited partners of such Alternative Investment Vehicle and immediately deemed contributed to the Partnership by such Partners (such amounts contributed to the Partnership being referred to herein as "Deemed Contributions"). For the avoidance of doubt, Deemed Contributions shall not be treated as Capital Contributions for any purpose except as specifically provided in this Agreement.

(r) Except as otherwise specified herein, the obligation of the Participating Plans to contribute to the Group Trust in respect of the Group Trust's Capital Commitment shall be several and shall be in an amount equal to the proportion of the Unfunded Capital Commitment of the Group Trust that is equal to the sharing percentages of the Participating Plans in the Group Trust as are set forth below the Group Trust's Capital Commitment on Annex A hereto.

3.2 Capital Accounts. (a) The Partnership shall maintain a separate capital account (a "Capital Account") for each Partner, including for all purposes of this Section 3.2, each LTI Limited Partner. Such Capital Account shall be increased by:

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

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

and decreased by:

(i) the amount of cash and the Fair Value of any property distributed (or deemed distributed) to such Partner by the Partnership (net of any Company liabilities assumed by such Partner or that are secured by any such property) pursuant to this Agreement including, without limitation, Tax Advances under Section 4.5 and the Partner's share of payments of the Management Fee under Section 7.3(e), and

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

and otherwise maintained in accordance with Section 704(b) of the Code and Regulation Section 1.704-1(b)(2)(iv).

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

(c) In accordance with Regulation Section 1.704-1(b)(2) (iv)(e), immediately prior to the distribution of any property (other than cash) to a Partner, the Capital Account of each Partner shall be increased or decreased, as the case may be, to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such property (that has not previously been reflected in the Capital Accounts of the Partners) would be allocated among the Partners if there were a taxable disposition of such property for its Fair Value.

(d) Immediately prior to:

(i) a contribution of money or other property (other than a de minimis amount) to the Partnership by a new or existing Partner as consideration for an interest in the Partnership, unless all existing Partners (and no new Partners) make such a contribution pro rata in proportion to their interest in the Partnership;

(ii) a distribution of money or other property (other than a de minimis amount) by the Partnership to a retiring or continuing Partner as consideration for an interest in the Partnership, unless all Partners receive simultaneous distributions of money, or undivided interests in the distributed property, in proportion to their interests in the Partnership; or

(iii) the grant of the LTI Interest (being a grant described in Regulation Section 1.704-1(b)(2)(iv)(f)(5)(iii)),

the Capital Account of each Partner shall be increased or decreased, as the case may be, to reflect the manner in which the unrealized income, gain, loss and deduction inherent in all of the Partnership's property (that has not previously been reflected in the Capital Accounts of the Partners) would be allocated among the Partners if there were a taxable disposition of all such property for its Fair Value and a corresponding distribution of proceeds, all in accordance with Regulation Section 1.704-1(b)(2)(iv)(f). In the case of an event described in Section 3.1(l), such adjustment shall be made pursuant to the provisions of that Section.

(e) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts and allocations to Partners (collectively, the "Allocation Provisions") are intended to comply with Code Section 514(c)(9)(E) and the Regulations thereunder (the "Fractions Rule") and Code Section 704(b) and the Regulations thereunder, and shall be interpreted and applied in a manner consistent with the Fractions Rule. Notwithstanding anything to the contrary in this Agreement, the Allocation Provisions are deemed modified, with effect from the date of this Agreement, to the extent necessary to comply with the Fractions Rule, and without limiting the foregoing, any allocation for a particular year pursuant to the Allocation Provisions that would violate the requirements of the Fractions Rule shall not be made and there shall instead be made (i) allocations for such year consistent with the Fractions Rule, but to the extent consistent with the Fractions Rule such allocations shall deviate as little as possible from the allocations generally provided herein as determined by the General Partner and (ii) adjustments pursuant to Section 3.3(d). Within 30 days after the General Partner's determination that a deemed modification has taken place, the General Partner shall provide written notice of such determination to each Limited Partner.

(f) Notwithstanding anything to the contrary in this Agreement, but subject to the next sentence, the General Partner shall be permitted to make adjustments to the Capital Accounts of the Partners (or any Partner) including, for the avoidance of doubt, the General Partner, if, in connection with the revaluation of Capital Accounts required by Section 3.2(d)(iii) hereof and the modifications in the distributions made pursuant to Section 4.2 hereof (as compared to Section 4.2 of the Fourth Amended and Restated Agreement of Limited Partnership), upon a liquidation of the Partnership immediately after the date hereof and after such revaluation, the Partners (or any Partner) would receive an amount of distributions pursuant to Section 10.3(c) hereof that differs from the amount of distributions the Partners (or any Partner) would have received had the liquidating distributions been made pursuant to Section 4.2 hereof rather than Section 10.3(c) (any such difference, the "Adjustment Amount"). Any adjustments to the Capital Accounts of the Partners pursuant to the preceding sentence shall be as small as possible to eliminate the Adjustment Amount.

3.3 Allocations to the Partners. (a) For each fiscal year, each LTI Limited Partner shall be allocated an amount of Net Income in proportion to and to the extent of the excess (if any) of (I) the LTI Amount that would be available to be distributed for such fiscal year to such LTI Limited Partner if the Distributable Proceeds for such fiscal year were equal to the sum of (x) the cumulative Distributable Proceeds generated during such fiscal year and all prior fiscal years and (y) the amount of Distributable Proceeds that would be generated if the assets of the Partnership (other than cash or cash equivalents) were sold for their Carrying Values at the end of such fiscal year over (II) the cumulative amount of Net Income previously allocated to such LTI Limited Partner pursuant to this sentence for all prior fiscal years (reduced by any subsequent allocation of Net Loss pursuant to the first sentence of Section 3.3(b)). The General Partner's Percentage Interest of remaining Net Income shall be allocated to the General Partner. Each Limited Partner's Percentage Interest of remaining Net Income shall be allocated in the following order and priority:

(i) first, to the extent Net Loss has been allocated to such Limited Partner pursuant to Section 3.3(b)(iv), to such Limited Partner until the cumulative Net Income then and previously allocated to such Limited Partner pursuant to this Section 3.3(a)(i) equals the cumulative Net Loss then and previously allocated to such Limited Partner pursuant to Section 3.3(b)(iv);

(ii) second, to such Limited Partner until the cumulative Net Income then and previously allocated to such Limited Partner pursuant to this Section 3.3(a)(ii) equals the sum of (x) the cumulative Net Loss previously allocated to such Limited Partner pursuant to Section 3.3(b)(iii); (y) the cumulative amount then distributable to such Limited Partner for the current and prior periods (whether or not then distributed and irrespective of the existence of Distributable Proceeds) and previously distributed to such Limited Partner pursuant to Section 4.2(a)(ii) and (z) the cumulative amount distributed to such Limited Partner on or before the due date (not including extensions) for filing the Partnership's federal tax return for the taxable year for which the allocation to such Limited Partner under this Section 3.3(a)(ii) is being made or which has been previously distributed to such Limited Partner pursuant to Sections 4.2(a)(i) or 4.3 to the extent such amounts are attributable to the return of such Limited Partner's allocable share of funded Management Fee payments;

(iii) third, 100% to the General Partner until the cumulative Net Income then and previously allocated with respect to such Limited Partner pursuant to this Section 3.3(a)(iii) equals the sum of (x) the cumulative Net Loss previously allocated with respect to such Limited Partner pursuant to Section 3.3(b)(ii) and (y) the cumulative amount then distributable with respect to such Limited Partner (whether or not then distributed and irrespective of the existence of Distributable Proceeds) and previously distributed with respect to such Limited Partner pursuant to Section 4.2(a)(iii); and

(iv) fourth, (A) 20% to the General Partner and (B) 80% to such Limited Partner.

(b) For each fiscal year, each LTI Limited Partner shall be allocated an amount of Net Loss in proportion to and to the extent of the excess (if any) of (I) the cumulative Net Income

allocated to such LTI Limited Partner pursuant to Section 3.3(a) for all prior fiscal years (reduced by any previous allocations of Net Loss pursuant to this sentence) over (II) the LTI Amount that would be available to be distributed for such fiscal year to such LTI Limited Partner if the Distributable Proceeds for such fiscal year were equal to the sum of (x) the cumulative Distributable Proceeds generated during such fiscal year and all prior fiscal years and (y) the amount of Distributable Proceeds that would be generated if the assets of the Partnership (other than cash or cash equivalents) were sold for their Carrying Values at the end of such fiscal year. The General Partner's Percentage Interest of Net Loss shall be allocated to the General Partner. Each Limited Partner's Percentage Interest of Net Loss shall be allocated in the following order and priority:

(i) first, to the extent Net Income has been allocated with respect to such Limited Partner pursuant to Section 3.3(a)(iv), (A) 20% to the General Partner and (B) 80% to such Limited Partner, until the cumulative Net Loss then and previously allocated with respect to such Limited Partner pursuant to this Section 3.3(b)(i) equals the cumulative Net Income then and previously allocated with respect to such Limited Partner pursuant to Section 3.3(a)(iv)(B);

(ii) second, to the extent Net Income has been allocated with respect to such Limited Partner pursuant to Section 3.3(a)(iii), 100% to the General Partner until the cumulative Net Loss allocated with respect to such Limited Partner pursuant to this Section 3.3(b)(ii) equals the cumulative Net Income then and previously allocated with respect to such Limited Partner pursuant to Section 3.3(a)(iii);

(iii) third, to such Limited Partner until the cumulative Net Loss then and previously allocated to such Limited Partner pursuant to this Section 3.3(b)(iii) equals the cumulative Net Income previously allocated to such Limited Partner pursuant to Section 3.3(a)(ii); and

(iv) fourth, to such Limited Partner.

(c) Notwithstanding anything to the contrary in the other provisions of this Section 3.3:

(i) "nonrecourse deductions" as defined in § 1.704-2 of the Regulations, shall be allocated among all the Partners (including the General Partner) in proportion to their respective Percentage Interests, and, if there is a net decrease in Partnership minimum gain for a Partnership taxable year (as described in § 1.704-2(f) of the Regulations) each Partner will be allocated items of Partnership income and gain for that year equal to its share of the net decrease in Partnership minimum gain (as described in such Regulation). This Section 3.3(c)(i) is intended to be a "minimum gain chargeback" that complies with Regulation Section 1.704-2(f). "Partner nonrecourse deductions" as defined in Section 1.704-2(i) of the Regulations shall be allocated in accordance with that provision, including the chargeback provided therein;

(ii) subject to Section 3.3(c)(i), if a Limited Partner's, including an LTI Limited Partner's, Capital Account has been reduced to zero, Net Loss otherwise allocable to such Limited Partner shall instead be allocated to the General Partner and Net

Income shall thereafter be allocated first to the General Partner until such allocation has been fully offset;

(iii) to the extent required for allocations pursuant to this Section 3.3 to have substantial economic effect, if a Partner, including an LTI Limited Partner, unexpectedly receives an adjustment, allocation or distribution described in subparts (4), (5) or (6) of Regulation Section 1.704-1(b)(2)(ii)(d), it shall be allocated items of income or gain in an amount and manner sufficient to eliminate as quickly as possible any deficit Capital Account balance created for purposes of Regulation Section 1.704-1(b)(2)(ii)(d) by such adjustment, allocation or distribution. This provision is intended to be a "qualified income offset" that complies with Regulation Section 1.704-1(b)(2)(ii)(d);

(iv) any special allocations pursuant to this Section 3.3(c) shall be taken into account in computing subsequent allocations pursuant to this Section 3.3, so that the net amount of any items allocated to each Partner, including each LTI Limited Partner, to the extent possible, will be equal to the net amount that would have been allocated to each Partner, including each LTI Limited Partner, if such special allocations pursuant to this Section 3.3(c) had not occurred, including by allocating Net Income to the General Partner to reverse any allocation pursuant to Section 3.3(c)(i);

(v) any noncash items of Net Income or Net Loss shall be allocated pursuant to Sections 3.3(a) and 3.3(b) as if such noncash items were distributable pursuant to Sections 4.2 or 4.4; and

(vi) Net Income or Net Loss (or items thereof) attributable to the sale or other disposition of all or substantially all of the assets of the Partnership shall be allocated so that, to the extent possible, immediately after such allocation each Partner, including each LTI Limited Partner, has a positive balance in its Capital Account equal to the amount such Partner would be entitled to receive upon the complete dissolution of the Partnership and the distribution of all of its assets to its Partners if liquidating distributions were made pursuant to Section 4.2, valuing each asset of the Partnership other than cash at its Carrying Value for this purpose.

(d) If the Allocation Provisions are modified pursuant to Sections 3.2(e) or 3.3(c), allocations thereunder for subsequent periods shall be adjusted so as to reverse the effect of such modifications on the Capital Accounts of the Partners, including the LTI Limited Partners, as rapidly as possible but without causing this Agreement to fail to comply with the Fractions Rule.

(e) If the Carrying Value of any Partnership asset differs from its adjusted tax basis for U.S. federal income tax purposes, income, gain, loss and deduction with respect to such asset shall be allocated for U.S. federal income tax purposes, as reasonably determined by the General Partner, in accordance with the principles of Section 704(b) and Section 704(c) of the Code so as to take account of the difference between Carrying Value and adjusted basis of such asset; provided, that in the case of any difference between the Carrying Values and adjusted bases of Partnership assets created by reason of the revaluation of Partnership property on the Effective Date, the General Partner shall use the "traditional method" set forth in Treasury Regulations Section 1.704-3(b).

(f) Items of tax expense payable by the Partnership or withheld on income payable, directly or indirectly, to the Partnership shall be included in the computation of Net Income and Net Loss of the Partnership and allocated pursuant to Sections 3.3(a) and 3.3(b); provided that where an item of tax expense payable by the Partnership or any Portfolio Company or where a withholding tax on income or payments to the Partnership or any Portfolio Company is calculated, under applicable law, at different rates or on a different basis with respect to income allocable to some (but not all) of the Partners, including the LTI Limited Partners, such tax expense or withholding shall be allocated to the Partners, including the LTI Limited Partners, as reasonably determined by the General Partner, in a manner which reflects the rate or basis of taxation which is applicable to each such Partner.

3.4 Negative Capital Accounts; General Partner Clawback.

(a) Except as may be required by law (and, in the case of the General Partner, except as provided in Section 3.4(b)(i) and, in the case of the LTI Limited Partners, except as provided in Section 3.4(b)(ii)), no Partner, including an LTI Limited Partner, shall be required to reimburse the Partnership for any negative balance in such Partner's Capital Account; provided that, subject to Sections 3.1(a) and 3.1(j), each Partner shall remain fully liable to make contributions of capital to the extent of such Partner's Unfunded Capital Commitment.

(b) (i) Upon liquidation of the Partnership (and, in the event there is an Investment-Specific Giveback as provided in Section 3.5 occurring after the liquidation of the Partnership, upon such Investment-Specific Giveback), the General Partner will be obligated to contribute to the Partnership an amount with respect to each Limited Partner (and such amount will be distributed to the Limited Partners in proportion to the amounts determined with respect to each Limited Partner pursuant to this Section 3.4(b)) equal to the After-Tax Amount of the excess (such excess, an "Excess Profits Interest"), if any, of the aggregate amount of Profits Interest distributions received by the General Partner with respect to such Limited Partner during the life of the Partnership over 20% of the sum of all distributions to such Limited Partner and the General Partner (with respect to such Limited Partner) pursuant to Sections 4.2(a)(i), 4.2(a)(ii), 4.2(a)(iii) and 4.2(a)(iv) and in excess of such Limited Partner's aggregate Capital Contributions and Management Fees paid directly or indirectly by such Limited Partner to the Investment Advisor, the Former Investment Advisor or their designated Affiliates, as the case may be (including all comparable amounts distributed to such Partners pursuant to Section 10.3). For purposes of this Agreement, the "After-Tax Amount" of an Excess Profits Interest with respect to a Limited Partner shall mean the amount of such Excess Profits Interest as reduced by the amount of income tax deemed imposed on the General Partner or its partners or beneficial owners with respect to allocations of taxable income attributable to such Excess Profits Interest (calculated using a deemed rate of 45%) without considering the effects of any deductions, offsets or credits that may be available to the General Partner or its partners or beneficial owners from other sources.

(ii) Upon liquidation of the Partnership, each LTI Limited Partner shall be obligated to contribute to the Partnership an amount equal to the excess, if any, of (A) the sum of (I) the aggregate amount of the LTI Amount actually received by such LTI Limited Partner under Section 4.2(b) (without taking into account any amounts treated as distributions pursuant to the last sentence of Section 4.5(c)) and (II) without duplication for amounts described in

clause (I), the aggregate amount of Tax Distributions received by such LTI Limited Partner on account of allocations made in respect of Section 4.2(b) over (B) the sum of all distributions such LTI Limited Partner would have been entitled to receive pursuant to Section 4.2(b) (without regard to Section 4.5(c)). Each amount so contributed shall be distributed to the Limited Partners in proportion to the amounts distributed to the Limited Partners pursuant to Section 4.2(a).

3.5 Limited Partner Giveback.

(a) To the extent any obligations or liabilities for which the Partnership is or would be otherwise legally responsible arise from the sale or other disposition of any Portfolio Investment or its underlying assets (the aggregate amount of such obligations and liabilities, an "Investment-Specific Liability"), the General Partner shall use good faith efforts to set aside adequate reserves for any such Investment-Specific Liability and may, in its sole discretion, upon not less than ten (10) Business Days' notice, require each Partner (including, without limitation, any former Partner) having an interest in such Portfolio Investment to return any distributions made to such Partner or former Partner (or any of its predecessors in interest) (an "Investment-Specific Giveback") in a manner that seeks, to the extent practicable, to reverse the waterfall distributions pursuant to Section 4.2 (or Section 10.3, as applicable). The amount of such Investment-Specific Giveback shall not exceed the product of (A) the percentage of the Distributable Proceeds distributed to such Partner or former Partner with respect to such Portfolio Investment (the "Distributed Proceeds") and (B) the lesser of (i) the Distributed Proceeds with respect to such Portfolio Investment and (ii) such Investment-Specific Liability.

(b) No Partner shall be required to return any particular distribution made to such Partner for the purpose of meeting the Partnership's obligations with respect to an Investment-Specific Liability:

(i) after the third anniversary of the date of such distribution; provided that if at the end of such period, there are any proceedings (including, without limitation, arbitration) then pending or any other liability or claim then outstanding that the General Partner is otherwise seeking to settle on behalf of the Partnership, the General Partner may, in its sole discretion, notify the Limited Partners at such time that such proceeding or settlement discussions may require an Investment Specific Giveback (which notice shall include a brief description of each such proceeding (and of the liabilities asserted in such proceeding) or of such liabilities and claims), and the obligation of the Partners to return all or any portion of such distribution (as specified in such notice) for the purpose of meeting the Partnership's obligations shall survive with respect to each such proceeding, liability and claim set forth in such notice until the date that such proceeding, liability or claim is ultimately resolved and satisfied; or

(ii) to the extent such contribution or payment, when combined with all prior contributions and payments of any Investment-Specific Giveback would exceed 25% of the Capital Commitment of such Partner.

The provisions of this Section 3.5 shall not affect the obligations of the Limited Partners under Section 17-607 of the Act or other applicable law.

(c) The obligations set forth in this Section 3.5 shall survive the liquidation and termination of the Partnership, but only to the extent that the General Partner has notified the Limited Partners of the related proceeding, actual liability or written claim prior to the termination of the Partnership. If the Partners are required to return amounts to the Partnership pursuant to this Section 3.5 after the termination of the Partnership, such amounts shall be paid by the Partners as directed by the General Partner.

(d) Without limiting any of the other limitations on a Partner's obligations pursuant to this Section 3.5, in the event that a Partner defaults with respect to any Investment-Specific Giveback, such Partner shall be a Defaulting Partner under Section 9.7.

(e) Any amounts returned to the Partnership by a Partner pursuant to Section 3.5(b) shall reduce the amount of distributions such Partner is deemed to have received (as of the date of such Investment-Specific Giveback) for all purposes hereof.

(f) In the case of any Limited Partner that is an agency or instrumentality of a state, if a provision of this Section 3.5 is inconsistent with the constitution or any other law of such state, then such Limited Partner and the General Partner shall enter into alternative arrangements regarding such provision so that the economic benefits of the Partnership to such Limited Partner are not materially more favorable to such Limited Partner than the economic benefits received or to be received by Limited Partners generally (as determined by the General Partner in good faith).

ARTICLE IV

Distributions

4.1 Withdrawal of Capital. Except as otherwise expressly provided herein, no Partner shall have the right to withdraw capital from the Partnership or to receive any distribution or return of its Capital Contribution. Distributions of Partnership assets that are provided for in this Agreement shall be made only to Persons who, according to the books and records of the Partnership, are the holders of record of interests in the Partnership on the date determined by the General Partner as of which the Partners are entitled to any such distributions.

4.2 Cash Distributions. (a) Subject to Section 4.2(b) hereof and Section 4(e) of the Investment Advisory Agreement, from and after the Final Closing, Distributable Proceeds shall be distributed on at least an annual basis (but in no event shall any Distributable Proceeds be required to be distributed sooner than 30 days after the Partnership's receipt thereof). Distributable Proceeds shall initially be apportioned among the Partners (not including the LTI Limited Partners) in proportion to their Percentage Interests. The amount apportioned to the General Partner shall be distributed to the General Partner, and the amount apportioned to each Limited Partner shall be distributed to such Limited Partner and the General Partner as follows:

(i) Return of Capital.

First, 100% to such Limited Partner until such Limited Partner shall have received cumulative distributions pursuant to this Section 4.2(a)(i) equal to (A) the aggregate amount of Capital Contributions of such Limited Partner and (B) the

aggregate amount of Management Fees paid directly or indirectly by such Limited Partner to the Former Investment Advisor or the Investment Advisor, as the case may be; then

(ii) Priority Return.

Second, 100% to such Limited Partner until the cumulative distributions to such Limited Partner pursuant to this Section 4.2(a) (other than amounts distributed pursuant to clause (i) above) equal a Priority Return on (A) the aggregate amount of Capital Contributions of such Limited Partner and (B) the aggregate amount of Management Fees paid directly or indirectly by such Limited Partner to the Former Investment Advisor or the Investment Advisor, as the case may be; then

(iii) GP Catch-up.

Third, 100% to the General Partner, until the General Partner shall have received pursuant to this Section 4.2(a)(iii) and Section 4.2(a)(iv)(B) cumulative amounts equal to 20% of the cumulative amounts distributed pursuant to this Section 4.2(a) (other than amounts distributed pursuant to clause (i) above); and then

(iv) Additional Distribution to Partners.

Fourth, (A) 80% to such Limited Partner and (B) 20% to the General Partner;

provided, however, that notwithstanding anything in this Section 4.2(a) to the contrary, Profits Interest distributions after the date hereof distributed to the General Partner with respect to each Limited Partner shall be reduced (but not below zero) to the Maximum Amount and the amount by which any Profits Interest distribution is reduced shall instead be paid to the applicable Limited Partner. The "Maximum Amount" shall equal the excess of (x) the Original Calculation over (y) such Limited Partner's Percentage Interest multiplied by the sum of (A) the LTI Amount distributed to the LTI Limited Partners and (B) the Contingent Disposition Fees paid to the Investment Advisor, the General Partner and/or their respective Affiliates. The "Original Calculation" shall equal, with respect to each Limited Partner, the amount of Profits Interest distributions the General Partner would have received with respect to such Limited Partner if no LTI Amount or Contingent Disposition Fee had been distributed or paid to any Person. For illustration purposes only, if the Original Calculation is $10, a Limited Partner's share of the LTI Amount is $1 and its share of the Contingent Disposition Fee is $1, then the Maximum Amount would equal $8. Notwithstanding anything herein to the contrary, for purposes of calculating Management Fees pursuant to Section 7.3(a), at any date, Capital Contributions with respect to a specific Portfolio Investment shall be deemed "returned" only from (x) Distributable Proceeds arising from such Portfolio Investment and (y) if Distributable Proceeds arising from such Portfolio Investment are insufficient to return Capital Contributions with respect to such Portfolio Investment, Distributable Proceeds arising after the disposition of such Portfolio Investment from all other Portfolio Investments that have not been applied to "return" Capital Contributions from any other Portfolio Investment. In addition, the General Partner shall adjust the calculation of Management Fees to reflect the unreturned Capital Contributions relating to Excluded Portfolio Investments as follows: to the extent that there has not been a full return or

deemed return of Capital Contributions with respect to Excluded Portfolio Investments pursuant to clauses (x) and/or (y) above, such unreturned Capital Contributions with respect to Excluded Portfolio Investments, in the aggregate, shall be deemed to have been further "returned" in an amount equal to the excess (if any) of (A) the unreturned Capital Contributions for the Excluded Portfolio Investments as determined under clauses (x) and (y), over (B) total distributions made to Limited Partners pursuant to Sections 4.2(a)(ii), 4.2(a)(iii) and 4.2(a)(iv) (including in prior versions of this Agreement) arising from all other Portfolio Investments from the inception of the Partnership and pursuant to Section 4.2(a)(i) to the extent that such distributions have not been applied to "return" Capital Contributions pursuant to clauses (x) and/or (y) above.

(b) Notwithstanding anything in this Section 4.2 to the contrary, but subject to Section 4(e) of the Investment Advisory Agreement, from and after satisfaction of the LTI Condition, (i) the LTI Amount shall be distributed to each LTI Limited Partner pro rata in accordance with their respective LTI Percentages; and (ii) thereafter, Distributable Proceeds shall be apportioned among the Partners (other than the LTI Limited Partners) and distributed in accordance with this Section 4.2.

(c) Notwithstanding any provision of this Article IV, all amounts distributed in connection with the dissolution of the Partnership or the sale or other disposition of all or substantially all the assets of the Partnership that leads to a dissolution of the Partnership will be distributed to the Partners, including each LTI Limited Partner, in accordance with Section 10.3.

(d) Pending distribution, funds held by the Partnership that are required to be distributed pursuant to this Section 4.2 shall be invested in Permitted Temporary Investments to the extent practicable.

(e) The Priority Return shall accrue on Capital Contributions and Management Fees from the later of (i) the date such funds are received by the Partnership (or the Former Investment Advisor or the Investment Advisor, as the case may be) and (ii) the date such funds are due to be received by the Partnership (or the Former Investment Advisor or the Investment Advisor, as the case may be) to the date such amounts are repaid to such Partner (whether pursuant to Section 4.2(a)(i) or otherwise).

(f) During and after the Commitment Period, Distributable Proceeds from a Portfolio Investment may be reinvested by the General Partner in existing Portfolio Investments and used to pay any Operating Expenses and to repay any Subscription Facilities.

4.3 Distributions of Income from Permitted Temporary Investments and Other Income. (a) Any receipts or other revenues of the Partnership (excluding Capital Contributions) not included in Distributable Proceeds, including, without limitation, the Net Income of the Partnership, if any, from Permitted Temporary Investments, may be applied by the General Partner to pay or reserve for the payment in accordance with Article VII, of Operating Expenses, Management Fees or Organizational Expenses or to repay any amounts owing under any Subscription Facility. Any balance shall be distributed annually, or in the discretion of the General Partner more frequently, in accordance with Section 4.2(a), as if such amounts constituted a return of capital or a Priority Return in respect of a Liquidated Portfolio Investment, with any excess being distributed under clauses (iii) and (iv) of Section 4.2(a).

(b) The General Partner may, in its sole and absolute discretion, determine that all or some of amounts drawn from the Partnership's Subscription Facilities shall be distributed by the Partnership to the Partners which are also limited partners of one or more Alternative Investment Vehicle and immediately deemed contributed to such Alternative Investment Vehicles (such amounts distributed to the Partners being referred to herein as "Deemed Distributions"). For the avoidance of doubt, Deemed Distributions shall not be treated as distributions for any purpose except as specifically provided in this Agreement.

4.4 Distributions in Kind. (a) Distributions pursuant to this Article IV may be made in cash or in Marketable Securities at the discretion of the General Partner. In addition, the Partnership may only distribute any other securities or property in kind (i) upon dissolution and winding up of the Partnership, (ii) in connection with the withdrawal of a Partner, (iii) with the consent of a majority in Interest of Fund Partners, (iv) with respect to any Partner, with such Partner's consent, or (v) if the securities or other property being distributed constitute ownership interests in an Alternative Investment Vehicle. It is intended that all distributions will be made in a manner that is consistent with the Fractions Rule. In connection with any distribution of Marketable Securities pursuant to this Article IV prior to the dissolution and winding up of the Partnership, each Partner may elect to have the General Partner dispose of, on behalf of such Partner, all or any portion of such Marketable Securities that otherwise would have been distributed to such Partner and to pay to such Partner instead the net cash proceeds from such disposition (a "Cash Disposition") in accordance with the following rules:

(i) the General Partner shall give at least 15 days' prior notice of any proposed distribution of Marketable Securities pursuant to this Section 4.4 and the intended timing of such proposed distribution;

(ii) such Partner shall be deemed to have made the election that is specified as the "default" election in the notice delivered by the General Partner pursuant to the preceding clause (i) unless the General Partner shall have received written notice to the contrary from such Partner at least 10 days prior to the date of distribution;

(iii) any gain or loss recognized upon a Cash Disposition of such Marketable Securities shall be treated for all purposes (including income tax purposes) as recognized directly by such Limited Partner outside of the Partnership and such Limited Partner shall bear all of the expenses (including, without limitation, underwriting costs and brokerage commissions) of such disposition;

(iv) in connection with a Cash Disposition, for purposes of determining Capital Accounts and distributions pursuant to Article IV, the Marketable Securities shall be deemed to have been distributed in kind at a value equal to their Fair Value;

(v) the General Partner may reasonably require that, as a condition to the disposition of Marketable Securities pursuant to this Section 4.4(a), each electing Partner shall make any necessary or desirable representations, warranties and covenants as the General Partner shall determine; and

(vi) any disposition of Marketable Securities pursuant to this Section 4.4 may be executed on an arm's-length basis through Lehman Brothers or any other broker-dealer selected by the General Partner.

(b) Except as provided in this Section 4.4, distributions consisting of both cash and Marketable Securities shall be made, to the extent practicable, in equal proportions of cash and such Marketable Securities as to each Partner receiving such distributions.

(c) Except as otherwise provided in this Agreement, assets distributed in kind shall be deemed to have been sold for cash for their Fair Value. Upon the making of a distribution in kind, the Capital Accounts of the Partners receiving such distribution shall be reduced by the Fair Value of the property distributed.

(d) The General Partner may reasonably require that, as a condition to the receipt by any Partner of a distribution in kind of Marketable Securities pursuant to this Section 4.4, such Partner shall make any necessary or desirable representations, warranties and covenants (including voting agreements) as the General Partner shall determine.

(e) Notwithstanding anything else to the contrary contained in this Agreement, for the purposes of this Section 4.4, the terms "Partner" and "Limited Partner" shall include each LTI Limited Partner.

4.5 Tax Advances and Distributions. (a) To the extent the Partnership or any of its subsidiaries is required by the law of any federal, state, local or foreign jurisdiction to withhold or to make tax payments on behalf of or with respect to any Partner ("Tax Advances"), the General Partner may withhold such amounts and make such tax payments as so required. All Tax Advances made on behalf of a Partner shall, at the option of the General Partner, be promptly paid to the Partnership by the Partner on whose behalf such Tax Advances were made or be repaid by reducing the amount of the current or next succeeding distribution or distributions that would otherwise have been made to such Partner or, if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Partner; provided that if the amount of the next succeeding distribution or distributions or proceeds of liquidation is reduced, such amount shall include an amount to cover interest on the Tax Advance at the lesser of (i) the rate of 10% per annum and (ii) the maximum rate permitted by applicable law. Whenever the General Partner makes such a reduction of the proceeds payable to a Partner pursuant to the preceding sentence for repayment of a Tax Advance by such Partner, for all other purposes of this Agreement such Partner may be treated as having received all distributions (whether before or upon liquidation) unreduced by the amount of such Tax Advance. Each Partner does hereby agree to indemnify and hold harmless the Partnership and the General Partner from and against any liability with respect to Tax Advances required on behalf of or with respect to such Partner.

(b) (i) In the event that the Partnership has a direct or indirect interest in real property located in France, each Partner may be subject to an annual French real property tax on the Partner's interest in such Portfolio Investment, unless such Partner can establish an exemption from, or exception to, such tax. Under current tax law, the amount of French real property tax for which a Partner may be liable is determined by the rate imposed on the gross fair

market value of the Portfolio Investment located in France (which is currently imposed at a rate of 3% of such gross fair market value).

(ii) Any failure by a Partner to file the necessary tax returns and pay such tax each year when due or to establish an exemption from, or exception to, such tax each year and file the necessary tax returns and documents required to benefit from such exemption, could cause the Partnership to be liable for the amount of such unpaid tax. Therefore, (A) each Partner must provide any and all information concerning such Partner to the Partnership on or before April 1 of each year that is necessary or required for the Partnership to either (1) prepare and file the relevant French real property tax returns each year on behalf of such Partner, or (2) establish an exemption from, or an exception to, such tax each year on behalf of such Partner and file the necessary tax returns and documents required to benefit from such exemption; (B) the General Partner or its appointed tax preparation provider will prepare and file such tax returns and/or exemptions/exceptions each year on behalf of each Partner; (C) the Partnership will pay to the appropriate French taxing authority any French real property tax shown as due and owing on any such tax returns each year on behalf of the relevant Partner(s) (the "French Tax Advances") in accordance with the provisions of Section 4.5(a) above; and (D) the Partnership will forward a copy of the receipt or other evidence of the payment of such tax to the Partner(s) on whose behalf the tax was paid. Whenever the General Partner makes such a reduction of the proceeds payable to a Partner pursuant to the preceding sentence for repayment of a French Tax Advance by such Partner, for all other purposes of this Agreement such Partner may be treated as having received all distributions (whether before or upon liquidation) unreduced by the amount of such French Tax Advance. Each Partner does hereby agree to indemnify and hold harmless the Partnership and the General Partner from and against any liability with respect to French Tax Advances required on behalf of or with respect to such Partner.

(iii) If any Partner fails to provide the information described in Section 4.5(b)(ii) above, then: (A) the Partnership will withhold an amount equal to the product of (x) the relevant Partner's allocable share of the gross fair market value of the French Portfolio Investments owned, directly or indirectly, by the Partnership as of January 1st of the relevant year, and (y) the applicable rate of the French real property tax for such year; (B) the Partnership will place such amount in an escrow account in the name of such Partner; (C) for purposes of this Agreement, such amount will be treated as having been distributed to such Partner pursuant to Section 4.2 of this Agreement; and (D) none of the amounts held in an escrow account in the name of a Partner will be released or distributed to such Partner until that Partner has supplied the information described in Section 4.5(b)(ii) above, or has otherwise established, to the satisfaction of the General Partner (or its appointed tax preparation provider), that such Partner is exempt from French real property tax for all of the years in question. The provisions of this Section 4.5(b)(iii) will also apply where the French tax authorities would assess the French real property tax owed by a Partner and where such assessed French real property tax would be effectively paid by the Partnership or one of its Portfolio Companies, subsidiaries or Affiliates pursuant to the joint liability mechanism set forth in the French tax code with respect to the French real property tax.

(iv) If the Partnership is liquidated prior to the time that a Partner provides the information described in Section 4.5(b)(ii) above, then any amounts in an escrow account in the name of a Partner that have not been distributed to the Partner will be forfeited by such Partner and all such amounts will become the property of, and will be distributed to, the General Partner.

(v) Upon notice to the Partners, the General Partner is authorized to unilaterally amend this Section 4.5(b), without the consent of any other Partner, to establish comparable provisions, with respect to any similar real property taxation in other jurisdictions in which the Partnership has a direct or indirect interest in real property.

(vi) It is understood and agreed that the provisions of this Section 4.5(b) are being implemented in a manner that does not disproportionately alter the interest of a Limited Partner in allocations under Section 3.3 or in distributions under Section 4.2, in light of the fact that Sections 4.5(a) and 3.3(f) permit the types of withholding and allocations resulting from the French 3% tax that are more fully addressed by this Section 4.5(b).

(c) Notwithstanding Section 4.2(a):

(i) the General Partner may receive a cash advance against distributions to be paid pursuant to Sections 4.2(a)(iii) and 4.2(a)(iv) to the extent that annual distributions actually received by the General Partner under this Agreement are not sufficient for the General Partner or any of its respective partners or beneficial owners (whether such interests are held directly or indirectly) to pay when due any income tax imposed on it or its partners or beneficial owners with respect to allocations of income pursuant to Sections 3.3(a)(iii) and 3.3(a)(iv), calculated using a deemed rate of 45% (a "GP Tax Distribution");

(ii) the LTI Limited Partners may receive a cash advance against distributions to be paid pursuant to Section 4.2(b) to the extent that annual distributions actually received by the LTI Limited Partners under this Agreement are not sufficient for the LTI Limited Partners or any of their respective partners or beneficial owners (whether such interests are held directly or indirectly) to pay when due any income tax imposed on it or its partners or beneficial owners with respect to allocations of net taxable income under this Agreement (in respect of the LTI Limited Partners' entitlements under Section 4.2(b)), calculated using a deemed rate of 45% (an "LTI Tax Distribution," and each of a GP Tax Distribution and an LTI Tax Distribution, a "Tax Distribution"); and

(iii) amounts distributed pursuant to this Section 4.5(c) shall be treated as distributions for purposes of Section 4.2 and shall reduce subsequent distributions to the General Partner or the LTI Limited Partners, as applicable, under Section 4.2.

(d) Notwithstanding anything else to the contrary contained in this Agreement, for the purposes of this Section 4.5, the terms "Partner" and "Limited Partner" shall include the LTI Limited Partners.

4.6 Final Distribution. The Final Distribution shall be made in accordance with Section 10.3.

4.7 General Distribution Provisions. (a) For purposes of Sections 4.2 and 4.4, to the extent that the General Partner determines to realize or realizes upon a Portfolio Investment through the payment of an extraordinary dividend, refinancing, recapitalization, merger or other restructuring transaction in lieu of a disposition, then the General Partner in its good faith discretion shall decide what portion, if any, of such Portfolio Investment shall be deemed to be disposed of in a Capital Transaction.

(b) Any cash distribution to the Partners, including the LTI Limited Partners, pursuant to Sections 4.2, 4.3, 4.4, 4.5 or 10.3 shall be made in United States dollars.

(c) Transactions in which the Partnership receives Marketable Securities of a public company in exchange for a Portfolio Investment shall be treated as Capital Transactions for purposes of this Agreement only if such Marketable Securities are distributed pursuant to Section 4.4 hereof; otherwise such transactions shall not be treated as Capital Transactions for purposes of this Agreement.

(d) Notwithstanding anything to the contrary contained herein, any distributions made to a Limited Partner pursuant to Section 4.2(a)(i) hereof prior to the Expiration Date shall increase dollar for dollar such Limited Partner's Unfunded Capital Commitment up to an amount equal to such Limited Partner's Capital Commitment.

(e) Notwithstanding anything to the contrary contained in this Article IV, in no event shall the General Partner be under any obligation to make any distributions with respect to amounts that do not exceed $5,000,000 in the aggregate (except in the Final Distribution).

(f) In connection with any proposed Capital Transaction of a Portfolio Investment which involves a sale of such Portfolio Investment pursuant to a public offering, Rule 144A or otherwise to a diverse group of buyers, the General Partner may elect to cause the Partnership to segregate solely for the account of the General Partner and, either concurrently with such Capital Transaction or as soon thereafter as practicable, distribute in kind to the General Partner all or any portion of such Portfolio Investment, the Disposition Proceeds from which would otherwise be distributed to the General Partner pursuant to Section 4.2 (and may cause the Lehman Side-by-Side Investment to take similar action).

(g) Notwithstanding anything to the contrary contained herein, to the extent the Partnership or any Portfolio Company shall have paid or incurred any non-U.S. tax in connection with any amounts distributed to the Partners, including the LTI Limited Partners, pursuant to this Article IV, the amount of such non-U.S. tax paid or incurred (or, in the case of any Portfolio Company, the proportionate amount of such tax paid or incurred attributable to the Partnership's ownership of such Portfolio Company) shall be deemed to have been distributed in accordance with the terms of Article IV at the same time as the aforesaid amounts are paid or incurred.

(h) Notwithstanding anything to the contrary contained herein, items of tax expense or withholding that are specially allocated to a Partner, including an LTI Limited Partner, pursuant

to the proviso in Section 3.3(f) shall reduce the amount distributable to such Partner pursuant to Section 4.2.

(i) Notwithstanding anything to the contrary contained herein, distributions shall only be made with respect to a Partner, including an LTI Limited Partner, after the General Partner is satisfied that all federal, state, local, foreign and other withholding and reporting requirements with respect to such Partner have been met or are being met in the ordinary course.

4.8 Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Partnership and the General Partner on behalf of the Partnership shall not make a distribution to any Partner, including any LTI Limited Partner, on account of its interest in the Partnership if such distribution would violate Section 17-607 of the Act or other applicable law.

4.9 Unacceptable Investors. If the General Partner determines that a Partner is an Unacceptable Investor, the General Partner may freeze the Partner's distributions and limited partnership interests, remove the Partner from the Partnership upon terms deemed appropriate by the General Partner in its sole discretion and take such other actions as may be desirable or necessary to comply with applicable law.

ARTICLE V

Investment Criteria

5.1 Investment Criteria. (a) The General Partner on behalf of the Partnership is authorized to make investments in accordance with the investment criteria contained in this Section 5.1 and the provisions of Section 2.4.

(b) The investment objective of the Partnership shall be to achieve superior returns by making investments in Real Estate Assets, Portfolio Companies and in service companies ancillary to the real estate industry. In addition, at such time as the funds of the Partnership are not invested in Portfolio Investments, distributed to the Partners or applied towards the expenses of the Partnership, the General Partner on behalf of the Partnership may invest such funds in Permitted Temporary Investments (all of the types of investments in which the Partnership is so authorized to invest under this Article V are referred to herein as "Authorized Investments").

(c) The Partnership shall not invest more than 25% of the aggregate Capital Commitments of all Partners in any one Portfolio Investment unless the General Partner plans to divest such portion of the Portfolio Investment within 12 months to satisfy this 25% limitation, in which case the amount invested in such Portfolio Investment may not exceed 35% of the aggregate Capital Commitments of all Partners; provided, however, that the foregoing limitation shall not be deemed to prohibit or to be violated by the merger of two or more Portfolio Companies, the acquisition of a Portfolio Investment by a separate Portfolio Company or any other similar combination of two or more Portfolio Investments; provided, further, that this restriction may be waived by a majority in Interest of the Limited Partners or the Investor Advisory Committee and may not apply to certain Parallel Funds.

(d) The Partnership shall not acquire a Portfolio Investment if immediately thereafter the Partnership's equity investment in Authorized Investments located outside of North America, Europe or Asia would exceed 10% of the aggregate Capital Commitments; provided that this restriction may be waived by a majority in Interest of the Limited Partners or the Investor Advisory Committee and may not apply to certain Parallel Funds.

5.2 Leverage Limitation. The Partnership (including investment vehicles of the Partnership) shall be permitted to finance any Portfolio Investment with debt, refinance any Portfolio Investment with debt, guarantee any Portfolio Investment's debt or incur other debt that is not used to finance the acquisition of Portfolio Investments; provided, however, the General Partner shall use commercially reasonable efforts to ensure that the Partnership's (together with the Parallel Funds' and the Lehman Side-by-Side Investment's) outstanding indebtedness for borrowed money (determined in accordance with GAAP) (excluding the Subscription Facility) shall not at the end of the Commitment Period exceed sixty-five percent (65%) of the aggregate Fair Value of the Portfolio Investments taken as a whole as determined by the General Partner in its sole discretion (the "Leverage Threshold"). Notwithstanding the foregoing limitation, the General Partner shall have the authority to cause the Partnership and the Portfolio Investments to incur indebtedness in excess of the Leverage Threshold in the event of inadvertence or if the General Partner determines that such incurrence is in the best interest of the Partnership. Any Partnership indebtedness in excess of the Leverage Threshold shall remain a Partnership obligation enforceable against the Partnership.

5.3 Subscription Facility. (a) The Partnership is authorized to enter into one or more credit facilities (each, a "Subscription Facility") to pay expenses and fees, make deposits and finance the acquisition and ownership of Portfolio Investments in lieu of, in advance of, or contemporaneously with, Capital Contributions and to otherwise carry out the business and activities permitted hereunder. Such Subscription Facilities may be secured by (x) a pledge by the Partnership of all or a portion of the aggregate Unfunded Capital Commitments of all Partners and by a pledge by the Partnership of the Partners' pledges set forth in Section 9.7(g) 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 Capital Demand Notices and enforce all remedies against Partners that fail to fund their respective Unfunded Capital Commitments pursuant thereto and in accordance with the terms hereof. The Partnership may participate in, guarantee and borrow funds under the Subscription Facility together with one or more of the Parallel Funds and the Lehman Side-by-Side Investment on any basis that the General Partner determines is fair and reasonable to the Partnership.

(b) Each Limited Partner understands, acknowledges and agrees, in connection with any such Subscription Facility and for the benefit of any third party lender thereunder, (i) to the extent publicly available, the General Partner may from time to time request the delivery within 90 days after the end of such Limited Partner's fiscal year, a copy of such Limited Partner's annual report, if available, or such Limited Partner's balance sheet as of the end of such fiscal year and the related statements of operations for such fiscal year prepared or reviewed by independent public accountants in connection with such Limited Partner's annual reporting requirements; (ii) that the General Partner may from time to time request a certificate confirming (x) the remaining amount of such Limited Partner's Unfunded Capital Commitment and/or (y) that the Limited Partner has not and will not, other than as set forth in Section 9.7, pledge,

collaterally assign, encumber or otherwise grant a security interest in its limited partnership interest in the Fund; (iii) that such Limited Partner's obligation to fund its Unfunded Capital Commitment is without defense, counterclaim or offset of any kind; and (iv) to make such other representations and deliver such documents as the General Partner and the third-party lender may reasonably request. Each Limited Partner agrees to comply with such requests. Each Limited Partner further agrees to deliver, upon the request of the General Partner or third-party lender, an opinion of counsel (or appropriate corporate or similar resolution authorizing such Limited Partner's investment in the Fund) to the effect that such Limited Partner's Subscription Agreement and the Commitment set forth therein to fund the Fund is valid and binding.

5.4 ERISA Matters.

(a) The General Partner shall use its best efforts to conduct the affairs and operations of the Partnership in such a manner that the Partnership will qualify as a VCOC for the entire period beginning on or before the date on which the first Capital Contribution is received from any ERISA Partner and ending on the last date on which any such ERISA Partner is a Limited Partner.

(b) Each Limited Partner that is or will be an ERISA Partner on the Closing Date when it is admitted to the Partnership shall so notify the General Partner at or prior to such Closing Date and each Limited Partner that, at any time while it remains a Limited Partner, becomes an ERISA Partner shall promptly so notify the General Partner.

(c) The General Partner will notify each ERISA Partner in writing as soon as the General Partner has reason to believe that the Partnership may not qualify as a VCOC.

(d) Should the General Partner provide the notification described in clause (c) above, or an ERISA Partner provide an opinion of counsel to the General Partner (which opinion and counsel are reasonably satisfactory to the General Partner) that the ERISA Partner's holding of an interest in the Partnership would constitute or cause a violation of ERISA then notwithstanding the first sentence of Section 9.3, the General Partner shall consent to the transfer of such ERISA Partner's interest, and the General Partner will provide reasonable assistance to such ERISA Partner in effecting the transfer. Should the General Partner provide the notification described in clause (c) above, or should an ERISA Partner provide an opinion of counsel to the General Partner (which opinion and counsel are reasonably satisfactory to the General Partner) that the Partnership holds "plan assets" of such ERISA Partner, then the General Partner or a majority in Interest of the ERISA Partners may elect, upon delivery of such notification or opinion, to liquidate the Partnership as soon as reasonably practicable, taking into account the need to preserve the Partnership's assets.

ARTICLE VI

Management

6.1 Relationship Among the General Partner, the Investment Advisor and the Limited Partners. (a) The management, operation and control of the Partnership and its business and the formulation of investment policy shall be vested exclusively in the General Partner. The General

Partner shall, in its sole discretion, exercise all powers necessary and convenient for the purposes of the Partnership, on behalf and in the name of the Partnership, including, without limitation, the matters specified in Section 2.4 and, in particular, with respect to the delegation of any of its powers pursuant to Section 2.4(v). The General Partner is designated, and is specifically authorized to act as, the "tax matters partner" under the Code and in any similar capacity under state, local or non-U.S. law. As the tax matters partner, the General Partner will file federal income tax returns for the Partnership. Notwithstanding anything to the contrary contained herein, the acts of the General Partner in carrying on the business of the Partnership as authorized herein shall bind the Partnership.

(b) Subject to the disclosure and reporting requirements contained in Article VIII, the General Partner may keep confidential from the Limited Partners any information known by the General Partner relating to Portfolio Investments made by the Partnership or Authorized Investments being considered by the Partnership, including, without limitation, information relating to Portfolio Companies in which the Partnership is considering making an investment if the General Partner believes in good faith that disclosure of such information is reasonably likely to have a material adverse effect on the Partnership or any of the Portfolio Investments or could result in a violation of applicable law or breach of contract.

(c) The Partnership and the Investment Advisor will enter into an agreement substantially in the form attached hereto as Annex C (the "Investment Advisory Agreement") pursuant to which the Investment Advisor will provide certain services to the Partnership, including the origination and evaluation of investment opportunities, the structuring of investment transactions, investment recommendations, investment monitoring and advice on investment realizations. The Investment Advisor will not make investment decisions on behalf of the Partnership. The Investment Advisor may appoint sub-advisors which will be compensated by the Investment Advisor at no cost to the Partnership. It is further understood and agreed that whenever any action is required to be taken or consent required to be given by the General Partner pursuant to the terms of this Agreement, to the extent of such delegation, any such action may be performed on its behalf by the Investment Advisor, and any such consent may be granted by the Investment Advisor.

(d) A Limited Partner, including any LTI Limited Partner (in its capacity as an LTI Limited Partner), shall have no right to, and shall not, participate in the management or control of the Partnership's business or act for or bind the Partnership, and shall only have the rights and powers granted to Limited Partners in this Agreement or the Act, including representation (if applicable) on the Investor Advisory Committee.

(e) Any and all rights, including voting rights, pertaining to any Portfolio Investments shall be vested exclusively in the Partnership and may be exercised only by the General Partner acting in accordance with the terms of this Agreement, and no Limited Partner, including an LTI Limited Partner, either alone or acting with one or more other Limited Partners shall have any such rights with respect to such Portfolio Investments.

6.2 Liability of the Limited Partners. Except for the obligations under this Agreement and under the Subscription Agreements, including the obligations to make Capital Contributions pursuant to Section 3.1, the liability of the Limited Partners, including the LTI Limited Partners,

shall be limited to the maximum extent permitted by the Act. In no event shall the Limited Partners be obligated to make Capital Contributions in excess of their respective Unfunded Capital Commitments and, in the case of the LTI Limited Partners, in excess of such LTI Limited Partner's Adjusted Amount. Losses and expenses incurred by the Partnership during any fiscal year shall be allocated among the Partners, including the LTI Limited Partners, in accordance with the procedures for allocating losses set forth in Section 3.3 hereof. If a Limited Partner is required under the Act to return to the Partnership or pay, for the benefit of creditors of the Partnership, amounts previously distributed to such Limited Partner, the obligation of such Limited Partner to return or pay any such amount to the Partnership shall be the obligation of such Limited Partner and not the obligation of the General Partner.

6.3 Investment Company Act; Advisers Act. The Partnership is being formed in such fashion as to be exempt from registration under the Investment Company Act and in such a fashion as to make the General Partner exempt from registration under the Advisers Act. If changing laws, regulations and interpretations or other facts and circumstances make it necessary or advisable to register the Partnership under the Investment Company Act or to register the General Partner under the Advisers Act, the General Partner shall have the power to take such action as it may reasonably deem advisable in light of such changing regulatory conditions in order to permit the Partnership to continue in existence and to carry on its activities as provided for herein, including, without limitation, registering the Partnership under the Investment Company Act or the General Partner under the Advisers Act and taking any and all action necessary to secure such registration, and amending this Agreement as provided in Section 11.3.

6.4 Qualification. The General Partner shall qualify itself and the Partnership to do business in each jurisdiction where the activities of the Partnership make such qualification necessary or where such qualification is necessary or desirable to protect the limited liability of the Limited Partners, including the LTI Limited Partners.

6.5 Delegation of Powers.

(a) Pursuant to Section 2.4(v), the General Partner has delegated certain of its rights, powers and obligations under this Agreement to the Investment Advisor as set forth in Section 2(a) of the Investment Advisory Agreement (such delegated rights, powers and obligations, the "Delegated Duties"). The Limited Partners have been given an opportunity to review the terms of the Investment Advisory Agreement attached hereto as Annex C. Notwithstanding the delegation by the General Partner of the Delegated Duties to the Investment Advisor, the General Partner shall have an obligation to supervise the activities of the Investment Advisor in respect of the performance of the Delegated Duties; provided that the General Partner shall be obligated to supervise the activities of the Investment Advisor only to the extent of the General Partner's fiduciary duties as set forth in this Agreement. To the extent that (1) there has been a Breach of the Standard of Care by the Investment Advisor or (2) the Investment Advisor files a voluntary petition of bankruptcy or is adjudged bankrupt or insolvent or has an order for relief in any bankruptcy or insolvency proceeding entered against it, the General Partner shall have the right (and the obligation, if so requested by the Investor Advisory Committee) to terminate the Investment Advisory Agreement (each event in subclauses (1) and (2), a "Termination Event"); provided, however, that prior to terminating the Investment Advisory Agreement, the General Partner shall receive the consent of the Investor Advisory Committee. Promptly upon learning

of a Breach of the Standard of Care by the Investment Advisor, the General Partner shall provide the Investor Advisory Committee and the Investment Advisor with written notice of such Breach of the Standard of Care, which notice shall contain a description of the facts giving rise to the Breach of the Standard of Care. As soon as practicable thereafter, but in no event later than thirty (30) days following the notice of such Breach of the Standard of Care, the General Partner shall provide the Investor Advisory Committee with notice of its decision whether or not to terminate the Investment Advisory Agreement (the "Termination Notice") and a request to terminate the Investment Advisory Agreement, if applicable. The Investor Advisory Committee shall notify the General Partner and the Investment Advisor within thirty (30) days of receipt of such Termination Notice as to whether (A) it consents to the termination of the Investment Advisory Agreement or (B) it requires the General Partner to terminate the Investment Advisory Agreement. If the Investor Advisory Committee consents to, or requires, the termination of the Investment Advisory Agreement following a Termination Event, the Investment Advisory Agreement shall be terminated effective immediately, the LTI Limited Partners shall forfeit their entire Interest in the Partnership after receipt of the payment of the LTI Amount as set forth in the proviso to this sentence, no further LTI Amount or Contingent Disposition Fees shall be paid pursuant to Section 4.2(b) hereof or Section 4(e) of the Investment Advisory Agreement and no further Disposition Fees shall be paid to the Investment Advisor or any of its Affiliates; provided, however, that the LTI Limited Partners shall receive the LTI Amount, the Investment Advisor and the General Partner (or an Affiliate thereof) shall receive any Contingent Disposition Fees and the Investment Advisor (or an Affiliate thereof) shall receive any Disposition Fees, in each case, accrued or earned but not yet paid or distributed by the Partnership. If the General Partner elects to terminate the Investment Advisory Agreement but the Investor Advisory Committee does not consent to such termination, from and after the date that the General Partner provides the Termination Notice to the Investor Advisory Committee, the General Partner shall not be liable to the Partnership or any Limited Partner for (x) a breach of its duties to the Partnership or any Limited Partners resulting solely from such Breach of the Standard of Care or (y) any acts or omissions thereafter taken or omitted by the Investment Advisor, its Affiliates and its direct and indirect officers, directors, agents, stockholders, members, employees and partners in connection with the conduct of the affairs of the Partnership, its current or former Portfolio Investments, the Parallel Funds or any Alternative Investment Vehicles or otherwise in connection with this Agreement, the Investment Advisory Agreement or the matters contemplated herein or therein from and after the date the General Partner provided a Termination Notice to the Investor Advisory Committee of such Breach of the Standard of Care and requested consent to the termination of the Investment Advisory Agreement.

(b) Upon the termination of the Investment Advisory Agreement by the General Partner in accordance with this Section 6.5, the General Partner shall be permitted, with the consent of the Investor Advisory Committee, to enter into an investment advisory agreement with a new investment advisor. If the Investor Advisory Committee has not approved a new investment advisor within ninety (90) days of such termination, 66⅔% in Interest of the Fund Partners shall have the right to cause a dissolution of the Partnership in accordance with Article X hereof; provided that the Investor Advisory Committee shall have the right to approve the liquidator of the Partnership in its sole discretion.

6.6 Liability of the General Partner. (a) The General Partner shall be liable for the debts and obligations of the Partnership to the full extent of its assets (except to the extent such debts or obligations are by their terms "nonrecourse" debts or obligations or otherwise contain limitations on the General Partner's or the Partnership's liability), but, except as provided in Section 6.7, the General Partner shall be entitled to require the prior exhaustion of the Partnership's assets (including any Unfunded Capital Commitment) and shall be entitled to the benefits of the indemnities provided in Section 6.7. None of the General Partner, the Investment Advisor (including an Investment Advisor removed pursuant to Section 9.2), the Former Investment Advisor and their respective Affiliates, partners, officers, members, shareholders, directors and employees and members of the Investor Advisory Committee and its agents (each, an "Indemnified Party"), shall be liable to the Partnership or to any Limited Partner for any act or omission of the Indemnified Parties in connection with the conduct of the affairs of the Partnership or otherwise in connection with this Agreement or the matters contemplated herein, unless it is determined by any court or governmental body of competent jurisdiction in a final judgment that such act or omission resulted solely from such Indemnified Party's fraud, bad faith, willful misconduct or gross negligence. In addition, no Indemnified Party shall be liable to the Partnership or to any Limited Partners for any mistake, negligence, dishonesty or bad faith of any broker, advisor or other agent of the Partnership selected by the General Partner or the Investment Advisor, as the case may be, with reasonable care. The foregoing provisions are not intended by the Partnership or the General Partner, nor should they be interpreted by any Limited Partner, to constitute a waiver by such Limited Partner of any of its legal rights under applicable federal securities laws or any other laws whose applicability is not permitted to be contractually waived.

(b) The General Partner may consult with legal counsel and other experts selected by it and any act or omission suffered or taken by it on behalf of the Partnership or believed by the General Partner to be in furtherance of the interests of the Partnership in good faith and in reliance upon and in accordance with the advice of such experts shall be deemed to be reasonable and proper and the General Partner shall be fully protected for such act or omission.

(c) Any repeal or modification of this Section 6.6 shall not adversely affect any right or protection of any Person existing at the time of such repeal or modification.

6.7 Indemnification. (a) To the fullest extent permitted by law, the Partnership shall indemnify and save harmless each of the Indemnified Parties from and against any and all claims, liabilities, damages, losses, costs and expenses (including amounts paid in satisfaction of judgments, in compromises and settlements, as fines and penalties and legal or other costs and expenses of investigating or defending against any claim or alleged claim) of any nature whatsoever, known or unknown, liquidated or unliquidated (collectively, "Losses"), that are incurred by any Indemnified Party and arise out of or are related to the affairs or activities of the Partnership or any alternative investment structure through which Portfolio Investments are made, including acting as a director of a company, any securities of which are or were a Portfolio Investment, or the performance by such Indemnified Party of any of the General Partner's responsibilities hereunder or otherwise in connection with the matters contemplated herein or therein; provided, however, that an Indemnified Party shall not be entitled to indemnification hereunder to the extent it is determined by any court or governmental body of competent jurisdiction in a final judgment that such Losses resulted solely from such Indemnified Party's

fraud, bad faith, willful misconduct or gross negligence. The satisfaction of any indemnification and any saving harmless pursuant to this Section 6.7(a) shall be from Partnership assets, including the right to call Unfunded Capital Commitments. In addition, Limited Partners may be required to return amounts distributed to them pursuant to Article IV to fund the Partnership's indemnification obligations. If for any reason (other than the gross negligence, willful misconduct, bad faith or fraud of such Indemnified Party) the foregoing indemnification is unavailable to such Indemnified Party, or is insufficient to hold it harmless, then the Partnership shall contribute to the amount paid or payable to the Indemnified Party as a result of such loss, claim, cost, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Partnership on the one hand and such Indemnified Party on the other hand but also the relative fault of the Partnership and such Indemnified Party, as well as any relevant equitable considerations.

(b) Expenses reasonably incurred by an Indemnified Party in defense or settlement of any claim that may be subject to a right of indemnification hereunder shall be advanced by the Partnership prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the Indemnified Party to repay such amount to the extent that it shall be determined ultimately that such Indemnified Party is not entitled to be indemnified hereunder.

(c) The right of any Indemnified Party to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which such Indemnified Party may otherwise be entitled by contract or as a matter of law or equity and shall extend to such Indemnified Party's successors, assigns and legal representatives.

(d) An Indemnified Party shall first seek recovery under any other indemnity or any insurance policies by which such Indemnified Party is indemnified or covered, as the case may be, but only to the extent that the indemnitor with respect to such indemnity or the insurer with respect to such insurance policy provides (or acknowledges its obligation to provide) such indemnity or coverage, as the case may be, on a timely basis. If such Indemnified Party is other than the General Partner, such Indemnified Party shall obtain the written consent of the General Partner prior to entering into any compromise or settlement which would result in an obligation of the Partnership to indemnify such Indemnified Party.

(e) Any repeal or modification of this Section 6.7 shall not adversely affect any right or protection of any Person existing at the time of such repeal or modification.

(f) Notwithstanding anything to the contrary contained in this Section 6.7, none of the General Partner, the Investment Advisor (including an investment advisor removed pursuant to Section 9.2), the Former Investment Advisor and their respective Affiliates or any of their respective direct and indirect officers, directors, agents, stockholders, members, employees, managers and partners shall be entitled to indemnification by the Partnership in respect of any Internal Dispute. Notwithstanding the pendency of any Internal Dispute and for the avoidance of doubt, the Investment Advisor shall continue to receive the Management Fee and any other fees to which it is entitled from the Partnership pursuant to this Agreement or the Investment Advisory Agreement, as applicable. For purposes hereof, "Internal Dispute" means any proceeding in which (x) the General Partner, the Investment Advisor (including an investment advisor removed pursuant to Section 9.2), the Former Investment Advisor and/or one or more

direct and indirect officers, directors, agents, stockholders, members, employees and partners of the General Partner, the Investment Advisor or the Former Investment Advisor, on the one hand, are suing the General Partner, the Investment Advisor, the Former Investment Advisor and/or one or more direct and indirect officers, directors, agents, stockholders, members, employees and partners of the General Partner, the Investment Advisor or the Former Investment Advisor, on the other hand, and (y) the Partnership (1) is not a plaintiff, defendant or other participant in such proceedings or (2) the Partnership will not (or could not reasonably be expected to) be materially impacted by the outcome of such proceeding.

6.8 Organization of New Entities; Co-Investment Opportunities; Exclusivity; Alternative Investment Vehicle.

(a) Organization of Lehman Mezzanine Fund and New Entities.

(i) The General Partner anticipates that concurrent with the formation of the Partnership, affiliates of Lehman Brothers will establish Lehman Brothers Real Estate Mezzanine Partners, L.P. (together with its parallel funds and alternative investment vehicles, if any, the "Lehman Mezzanine Fund") to invest primarily in real estate mezzanine debt, preferred equity interests and other debt instruments (such as B-notes, subordinated tranches of commercial mortgage-backed securities and certain first mortgage investments) in real estate companies and properties ("Mezzanine Investments"), which in some cases may include a limited participation in the equity or profits of the borrower to enhance investment returns to Lehman Mezzanine Fund. Lehman Mezzanine Fund will have different terms and conditions than the Partnership, will employ a different investment strategy than the Partnership and will pursue returns consistent with typical real estate mezzanine investments which generally target a lower return than investments pursued by the Partnership. The Partnership will have the ability to co-invest with Lehman Mezzanine Fund in 30% of any investment to be made by Lehman Mezzanine Fund in the event that such Mezzanine Investment is deemed by the General Partner to meet the Partnership's investment criteria.

(ii) Unless consented to by at least a majority in Interest of the Fund Partners (excluding the Lehman Side-by-Side Investment and Affiliates of the General Partner), neither the General Partner nor the Investment Advisor shall, nor shall the General Partner or the Investment Advisor permit any Real Estate Principal or any Affiliate (at the time in question) of the General Partner or of the Investment Advisor to, act as general partner, manager or the primary source of transactions on behalf of another pooled investment vehicle (other than the Prior Funds, the Lehman Mezzanine Fund, Parallel Funds and Alternative Investment Vehicles and other than pursuant to Permitted Transactions) that the General Partner believes, in its good faith judgment, has objectives and policies substantially similar to those of the Partnership (a "New Entity"), until (i) the earlier of (A) the end of the Commitment Period or (B) such time as at least 80% of the aggregate Capital Commitments have been invested, or committed to be invested, in Portfolio Investments, (ii) the General Partner reasonably determines that the principal purpose of the New Entity is to make investments that are not suitable for the Partnership, (iii) the General Partner reasonably determines that the principal purpose of the New Entity is to co-invest with the Partnership in certain property types, investment structures,

strategies or markets to complement the Partnership's investment strategy or (iv) removal of the General Partner. In the event that a New Entity is organized in accordance with the foregoing provisions, the Partnership shall have co-investment rights with respect to such New Entity upon terms that the General Partner determines are fair and reasonable to the Partnership. Notwithstanding anything to the contrary in this Agreement, none of the Investment Advisor, the Real Estate Principals or any Affiliate of the Investment Advisor shall be restricted in their non-Partnership activities from conducting new business as they may deem necessary or appropriate from time to time, including entering into transactions with Lehman Brothers or any of its Affiliates.

(b) Co-Investment Opportunities. During the Commitment Period, the Partnership may, at the General Partner's option, provide Co-Investment Opportunities in instances in which the General Partner determines that it is not in the best interest of the Partnership to invest (or that the Partnership is prohibited from investing pursuant to the terms hereof) the entire amount required to fund such Portfolio Investment because of the size of or risk inherent in such Portfolio Investment. Any Co-Investment Opportunities will be on terms and conditions that the General Partner determines are fair and reasonable to the Partnership and may include the payment of fees and Profits Interest to the General Partner or Affiliates of the General Partner.

(c) Exclusivity. Subject to the terms of this paragraph, until the earlier of (i) the Expiration Date or (ii) the date on which the entity that is the General Partner on the date hereof or an Affiliate thereof shall cease to be the General Partner, the General Partner and its Affiliates that are majority-owned by Lehman Brothers shall not pursue privately negotiated equity investments in Real Estate Assets that are substantially similar to the types of investments to be made by the Partnership other than through the Partnership, the Parallel Funds, the Lehman Mezzanine Fund, any New Entity organized as permitted under Section 6.8(a) or any Alternative Investment Vehicle as permitted in Section 6.8(d), unless the investment in question is pursued through a co-investment vehicle as permitted under Section 6.8(b) or the investment in question is a Permitted Transaction.

(d) Alternative Investment Vehicle. (i) If Limited Opt-Out Rights and/or Limited Exclusion Rights shall have been exercised in respect of the Partnership's prospective investment in a Portfolio Investment that, in the General Partner's good faith determination, raises a substantial likelihood of a violation by the Partnership of the Fractions Rule, then, unless the Partnership is contractually obligated to invest in such Portfolio Investment and breach of such contractual obligation would give rise to material liability for the Partnership, the Partnership shall not invest in such Portfolio Investment. Notwithstanding any contrary provision in this Section 6.8 or elsewhere in this Agreement, if the General Partner so elects, the Partnership may invest in a Portfolio Investment through a real estate investment trust or a limited liability company or other entity formed by the General Partner for the purpose of making such an investment (an "Alternative Investment Vehicle") so long as (if applicable) all Limited Partners, other than those Limited Partners who exercised their Limited Opt-Out Rights in respect of such Portfolio Investment or with respect to whom Limited Exclusion Rights were exercised in respect of such Portfolio Investment, are provided an opportunity to participate in such Alternative Investment Vehicle on a pro rata basis based on their relative Capital Commitments.

(ii) The General Partner may also cause one or more Limited Partners to fund all or a portion of their Capital Commitment with respect to a proposed or existing Portfolio Investment in one or more Alternative Investment Vehicles or in different classes of securities of an Alternative Investment Vehicle, (A) where the legal nature of an investment in a proposed or existing Portfolio Investment will permit only certain investors (e.g., tax-exempt investors or qualifying pension plans) to hold direct interests (or certain classes of interests) therein or (B) if, in the General Partner's good faith determination, one or more Alternative Investment Vehicles will provide overall tax, regulatory, legal or other efficiencies not otherwise obtainable if the proposed or existing Portfolio Investment were acquired or continue to be owned directly by the Fund.

(iii) Any Alternative Investment Vehicle shall have economic terms and a management structure substantially similar, to the extent practicable, to those of the Partnership and (if applicable) the Parallel Funds, and the General Partner or an Affiliate thereof shall serve as the managing general partner or in some other managing fiduciary capacity with respect thereto. Any Alternative Investment Vehicle shall be structured in a manner that does not adversely affect the profits or liabilities under this Agreement of the Limited Partners who do not participate in the Alternative Investment Vehicle. Subject to the ability of a Limited Partner to be excused from a Portfolio Investment made through an Alternative Investment Vehicle on the terms set forth in Section 3.1, the Partners shall be required and permitted to make capital contributions directly to each such Alternative Investment 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, and such capital contributions shall reduce the Unfunded Capital Commitments of the Limited Partners to the same extent as if Capital Contributions were made to the Partnership with respect thereto. Each Partner shall have the same economic interest in all material respects in Portfolio Investments made pursuant to this Section 6.8(d) as such Partner would have if such investment had been made solely by the Partnership (taking into account the effect of any Defaulting Partners, Limited Exclusion Rights and Limited Opt-Out Rights), and the other terms of such Alternative Investment Vehicle shall be substantially identical in all material respects to those of the Partnership to the maximum extent applicable (provided that the General Partner's obligations under Section 5.4 shall apply to any Alternative Investment Vehicle in which a Benefit Plan Investor is required to participate). Distributions of cash and other property pursuant to Sections 4.2 and 10.3 and the allocations of income, gain, loss, deduction, expense and credit pursuant to Section 3.3 shall be determined as if each Portfolio Investment made by such Alternative Investment Vehicle were a Portfolio Investment made by the Partnership taking into account all cash distributed by the Alternative Investment Vehicle and all allocations of income, gain, loss, deduction and credit allocated by the Alternative Investment Vehicle.

(iv) The General Partner in good faith shall allocate all Operating Expenses and Organizational Expenses among the Partnership and any Alternative Investment Vehicles pro rata according to the aggregate capital contributions of the Partners to the Partnership and any Alternative Investment Vehicles; provided that any Operating Expenses or Organizational Expenses that the General Partner determines are specific to the Partnership or one or more of the Alternative Investment Vehicles (including, without

limitation, expenses associated with Partnership or Parallel Fund level taxes or brokerage commissions) shall be allocated to the Partnership or such Alternative Investment Vehicle, as the case may be, on a basis the General Partner determines is fair and reasonable.

6.9 Investor Advisory Committee. (a) The General Partner shall appoint an Investor Advisory Committee of not fewer than 3, and not more than 7, persons consisting of representatives of selected Limited Partners, including limited partners of the Parallel Funds; provided that the General Partner in its discretion may increase the number in excess of 7. Limited Partners with Capital Commitments of at least $100 million will have the right to designate one member of the Investor Advisory Committee (each, a "Designated Advisory Committee Member"). The General Partner in its sole discretion may present to the Investor Advisory Committee for its review such matters as the General Partner determines should receive Investor Advisory Committee review or approval, including any potential conflict-of-interest situations involving the Investment Advisor or the General Partner, any conveyance to the Partnership of investments owned by an Affiliate of Lehman Brothers or any consents or approvals as may be required or requested pursuant to the Advisers Act. In addition, if the Investor Advisory Committee, upon the approval of at least 66⅔% in Interest of the Fund Partners represented on the Investor Advisory Committee, acting reasonably, determines that there is a matter requiring its attention in connection with the business of the Partnership (including any Parallel Fund), then the Investor Advisory Committee may address such additional matter (an "IAC Referred Matter"), provided that in no event shall the Investor Advisory Committee have the authority to make a determination that would bind the Partnership, the General Partner or the Investment Advisor with respect to any matter not (i) required to be determined by it pursuant to the terms hereof or (ii) presented to the Investor Advisory Committee for its review or approval. The Investor Advisory Committee shall be empowered to waive any conflicts of interest presented for its consideration. The Investor Advisory Committee may waive the investment restrictions set forth in Sections 5.1(c) and 5.1(d). The Investor Advisory Committee shall perform the foregoing functions on behalf of the Partnership and the Parallel Funds. The Limited Partners acknowledge and agree that the Investor Advisory Committee shall have no obligation to take into consideration the facts and circumstances of any particular Fund Partner or group of Fund Partners (or of the Partnership or any particular Parallel Fund) when performing these functions. The Investor Advisory Committee, upon the approval of at least a majority of its members, may cause the General Partner to retain, on behalf of the Investor Advisory Committee, independent legal counsel, accountants, advisors and/or consultants reasonably acceptable to the General Partner, and on terms reasonably acceptable to the General Partner, with respect to (a) any matter referred to it by the General Partner or (b) any IAC Referred Matter (so long as, in the case of an IAC Referred Matter, at least 66⅔% in Interest of the Fund Partners represented on the Investor Advisory Committee recommend obtaining independent legal counsel, accountants, advisors and/or consultants), in each case, as the Investor Advisory Committee deems necessary in order to adequately perform its duties hereunder. The reasonable expenses and fees of such legal counsel, accountants, advisors and/or consultants shall be paid by the Partnership and the Parallel Funds.

(b) No member of the Investor Advisory Committee may be an Affiliate of the General Partner. The General Partner shall endeavor in good faith to appoint members to the Investor Advisory Committee who, as a group, are representative of the Limited Partners, and may

include limited partners of the Parallel Funds. If any member of the Investor Advisory Committee shall resign or be removed, the General Partner shall appoint a successor. The General Partner shall have the right to remove members of the Investor Advisory Committee except for Designated Advisory Committee Members. Any member of the Investor Advisory Committee who is the representative of a Limited Partner that has become a Defaulting Partner shall automatically be removed from the Investor Advisory Committee.

(c) The Investor Advisory Committee shall hold an annual meeting, at such time and place as the General Partner may determine, and which may be held the same day as the annual meeting of Partners. The General Partner shall report on all transactions that may have occurred between Lehman Brothers and its Affiliates, on the one hand, and the Partnership, on the other hand, that were not otherwise disclosed to the Investor Advisory Committee or the Limited Partners. In addition to the annual meeting of the Investor Advisory Committee, the General Partner may call a meeting of the Investor Advisory Committee from time to time in its sole discretion, and shall call a meeting of the Investor Advisory Committee if so requested by a majority of the Investor Advisory Committee, at the principal place of business of the General Partner on such date as the General Partner together with a majority of the members of the Investor Advisory Committee may mutually agree on, such agreement not to be unreasonably withheld. In the event of any change in the date, time or place of such meeting, the General Partner shall promptly give reasonable notice to the members of the Investor Advisory Committee. A member of the Investor Advisory Committee may participate in any meeting of the Investor Advisory Committee by telephone.

(d) Unless otherwise provided herein, any recommendation or approval to be made by the Investor Advisory Committee shall require the approval of a majority of the members of the Investor Advisory Committee. Unless a majority of the members of the Investor Advisory Committee determine otherwise, (i) attendance at Investor Advisory Committee meetings may be by telephone conference or by written consent and members of the Investor Advisory Committee may waive notice of any meeting before or after it is held and (ii) any and all actions and decisions of the Investor Advisory Committee may be taken and made by written consent (including electronic consent) in lieu of a meeting.

(e) Neither the Investor Advisory Committee nor any member thereof shall have the power to bind or act for or on behalf of the Partnership in any manner and in no event shall a member of the Investor Advisory Committee be considered a general partner of the Partnership by agreement, estoppel or otherwise or be deemed to participate in the control of the business of the Partnership as a result of the performance of his duties hereunder or otherwise. No fees shall be paid by the Partnership to the members of the Investor Advisory Committee, but such members shall be entitled to reimbursement by the Partnership for their reasonable out-of-pocket expenses with respect to their attendance at meetings.

(f) To the extent permitted by applicable law, the Investor Advisory Committee shall not owe any duties (fiduciary or otherwise) to any Fund Partner, any LTI Limited Partner, the Partnership, any Parallel Fund, any Alternative Investment Vehicle, any Portfolio Company or any of their respective limited partners or members or owners in respect of the activities of the Investor Advisory Committee. The participation by any Limited Partner who is a member of the Investor Advisory Committee in the activities of the Investor Advisory Committee shall not be

construed to constitute participation by such Limited Partner in the control of the business of the Partnership so as to make such Limited Partner liable as a general partner for the debts and obligations of the Partnership for purposes of the Act. No Limited Partner who has a representative serving on the Investor Advisory Committee shall be deemed to be an Affiliate of the Partnership, the General Partner or the Investment Advisor solely by reason of such membership. In addition to and without limiting the foregoing, the General Partner is authorized to enter into additional agreements on behalf of the Partnership that provide for the exculpation and indemnification of the members of the Investor Advisory Committee and their Affiliates and that contain additional provisions related to the Investor Advisory Committee and its members, it being understood that such agreements may provide for levels of exculpation and indemnification that are more favorable to such Persons than comparable provisions in this Agreement that benefit the General Partner and its Affiliates.

(g) The Investment Advisor shall provide the Investor Advisory Committee with quarterly updates on the Portfolio Investments and affairs of the Partnership.

6.10 General Partner as Limited Partner. The General Partner shall also be a Limited Partner to the extent that it acquires by Transfer all or any part of the interest of a Limited Partner, and to such extent shall be treated as a Limited Partner in all respects. The consent of any Limited Partner to such Transfer to the General Partner need not be obtained. Any Interest of the General Partner and any Interest of a Limited Partner that is held by the General Partner or its Affiliates shall be voted and/or abstained in the same manner and proportions as the aggregate Interests of the other Limited Partners are voted and/or abstained for so long as the General Partner is the general partner of the Partnership. Any Interest of a Limited Partner that is held by the Investment Advisor, its subsidiaries or any Real Estate Principal shall be voted and/or abstained in the same manner and proportions as the aggregate Interests of the other Limited Partners are voted and/or abstained for so long as the Investment Advisor is the investment advisor of the Partnership.

6.11 Meetings of the Partners. The General Partner shall call an annual meeting of the Partners, at such time and place as the General Partner may determine, and which may be held the same day as the annual meeting of the Investor Advisory Committee. The General Partner may call special meetings of the Partners from time to time in its sole discretion and shall call a special meeting of the Partners if so requested by at least one-half in Interest of all Limited Partners or by the Investor Advisory Committee, at a reasonably convenient date, time and place, all as determined by the General Partner, in its sole discretion, but in no event to be less than 20 nor more than 60 days after the receipt of the requisite request. The Partners shall be permitted to ask questions of the representative or representatives of the General Partner and Investment Advisor that may be present at such meeting. The General Partner shall cooperate reasonably with the Limited Partners in connection with such meeting and shall provide to the Limited Partners an agenda of matters that the General Partner anticipates being discussed at such meeting and any reasonably requested information (consistent with the provisions of this Agreement) relevant to such meeting. Limited Partners, however, shall not be entitled to any rights other than those granted hereunder or required by the Act. At any meeting, a vote may be taken in person or by proxy, and any Partner may select a designee to attend and vote at any meeting or may attend any meeting by telephone. At any meeting, a majority in Interest of the Limited Partners shall constitute a quorum. Actions contemplated by this Agreement requiring a

vote of the Partners shall be taken at a meeting of the Partners, or may be taken by written consent in lieu of a meeting. Notwithstanding any other provision hereof to the contrary, no Bank Regulated Limited Partner shall have the right to vote (whether in person, by proxy, by execution of a written consent or otherwise) any portion of such Bank Regulated Limited Partner's voting rights that exceeds 4.99% of the entire vote being taken as to any matter presented to the Partners or the Limited Partners pursuant to this Agreement, if and to the extent that the exercise of such voting rights would violate Regulation Y of the Board of Governors of the Federal Reserve System (C.F.R. Part 225) or any successor to such Regulation ("Regulation Y"). For the avoidance of doubt, no LTI Limited Partner shall be entitled to vote other than pursuant to any voting rights granted to the LTI Limited Partners under the Act.

6.12 Non-United States Ownership. Each Limited Partner, including each LTI Limited Partner, hereby agrees to provide the General Partner with such information as the General Partner may reasonably request from time to time with respect to foreign citizenship, residency, ownership or control of such Limited Partner so as to permit the General Partner to evaluate and comply with any regulatory and tax requirements applicable to the Partnership or proposed investments of the Partnership.

6.13 Confidentiality of Information.

(a) Upon the request of any Limited Partner, including any LTI Limited Partner, the Investment Advisor, the General Partner and the Partnership shall use reasonable best efforts to keep confidential any confidential information obtained by such parties in such capacities relating to any Limited Partner, including any LTI Limited Partner; provided, however, that the foregoing shall not prevent any such Person from complying with any legal requirements applicable to such Person; provided, further, that the foregoing shall in no way prevent the General Partner or the Investment Advisor from conducting the affairs of the Partnership in the ordinary course.

(b) Each Limited Partner, including each LTI Limited Partner (in its capacity as an LTI Limited Partner), agrees to keep confidential, and not to make use of (other than for purposes reasonably related to its interest in the Partnership or for purposes of filing such Limited Partner's tax returns or for other routine matters required by law) or disclose to any Person, any information or matter received from or relating to the Partnership, the Parallel Funds, the Lehman Side-by-Side Investment and their affairs and any information or matter related to any Portfolio Investment (other than disclosure to such Limited Partner's employees, agents, advisors, or representatives responsible for matters relating to the Partnership); provided that a Limited Partner may disclose any such information to the extent that (i) such information is or becomes generally available to the public through no act or omission of such Limited Partner, (ii) such information otherwise is or becomes known to such Limited Partner other than by disclosure by the Partnership or the General Partner; provided that the source of such information is not bound by a confidentiality agreement or other contractual, legal or fiduciary obligation of confidentiality, or (iii) such Limited Partner is required by law to disclose such information. If a Limited Partner receives a third party request under an applicable state open records law for disclosure of any information provided by the Partnership to such Limited Partner, such Limited Partner will promptly notify the General Partner of such request. In addition, prior to the disclosure by the Limited Partner of any of the requested information, the Limited Partner will

assert all applicable exemptions available under the applicable state open records law and will fully cooperate with the General Partner if the General Partner should seek to obtain an order or other reliable assurance that confidential treatment will be accorded to all or designated portions of the requested information. Prior to any public announcement related to this Agreement or any transaction contemplated hereby, the General Partner shall be given a reasonable opportunity to review, comment on and reasonably approve the text of such announcement.

(c) Notwithstanding anything in this Agreement to the contrary, each Partner, including each LTI Limited Partner, (and each employee, agent or representative of a Partner) may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and tax structure of the Partnership or any transactions undertaken by the Partnership, it being understood and agreed that, for this purpose, (i) the name of, or any other identifying information regarding, the Partnership or any Partner (or any Affiliate thereof), or any investment or transaction entered into by the Partnership or (ii) any performance or other information relating to the Partnership or its investments do not constitute such tax treatment or tax structure information.

6.14 Business with Affiliates. In addition to the services and transactions specifically contemplated by this Agreement, the General Partner, the Investment Advisor and any of their respective Affiliates may provide services and engage in transactions with the Partnership, the Portfolio Companies and their Affiliates on terms and conditions that the General Partner determines are fair and reasonable to the Partnership. Any contemplated disposition of a Portfolio Investment to the General Partner, the Investment Advisor or any of their respective Affiliates shall require the prior consent of the Investor Advisory Committee. The Partnership also may invest in entities in which the General Partner, the Investment Advisor or any of their respective Affiliates hold a material (or lesser) interest, in each case on terms and conditions that the General Partner determines are fair and reasonable to the Partnership; provided, however, that any such transaction with the Investment Advisor or any of its Affiliates shall require the prior consent of the Investor Advisory Committee. Lehman Brothers or its Affiliates may acquire or enter into agreements to acquire Portfolio Investments in Progress. Any such Portfolio Investments in Progress may be transferred to the Partnership at its acquisition cost plus Lehman Brothers' cost of carry not to exceed 10% per annum; provided that disclosure of such Portfolio Investments in Progress to the Limited Partners prior to the Initial Closing shall be deemed disclosure and consent by the Partnership for purposes of the Advisers Act and all other applicable federal and state affiliated transaction requirements. In addition, the General Partner may request the Investor Advisory Committee to approve any such transfer, and any such approval shall constitute disclosure to and consent by the Partnership for purposes of the Advisers Act and all other applicable federal and state affiliated transaction requirements. Without limiting the foregoing, the Partners acknowledge that, as contemplated by the definition of "Parallel Fund" and as permitted above, the General Partner may allocate and reallocate Portfolio Investments among the Partnership, the Parallel Funds and the Lehman Side-by-Side Investment on a basis that it determines is fair and reasonable to the Partnership.

6.15 Limitations on the General Partner. (a) Anything contained in any other Section of this Agreement notwithstanding, the General Partner and its Affiliates shall not have any authority or be entitled:

(i) to perform any act in violation of any applicable law or regulation thereunder, including applicable Federal and State securities laws;

(ii) to perform any act in violation of the Act or this Agreement;

(iii) to perform any other act expressly requiring the consent of the Limited Partners or the Investor Advisory Committee under this Agreement without first obtaining such consent; or

(iv) to avoid its ultimate obligations under this Agreement by delegation of authority or responsibility.

(b) The General Partner shall endeavor to cause the Partnership to maintain cash reserves for Operating Expenses, capital expenditures, repairs, replacements, contingencies and related items in such amount as the General Partner deems necessary or advisable.

6.16 UBIT. The General Partner will use reasonable efforts to minimize the Partnership's income that is subject to "unrelated business income tax" under the Code for "qualified organizations" as defined in Section 514(c)(9)(C) of the Code to the extent consistent with its goal of maximizing pre-tax income.

6.17 Consent of Group Trust. Whenever under the terms of this Agreement the vote, consent or approval of a specified percentage in Interest of the Limited Partners or Fund Partners is required for any action, forbearance, amendment hereof, consent or otherwise, the Group Trust may allocate its Interest for the purpose of casting such vote or giving such consent or approval in accordance with the respective directions of the Participating Plans in accordance with their relative interests in the Group Trust.

6.18 Key Group Event. In the event that at any time (a) both of Brett Bossung and Mark H. Newman or (b) three or more of Brett Bossung, Kevin Dinnie, Rodolpho Amboss and Mark H. Newman or, in each case, any other substitute person approved by the Investor Advisory Committee, cease to be actively involved in the affairs of the Partnership (such event, a "Key Group Event"), then at such time, the Investment Advisor shall promptly notify the Investor Advisory Committee thereof. Within ninety (90) days of such Key Group Event, the Investment Advisor shall present a plan to the General Partner for approval by the Investor Advisory Committee regarding the ongoing management of the business of the Partnership, which may include a recommendation for a substitute person to replace any person identified in subclause (a) or (b) of this Section 6.18. The Investor Advisory Committee shall have ninety (90) days from the presentation of such plan to object to such plan. In the event that the Investor Advisory Committee objects to such plan, notice shall be provided to the Fund Partners and, upon the vote of 66⅔% in Interest of the Fund Partners, the Partnership shall be dissolved in accordance with Article X hereof and the General Partner shall appoint a liquidator of the Partnership; provided that the Investor Advisory Committee shall have the right to approve the liquidator in its sole discretion; provided, further, that if the Investor Advisory Committee (i) disapproves of the appointment of the Investment Advisor as the liquidator or (ii) approves a liquidator other than the Investment Advisor, then the Investment Advisory Agreement shall terminate pursuant to this Section 6.18; provided that prior to the termination of the Investment

Advisory Agreement pursuant to the preceding proviso, the Partnership shall pay to the Investment Advisor an amount equal to 125% of the cumulative Management Fees that was payable to the Investment Advisor for the immediately preceding six-month period; and provided, further, that prior to such termination, the LTI Limited Partners shall receive the LTI Amount, the Investment Advisor and the General Partner (or an Affiliate thereof) shall receive any Contingent Disposition Fees and the Investment Advisor (or an Affiliate thereof) shall receive any Disposition Fees, in each case, accrued or earned but not yet paid or distributed by the Partnership and thereafter, the LTI Limited Partners shall forfeit their entire limited partner interests in the Partnership, no further LTI Amount or Contingent Disposition Fees shall be paid pursuant to Section 4.2(b) hereof or Section 4 of the Investment Advisory Agreement and no further Disposition Fees shall be paid pursuant to Section 7.4. At any time, whether or not after the occurrence of a Key Group Event, the Investment Advisor may present to the General Partner for approval by the Investor Advisory Committee a recommendation for a substitute person to replace any person identified in subclause (a) or (b) of this Section 6.18.

ARTICLE VII

Expenses and Management Fees

7.1 Administrative Expenses and Operating Expenses. (a) The Investment Advisor and/or the General Partner shall bear the following ordinary day-to-day expenses incidental to the administration of the Partnership: (i) all costs and expenses of providing to the Partnership, the Investment Advisor and the General Partner the office space, facilities, utility service and necessary administrative and clerical functions connected with the Partnership's, the Investment Advisor's and/or the General Partner's operations; and (ii) compensation of third party asset managers and Lehman Brothers or Investment Advisor employees who are engaged in the operation or management of the Partnership's and/or the General Partner's business (collectively, the "Administrative Expenses"). Neither the Investment Advisor nor the General Partner shall be entitled to reimbursement from the Partnership for any Administrative Expenses incurred by the Investment Advisor and/or the General Partner or any Affiliate thereof. Notwithstanding the foregoing, the Partnership (together with the Parallel Funds and the Lehman Side-by-Side Investment) may bear certain Administrative Expenses, in which case the Limited Partners will be entitled to offset the cost of such Administrative Expenses against their Management Fees as described in the last sentence of Section 7.1(b). For the avoidance of doubt, Administrative Expenses do not include fees, costs and expenses of Capital Analytics, L.P. and other financial reporting service providers affiliated or unaffiliated with the Investment Advisor or the General Partner.

(b) Subject to the allocations set forth in Section 7.6, and except as otherwise provided in Section 7.1(a), the Partnership shall bear and be charged with all other costs and expenses of the Partnership's activities and operations, including, without limitation: (i) all other fees, costs and expenses, if any, incurred in developing, negotiating, structuring, acquiring, holding, financing, hedging, refinancing, disposing of or otherwise dealing with Portfolio Investments, including, without limitation, any travel, legal and accounting expenses and other fees and out-of-pocket costs related thereto, and the costs of rendering financial assistance to or arranging for financing for any assets or businesses constituting Portfolio Investments; (ii) all other fees, costs and expenses, if any, incurred in monitoring Portfolio Investments, including, without limitation, any

travel, legal and accounting expenses and other fees and out-of-pocket costs related thereto; (iii) all fees, costs and expenses incurred in evaluating, developing, negotiating, structuring, acquiring, financing, disposing of or otherwise dealing with any Authorized Investment pursued for the Partnership, whether or not the Partnership actually invests therein, including, without limitation, any travel, legal and accounting expenses and other fees and out-of-pocket costs related thereto, and the costs of rendering financial assistance to or arranging for financing for any assets or businesses constituting any Authorized Investment; (iv) taxes of the Partnership, fees of auditors, counsel and other advisors of the Partnership, indemnification, insurance costs of the Partnership and litigation costs of the Partnership; (v) third party administrative expenses related to the operation of the Partnership, including without limitation the fees and expenses of accountants, lawyers and other professionals incurred in connection with the Partnership's annual audit, legal compliance, financial reporting (including Capital Analytics, L.P. and any other financial reporting service provider affiliated or unaffiliated with the Investment Advisor or the General Partner), legal opinions and tax return preparation, as well as expenses associated with the distribution of reports and Capital Demand Notices to the Partners, but specifically excluding any Administrative Expenses; (vi) interest expenses, brokerage commissions and other investment costs incurred by or on behalf of the Partnership; (vii) the expenses associated with the Investor Advisory Committee; (viii) all other customary expenses; (ix) the Disposition Fee and the Contingent Disposition Fee; and (x) amounts to be contributed or advanced to any Portfolio Investment for the purpose of such entity or investment paying any cost of the type described in the foregoing clauses (i) through (ix) (such expenses, the "Operating Expenses"). To the extent any Operating Expenses are paid by the Investment Advisor or the General Partner, as the case may be, such Operating Expenses shall be reimbursed by the Partnership. The General Partner or the Investment Advisor may elect to have the Partnership directly or indirectly contract with and pay sub-advisors, third party asset management service providers and certain administrative and financial reporting service firms for Administrative Expenses, such expenses to be allocated to and paid directly by the Partnership, the Parallel Funds and the Lehman Side-by-Side Investment. The Partnership's share of such Administrative Expenses that are so paid will reduce and be offset against the amount of Management Fees to be paid by the Limited Partners, with such reduction to be allocated among the Limited Partners based upon their relative Percentage Interests.

7.2 Organizational Expenses. The General Partner or one of its Affiliates shall bear and be charged with the fees of any placement agent and financial advisor in connection with the offering and sale of limited partner interests to prospective Limited Partners. Subject to the allocations set forth in Section 7.6, the Partnership (together with the Lehman Side-by-Side Investment and the Parallel Funds, allocated pro rata based on capital commitments) shall bear and be charged with all costs and expenses (other than placement fees) pertaining to the offering and sale of limited partner interests to prospective Limited Partners and the organization of the Partnership and the General Partner, including, without limitation, any related legal fees and travel expenses (collectively, but excluding the placement fees referred to in the first sentence of this Section 7.2, the "Organizational Expenses"); provided, however, that to the extent that Organizational Expenses exceed $1.5 million (together with the organizational expenses for all of the Parallel Funds), the Partnership shall be deemed to first bear and be charged with such Organizational Expenses as are amortizable under Section 709 of the Code, with the General Partner bearing the excess (if any). The Partnership shall promptly reimburse to the General Partner, the Investment Advisor or the Former Investment Advisor, as applicable, any

Organizational Expenses paid by the General Partner, the Investment Advisor or the Former Investment Advisor that were required to be borne by the Partnership pursuant to the immediately preceding sentence. The General Partner acknowledges that, as of the Effective Date, none of it, the Former Investment Advisor or the Investment Advisor is entitled to any additional reimbursements pursuant to this Section 7.2.

7.3 Management Fee. (a) In addition to its Capital Contributions, each Partner (including Lehman Brothers, whether with respect to interests held as a Limited Partner or, from and after the date hereof, with respect to interests held indirectly through the General Partner) shall pay directly to the Investment Advisor (or its designated Affiliate) a management fee at the rates per annum set forth below, for the period between the Initial Closing and the date of the Final Distribution (the "Management Fee"); provided that no payment of such accrued fee shall be required of an ERISA Partner prior to the date the Partnership qualifies as a VCOC. For the period commencing on the Initial Closing through the end of the Commitment Period, the Management Fee shall be equal to the sum of (i) 1% of the portion of a Partner's Capital Commitment that is equal to or less than $25 million, (ii) 0.8% of the portion of a Partner's Capital Commitment in excess of $25 million and that is equal to or less than $100 million and (iii) 0.7% of the portion of a Partner's Capital Commitment in excess of $100 million, plus (iv) 0.7% of such Partner's unreturned Capital Contributions in all Portfolio Investments (plus such Partner's pro rata share of funds drawn from the Subscription Facility to invest in Portfolio Investments). For the period commencing upon the end of the Commitment Period through the date of the Final Distribution, the Management Fee payable by each Partner shall equal 1% of such Partner's unreturned Capital Contributions in all Portfolio Investments. Affiliates of the General Partner or the Investment Advisor may pay different Management Fees or no Management Fees. Payments of the Management Fee shall reduce Partners' Unfunded Capital Commitments as set forth in the definition of "Unfunded Capital Commitment." The Management Fees payable by the Partners shall be reduced as provided in the last sentence of Section 7.1(b).

(b) The Management Fee shall be payable semi-annually in advance of each six month period beginning on the Initial Closing; provided that the initial payment of the Management Fee shall be payable in accordance with the Initial Capital Demand Notice. The Management Fee shall be payable regardless of whether the Partnership has made any Portfolio Investments. Calculations of the Management Fee with respect to a Partner's unreturned Capital Contributions shall be based upon such Partner's unreturned Capital Contributions (as determined by the General Partner in good faith) for the upcoming period in which the Management Fee is due as of the first Business Day of such period. The General Partner will give at least 10 Business Days' advance notice prior to the due date of the Management Fee. If any Management Fee is not paid to the Investment Advisor on the due date thereof, the amount of such Management Fee shall accrue interest at the rate of 10% per annum, compounded annually, from the due date thereof to the date same is actually paid.

(c) In the event the Commitment Period terminates prior to the fourth anniversary of the Initial Closing, the payment of the Management Fee for the six month period beginning after the end of the Commitment Period shall be reduced appropriately for each Partner to take into account the fact that the Management Fee payable with respect to a portion of the prior six month period was to be calculated as provided in the third sentence of Section 7.3(a) above.

(d) All payments required under this Section 7.3 shall be made in United States dollars by wire transfer of federal funds to an account designated by the Investment Advisor or by certified or official bank check or checks in New York Clearing House or similar next day funds payable to the order of the Investment Advisor.

(e) If at the time any Management Fee installment is required to be paid by the Partners to the Investment Advisor pursuant to Sections 7.3(a) and 7.3(b) and the Partnership intends to make a distribution to the Partners pursuant to Section 4.2(a), then prior to making such distribution, the General Partner shall pay to the Investment Advisor amounts sufficient to pay the installment of the Management Fee payable by such Partner. The General Partner is hereby authorized to apply distributions to the Partners to pay installments of the Management Fee on their behalf without any further authorization from the Partners. At least 10 Business Days prior to the due date of each installment of the Management Fee under this Section 7.3, the General Partner shall notify each Partner how much of such installment must be paid by such Partner pursuant to Sections 7.3(a) and 7.3(b) and how much will be paid pursuant to this Section 7.3(e) out of a distribution to such Partner. Any amount paid to the Investment Advisor pursuant to this Section 7.3(e) from Distributable Proceeds of any Partner shall (i) constitute a payment of Management Fees by such Partner and (ii) reduce the amount payable by such Partner pursuant to Sections 7.3(a) and 7.3(b). The General Partner shall be authorized to alter the timing of distributions and create appropriate reserves in order to effectuate payment of installments of the Management Fee pursuant to this Section 7.3(e).

7.4 Disposition Fee. Before each Partner has received distributions pursuant to Section 4.2 from and after June 30, 2009, the Partnership or one of its Affiliates or Portfolio Companies shall pay to the Investment Advisor or one of its Affiliates a Disposition Fee to the extent due pursuant to the terms hereof and the terms of Section 4 of the Investment Advisory Agreement. Payment of any Disposition Fee shall be in addition to the Management Fee.

7.5 Breakup Fees. Any breakup fees or commitment fees received by the Investment Advisor, the Partnership or the General Partner in connection with Authorized Investments that are undertaken by or on behalf of the Partnership and that are not consummated shall first be applied to reimburse the General Partner and the Investment Advisor for any Operating Expenses incurred by such parties in connection with such Authorized Investments, and the balance, if any, of such fees shall be paid to the Partnership.

7.6 Allocation of Expenses. The General Partner in good faith shall allocate all Operating Expenses and Organizational Expenses (a) among the Portfolio Investments and (b) among the Partnership, the Parallel Funds and the Lehman Side-by-Side Investment pro rata according to the aggregate Capital Commitments of the Partnership and the respective capital commitments of each of the Parallel Funds and the Lehman Side-by-Side Investment; provided, however, that expenses that the General Partner determines are specific to the Partnership, one or more of the Parallel Funds and/or the Lehman Side-by-Side Investment (including, without limitation, expenses associated with Partnership, Parallel Fund and/or the Lehman Side-by-Side Investment level taxes or brokerage commissions) shall be allocated to the Partnership, such Parallel Fund and/or the Lehman Side-by-Side Investment, as the case may be, on a basis the General Partner determines is fair and reasonable.

ARTICLE VIII

Books and Records and Reports to Partners

8.1 Records and Accounting. (a) Proper and complete records and books of account of the business of the Partnership, including a list of the names, addresses and interests of all Limited Partners, including the LTI Limited Partners, shall be maintained at the Partnership's principal place of business. Except as otherwise expressly provided herein, such records and books of account shall be maintained on a basis that allows the proper preparation of the Partnership's financial statements and tax returns and shall be kept in United States dollars. Any Partner, including any LTI Limited Partner, or its duly authorized representatives, shall be entitled, at its own expense, for any purpose reasonably related to its interest as a Partner of the Partnership, and subject to Section 6.13, to a copy of the list of names, addresses and interests of the Limited Partners. Subject to paragraph (b) below, each Limited Partner, including each LTI Limited Partner, may, for any reason reasonably related to its interest as a Partner, examine the books of account, records, reports and other papers relating to the Partnership not legally required to be kept confidential or secret, make copies and extracts therefrom at its own expense and discuss the affairs, finances and accounts of the Partnership with the General Partner and the independent public accountants of the Partnership (and by this provision the Partnership authorizes said accountants to discuss with each Limited Partner, including each LTI Limited Partner, the finances, accounts and affairs of the Partnership), all during regular business hours as may be reasonably requested. The General Partner shall maintain the records of the Partnership for three years following termination of the Partnership.

(b) Notwithstanding anything contained herein to the contrary, in the event that, as a result of a Limited Partner's ownership of a limited partner interest in the Partnership, and after reasonable attempts by the Partnership to mitigate the circumstances, the Partnership is or may be constrained in any respect in its ability to make any Authorized Investment or retain any Portfolio Investment, to the fullest extent permitted by applicable law such Limited Partner shall not be entitled to have access to any information or documents with respect to the portion of the business of such Authorized Investment or Portfolio Investment, as the case may be, that gives rise to such constraint, to the extent reasonably necessary to remove such constraint, and such Limited Partner and the General Partner shall use their reasonable efforts in good faith to negotiate an arrangement (that may include, without limitation, alteration of any of the terms of this Agreement to the extent mutually acceptable to the Limited Partner and the General Partner) with the objective of permitting the Partnership to make or retain such investment.

8.2 Audit and Report. (a) The books and records of the Partnership shall be audited as of the end of each fiscal year by a firm of independent certified public accountants of national recognition and standing selected by the General Partner. Not later than 120 days after the end of each fiscal year, the General Partner shall cause the independent certified public accountants to prepare, and shall mail to each Partner, a report as of the end of such fiscal year prepared in accordance with United States generally accepted accounting principles consistently applied, setting forth (i) a balance sheet of the Partnership (that will include appropriate footnote disclosure), (ii) an income statement for such fiscal year, (iii) statements of changes in Partners' capital and changes in financial position and (iv) a schedule of the Portfolio Investments held by

the Partnership as of the end of such fiscal year. The annual financial statements referred to in this Section 8.2(a) shall be accompanied by a report of the independent certified public accountants stating that an audit of such financial statements has been made in accordance with generally accepted auditing standards, stating the opinion of the accountants in respect of the financial statements and the accounting principles and practices reflected therein and as to the consistency of the application of the accounting principles, and identifying any matters to which the accountants take exception and stating, to the extent practicable, the effect of each such exception on such financial statements.

(b) After the end of each fiscal year, subject to the receipt of all necessary and appropriate information from Portfolio Investments or other relevant Persons, the General Partner shall exercise reasonable efforts to cause the independent certified public accountants to prepare and transmit within 120 days of the close of such fiscal year, a report setting forth in sufficient detail such transactions effected by the Partnership during such fiscal year as shall enable each Partner to prepare its United States federal income tax return and shall mail such report to (i) each Partner and (ii) each former Partner (or its successor or legal representative) who may require such information in preparing its federal income tax return.

(c) Not later than 60 days after the end of each fiscal quarter (other than the fourth quarter), the General Partner shall prepare and mail to each Partner an unaudited report setting forth as of the end of such fiscal quarter (i) a balance sheet of the Partnership, (ii) an income statement for such fiscal quarter and (iii) the balance in each Partner's Capital Account.

(d) Any allocations of unrelated business taxable income to any Limited Partner shall be reported to such Limited Partner in sufficient detail as shall enable such Limited Partner to file its annual Form 5500 and Form 990 filings (or any successor forms).

(e) Notwithstanding anything else to the contrary contained in this Agreement, for the purposes of this Section 8.2, the term "Partners" shall include the LTI Limited Partners.

8.3 Withholding. (a) The General Partner is authorized but not obligated to take any action that it determines to be necessary or appropriate to cause the Partnership and its subsidiaries to comply with any withholding requirements established under Section 1445 of the Code with regard to (i) the sale of "United States real property interests" (as defined in the Code), (ii) the distribution of cash or property to any Limited Partner who is a "foreign person" (as defined in Regulation Section 1.1445-2T(b)(2)(i)(c)), or (iii) the Transfer of interests in the Partnership.

(b) In its sole and absolute discretion and as provided for or to be provided in the Code or Regulations under Sections 1441, 1442, 1445 and 1446 of the Code, the General Partner may elect to withhold a portion of any distribution made to any Limited Partners and assignees who are "foreign persons" or who fail to provide to the Partnership an appropriate certificate in accordance with the applicable provisions of such Sections of the Code or applicable Regulations thereunder.

(c) To the extent that any state statute similar to Section 1445 of the Code applies to any Portfolio Investment, the General Partner is authorized to take such actions as it determines to be

necessary or appropriate to cause the Partnership and its subsidiaries to comply with the withholding requirements thereunder, including, without limitation, if deemed necessary or appropriate by the General Partner in its sole discretion, withholding the appropriate portion of distributions otherwise required to be made to any Limited Partner who is subject to such state statute.

(d) To the extent that the General Partner is required to withhold taxes under the laws of countries other than the United States, the General Partner is authorized to withhold a portion of any distribution made to any Limited Partners or their assignees.

(e) With reasonable promptness, each Limited Partner shall respond to and deliver such information available to it relating to its qualification for any exemption from U.S. federal, state, local and non-U.S. withholding and tax obligations as the General Partner may from time to time reasonably request.

(f) Notwithstanding anything else to the contrary contained in this Agreement, for the purposes of this Section 8.3, the term "Limited Partner" shall include each LTI Limited Partner.

ARTICLE IX

Transfers, Withdrawals and Default

9.1 Transfer, Withdrawal or Removal of the General Partner. (a) Transfer; Withdrawal. Neither the General Partner nor the general partner of the General Partner shall have the right to Transfer its interests as the general partner of the Partnership or the general partner of the General Partner, as the case may be, to Persons other than the Investment Advisor or Affiliates of either the General Partner or the Investment Advisor unless consented to by 66⅔% in Interest of the Fund Partners. In addition, except as provided in the preceding sentence, the General Partner shall not have the right to withdraw as general partner of the Partnership and the general partner of the General Partner shall not have the right to withdraw as general partner of the General Partner. Notwithstanding the foregoing or any other provision hereof to the contrary, the following shall not be considered violations of this Section 9.1(a) or any other provision of this Agreement and are expressly permitted: (i) a pledge by the General Partner of its interest in the Partnership that is contemplated by Sections 5.3 or 9.7(g) hereof or otherwise and (ii) any Transfer of the interests held by the General Partner or the general partner of the General Partner to an Affiliate of the General Partner or its general partner so long as such Affiliate agrees to be bound by the foregoing Transfer restrictions.

(b) Disabling Event. The General Partner shall cease to be the general partner of the Partnership upon the occurrence of a Disabling Event. After such cessation and resignation, neither the General Partner nor its successors in interest shall have any of the powers, obligations or liabilities of a general partner of the Partnership under this Agreement or under applicable law arising after the date of such cessation or resignation (other than as provided in Sections 9.1(d) and 9.1(e) hereof). Subject to Sections 9.1(c) and 10.1(b), upon the occurrence of any Disabling Event, the Commitment Period shall expire and the Partnership shall be dissolved and wound up in accordance with the provisions of Article X. Notwithstanding anything in this Section 9.1(b) to the contrary, no breach by the General Partner of any obligation hereunder shall result in (i)

the termination of the Investment Advisory Agreement or (ii) the dissolution and winding up of the Partnership except as set forth in this Agreement.

(c) Continuation of Partnership. If the General Partner shall cease to be the general partner of the Partnership upon the occurrence of a Disabling Event and the business of the Partnership is continued pursuant to Section 10.1(b), notice of that determination shall be given to the former General Partner by the Investment Advisor or a party authorized by the Limited Partners to give such notice on behalf of the Limited Partners voting for or consenting to such continuation. In addition, notwithstanding any other provision hereof to the contrary, after the occurrence of any Disabling Event, the Partnership shall not make any further Portfolio Investments or, notwithstanding anything in Section 3.1(j)(B) to the contrary, Additional Investments.

(d) Admission of Replacement General Partner. If the General Partner shall be removed pursuant to Section 9.1(e), a successor general partner shall be admitted as a General Partner and each of the following terms and conditions shall be satisfied:

(i) the admission of such Person shall have been consented to by a majority in Interest of all Fund Partners (other than the Affiliates of the removed General Partner and the Lehman Side-by-Side Investment); provided, that, such consent shall not be required if a subsequent General Partner is appointed by the Investment Advisor pursuant to Section 10.1(b);

(ii) the Person shall have accepted and agreed to be bound by all the terms and provisions of this Agreement (including Section 9.1(e)(v)) by executing a counterpart hereof and such other documents or instruments as may be required or appropriate in order to effect the admission of such Person as a General Partner as of the effective date of the removal or withdrawal of the former General Partner that the successor general partner is authorized to and shall continue the business of the Partnership without dissolution;

(iii) the Person shall have accepted and agreed to be bound by all the terms and provisions of the Investment Advisory Agreement by executing either a joinder thereto or a new investment advisory agreement in the form attached hereto as Annex C with the Investment Advisor;

(iv) in the event the removed General Partner elects to sell the Lehman Aggregate Interest as contemplated in Section 9.1(e)(ii), the successor general partner and any of its Affiliates or other Persons holding the Lehman Aggregate Interest shall be required to enter into such agreements and undertakings as Lehman Brothers reasonably determines are necessary to ensure the payments of any amounts payable by such successor general partner or such other parties to the General Partner and Lehman Brothers pursuant to Section 9.1(e)(ii); and

(v) a certificate evidencing the admission of such Person as a General Partner shall have been filed for recordation.

(e) No-Fault Removal. A majority in Interest of all Fund Partners that are not Affiliates of the General Partner may, at their option, at any time require:

(x) the removal, effective as of a date not less than 90 days from the date of notice to the General Partner of such removal, of the General Partner from the Partnership (and the concurrent removal of the corresponding general partner of each of the Parallel Funds); and

(y) the substitution of another Person as successor general partner of the Partnership (and to each of the Parallel Funds) in lieu thereof in accordance with Section 9.1(d) hereof; provided that all votes purporting to constitute a majority in Interest of all Fund Partners for purposes of these clauses (x) and (y) of this Section 9.1(e) must be solicited and obtained during a 60-day period; provided, further, both actions under these clauses (x) and (y) must be taken, and the successor general partner admitted in accordance with Section 9.1(d) and this Section 9.1(e), for either and both actions to be effective.

Upon the effective date of such removal, such successor general partner shall be admitted as the general partner of the Partnership and, upon such admission, the General Partner being removed shall assign and transfer to the successor general partner all of the General Partner's right, title and interest as general partner of the Partnership; provided that upon such assignment and transfer:

(i) the removed General Partner's interest shall be converted into a special limited partnership interest in the Partnership, shall be deemed admitted as a special Limited Partner with a Capital Commitment equal to $0.00 (subject to clauses (ii), (iii) and (iv) below) and may not be removed as a Limited Partner without its written consent;

(ii) the removed General Partner, as a special Limited Partner, shall retain its Percentage Interest in each Portfolio Investment that was consummated by the Partnership during the period when the General Partner served as general partner of the Partnership and prior to the effective date of the General Partner's removal under this Section 9.1(e) (together with any Permitted Temporary Investments relating thereto, the "Pre-Removal Investments") and shall be entitled to receive all distributions in respect of its Percentage Interest in (including, without limitation, its Capital Contributions and Priority Return with respect to) such Pre-Removal Investments pursuant to the terms of this Agreement in effect immediately prior to the delivery of notice of removal hereunder as if it had remained the sole general partner of the Partnership, and the successor general partner shall not have any Percentage Interest in (or otherwise any rights to receive distributions directly or indirectly in respect of) such Pre-Removal Investments; provided, however, upon the effective date of such removal, the removed General Partner, in its sole discretion, may require a successor general partner to acquire (on reasonable terms acceptable to Lehman Brothers) the aggregate economic interest in the Partnership, together with any other securities, instruments and other assets of Portfolio Investments, held by the General Partner and Lehman Brothers (which includes, for the avoidance of any doubt, the General Partner, its Affiliates, the Lehman Side-by-Side Investment and the Employee Funds, together, the "Lehman Aggregate Interest"), and

pay to the removed General Partner and Lehman Brothers an amount equal to the lesser of (X) the total capital contributions and other fundings made by the General Partner and Lehman Brothers in respect of the Lehman Aggregate Interest or (Y) the aggregate Fair Value of the Lehman Aggregate Interest (it being understood that the fair value of the Lehman Aggregate Interest attributable to the Lehman Side-by-Side Investment shall be calculated by Lehman Brothers in the same manner as the fair value of its interest as General Partner of the Partnership); provided, further, that in the event that the Fair Value of the Lehman Aggregate Interest specified in clause (Y) above exceeds the total capital contributions and other fundings specified in clause (X) above at the time of the General Partner's removal, then in addition to paying the amount of capital contributions and other fundings as provided in clause (X) above and until such excess is paid to the removed General Partner and Lehman Brothers, the successor general partner shall (A) immediately following the receipt, whether directly or indirectly, by such successor general partner (or any of its Affiliates or other Persons directly or indirectly holding the Lehman Aggregate Interest) of any distributions or operating cash (other than liquidating proceeds) or other current income generated by the Lehman Aggregate Interest, pay all such amounts to the removed General Partner and Lehman Brothers and (B) immediately following the receipt, whether directly or indirectly, by such successor general partner (or any of its Affiliates or other Persons holding the Lehman Aggregate Interest) of any other proceeds, including from any sale, redemption, repayment, refinancing, repurchase or other disposition or realization (including liquidating proceeds) of all or any portion of the Lehman Aggregate Interest, pay all such proceeds (less, without duplication, the amounts already paid pursuant to clause (X) above) to the removed General Partner and Lehman Brothers; provided, finally, for the avoidance of doubt, the foregoing clause shall (I) apply to all realizations by any successor general partner or other entity holding any portion of the Lehman Aggregate Interest and (II) not be construed in any manner that would reduce or offset any Profits Interest or other amounts payable to the removed General Partner pursuant to Section 9.1(e)(iii) or otherwise under this Agreement;

(iii) all distributions of Profits Interest with respect to any Portfolio Investment otherwise payable to the successor general partner shall instead be made as a distribution to the removed General Partner, in its capacity as a special Limited Partner, until the removed General Partner has received cumulative distributions of Profits Interest equal to the Profits Interest that it otherwise would have received pursuant to the terms of this Agreement in effect immediately prior to removal calculated as if (x) the removed General Partner had not been removed pursuant to this Section 9.1(e) and (y) the Partnership had not made any Portfolio Investments after its removal;

(iv) all obligations under this Agreement to fund any further amount of the Lehman Side-by-Side Investment by Lehman Brothers or any of its subsidiaries or Affiliates or for the removed General Partner (in its capacity as a Limited Partner, general partner or otherwise) to make any contributions of capital, Management Fee payments or other payments shall cease, and Lehman Brothers and its personnel shall no longer be bound by its covenants under Section 6.8 or any other provision of this Agreement upon the effective date of removal (except, with respect to the removed General Partner, in its capacity as a special Limited Partner, unless otherwise contemplated by this Section 9.1(e)); provided, however, that the removed General Partner, in its capacity as a special

Limited Partner, shall otherwise have all of the rights and protections of a Limited Partner; and provided, further, that if upon the dissolution, winding up and termination of the Partnership any After Tax Amount of the Excess Profits Interest, calculated pursuant to the terms of this Agreement in effect immediately prior to the delivery of notice of removal hereunder, would be payable to the Partnership with respect to each Limited Partner, then the removed General Partner, as a former general partner of the Partnership, and the successor general partner shall contribute to the Partnership their respective portions of the After Tax Amount of the Excess Profits Interest with respect to each Limited Partner, which portions shall be determined (A) with respect to the removed General Partner, the Excess Profits Interest with respect to each Limited Partner calculated solely with respect to Pre-Removal Investments and (B) with respect to the successor general partner, the Excess Profits Interest with respect to each Limited Partner calculated solely with respect to all other Portfolio Investments other than the Pre-Removal Investments, in each case determined pursuant to the terms of this Agreement in effect immediately prior to the delivery of notice of removal hereunder; and

(v) the successor general partner shall (A) assume and fund in cash any unpaid portion of the Lehman Side-by-Side Investment, which funding shall be at such times and in such amounts as are required pursuant to the terms of this Agreement in effect immediately prior to the time at which notice of removal was served pursuant to this Section 9.1(e), (B) assume and fund in cash the General Partner's Capital Contribution obligations as provided in Section 3.1(a) and (C) assume all of Lehman Brothers' other contractual obligations to the Partnership, the Parallel Funds and the Fund Partners (in their capacity as such).

Any direct or indirect amendment on or after the effective date of the removal of the General Partner to the provisions of this Section 9.1(e) or any other provision of this Agreement that adversely affects the removed General Partner's rights under this Section 9.1(e) (including, without limitation, any amendment to this Agreement that would adversely affect the removed General Partner's Profits Interest or other distributions hereunder or require it to make any further Capital Contributions or payments on or after such removal) shall require the written consent of the removed General Partner acting in its capacity as a Limited Partner. A removal of the General Partner pursuant to this Section 9.1(e), for the avoidance of doubt, shall not be deemed a Disabling Event. The provisions of this Section 9.1(e) shall apply notwithstanding anything else to the contrary contained in this Agreement or the Investment Advisory Agreement. For purposes of this Agreement, "Profits Interest" shall mean those amounts distributable pursuant to Sections 4.2(a)(iii) and 4.2(a)(iv)(B), together with all comparable amounts distributable pursuant to Section 10.3 hereof. Notwithstanding anything in this Section 9.1(e) to the contrary, no breach by the General Partner of any obligation hereunder shall result in (i) the termination of the Investment Advisory Agreement or (ii) the dissolution and winding up of the Partnership except as set forth in this Agreement.

9.2 Removal of the Investment Advisor.

(a) Fund Partners holding at least 75% in Interest of the Fund Partners may, at their option at any time following (i) a determination of Cause and (ii) a failure of the Investment Advisor to cure such Cause within the period of time specified in Section 9.2(c) below, require

the removal, effective as of a date not less than ninety (90) days from the date of notice to the Investment Advisor and the General Partner of such event constituting Cause, of the Investment Advisor from its role in respect of the Partnership and the substitution of another Person or Persons as Investment Advisor of the Partnership in lieu thereof (which successor advisor shall be approved by the Investor Advisory Committee).

(b) Upon the effective date of such termination, the removed Investment Advisor shall have no further rights or obligations hereunder other than rights to (i) indemnification, (ii) any Management Fees, Disposition Fees or Contingent Disposition Fees owed to the Investment Advisor that have not been paid as of the date of such termination and (iii) reimbursement of any Operating Expenses; provided that any Management Fees paid in advance for any period subsequent to the Management Fee period in which the date of such termination occurred shall be reimbursed to the Partnership by such removed Investment Advisor. Any direct or indirect amendment on or after the effective date of the removal of the Investment Advisor to the provisions of this Section 9.2 or any other provision of this Agreement that adversely affects the removed Investment Advisor's rights under this Section 9.2 shall require the written consent of the removed Investment Advisor. The provisions of this Section 9.2 shall apply notwithstanding anything else to the contrary contained in this Agreement or the Investment Advisory Agreement. Upon the removal of the Investment Advisor, the LTI Limited Partners shall, upon receiving payment of such amounts set forth in the proviso to this sentence, be deemed to have forfeited their entire Interest in the Partnership, no further LTI Amount or Contingent Disposition Fees shall be paid pursuant to Section 4.2(b) hereof or Section 4(e) of the Investment Advisory Agreement, as applicable, and no further Disposition Fees shall be paid to the Investment Advisor; provided, however, that the LTI Limited Partners shall receive the LTI Amount, the Investment Advisor and the General Partner (or an Affiliate thereof) shall receive any Contingent Disposition Fees and the Investment Advisor (or an Affiliate thereof) shall receive any Disposition Fees, in each case, accrued or earned but not yet paid or distributed by the Partnership.

(c) A cure of any event constituting Cause under this Section 9.2 must occur within sixty (60) calendar days after a determination that such event constitutes Cause is communicated in writing to the General Partner and the Investment Advisor by Fund Partners representing 75% in Interest of the Fund Partners that are not Affiliates of the Investment Advisor.

9.3 Certain Restrictions on Transfers. Except as set forth in this Section 9.3 and in Sections 5.3 and 9.7(g), no Limited Partner may Transfer (or enter into an agreement to Transfer), directly or indirectly, all or any part of its interest in the Partnership without the prior written consent of the General Partner (other than, with respect to an ERISA Partner or Governmental Plan Partner to a single successor plan or trustee, governmental unit or other funding agent), which consent shall be in the General Partner's sole and absolute discretion. Without limiting the generality of the preceding sentence, unless waived by the General Partner, (1) no Transfer shall be permitted at any time that the Subscription Facility is outstanding and secured by a pledge contemplated in clause (x) of Section 5.3(a) hereof, unless either (i) the transferring Limited Partner remains liable for the full amount of its Unfunded Capital Commitment after the Transfer or (ii) all amounts that would become due under such Subscription Facility as a result of the Transfer by such Limited Partner of its interest in the Partnership are paid to the lender of such Subscription Facility, (2) no Transfer shall be permitted

if the same is effected through an established securities market or secondary market (or the substantial equivalent thereof) within the meaning of Section 7704 of the Code or would make the Partnership ineligible for "safe harbor" treatment under Section 7704 of the Code and the Regulations promulgated thereunder, (3) no Transfer shall be permitted that has a reasonable likelihood of requiring registration or qualification of the Partnership or any Affiliates or the securities of any of them under federal, state or foreign securities laws, (4) to the extent the Partnership is then relying, or desires to preserve its ability to rely, on Section 3(c)(7) of the Investment Company Act, each transferee of a Partner's interest shall be a "qualified purchaser," as such term is defined in the Investment Company Act, (5) to the extent that the Partnership is then relying, or desires to preserve its ability to rely, on Section 3(c)(1) of the Investment Company Act, no Transfer shall be permitted that would increase the number of the Partnership's beneficial owners under Section 3(c)(1) of the Investment Company Act and (6) no Transfer shall be permitted if such Transfer would result in the Partnership being considered to have terminated within the meaning of Section 708 of the Code. A Limited Partner may Transfer all or any part of its interest in the Partnership to an Affiliate of such Limited Partner in accordance with the preceding sentence and without the prior written consent of the General Partner if the transferring Limited Partner executes an acknowledgment in form satisfactory to the General Partner asserting that the transferring Limited Partner remains liable for the full amount of its Unfunded Capital Commitment and Management Fees. Any Transfer made in violation of the foregoing provision shall be void, of no force and effect, and the Limited Partner attempting to make such Transfer shall remain obligated to fund its entire Unfunded Capital Commitments.

9.4 Assignments by Limited Partners; Right of First Refusal. (a) No Limited Partner, excluding the LTI Limited Partners, may Transfer all or any part of its interest in the Partnership to any Person (other than an Affiliate of such Limited Partner in accordance with Section 9.3) unless (i) such Transfer is for cash consideration to a bona fide third party purchaser, (ii) the General Partner has consented pursuant to Section 9.3, (iii) such selling Limited Partner complies with the restrictions set forth in Section 9.3 and this Section 9.4 and (iv) such selling Limited Partner has first made a First Refusal Offer (as defined below) and such Limited Partner has not received a written acceptance for all of the Offered Interest (as defined below) before the expiration of the First Refusal Period (as defined below). The General Partner may waive the foregoing restriction in its sole and absolute discretion.

(b) If the General Partner consents to a proposed Transfer pursuant to Section 9.3, then the Limited Partner entering into an agreement to Transfer all or any part of its interest in the Partnership to a bona fide third party purchaser (other than an Affiliate of such Limited Partner in accordance with Section 9.3) (an "Assignee") shall give written notice to the Partnership, indicating the name and address of the proposed Assignee, the terms and conditions of the proposed sale, including the purchase price, the proposed closing date (which shall be no sooner than the expiration of the First Refusal Period) (the "Offer Closing Date"), any information with respect to said Assignee's experience and financial condition available to the selling Limited Partner, together with a copy of the contract of sale and all related agreements (which shall expressly provide that it is subject to the Partnership's right of first refusal set forth in this Section 9.4), and the Limited Partner shall offer to sell such interest (the "Offered Interest") to the Partnership, one or more Fund Partners, the Investment Advisor (and its designee) and/or the General Partner (and its designees) as determined by the General Partner in its sole and absolute

discretion (the "ROFR Purchaser") in accordance with the provisions hereof (the "First Refusal Offer"). The selling Limited Partner shall make customary representations, warranties and covenants, including that the Offered Interest shall be sold free and clear of any liens, encumbrances, pledges, security interests, restrictions and contractual claims of every kind and nature whatsoever.

(c) The ROFR Purchaser shall have the first right to purchase the Offered Interest at the price set forth in the First Refusal Offer, by giving written notice of acceptance to the selling Limited Partner within 30 days after receipt of the First Refusal Offer (the "First Refusal Period"). The ROFR Purchaser shall be obligated to consummate the purchase of the Offered Interest in accordance with the terms of the First Refusal Offer by the later of (i) the Offer Closing Date or (ii) 30 days after expiration of the First Refusal Period.

(d) Should the ROFR Purchaser refuse or fail to accept the First Refusal Offer for all of the Offered Interest (or refuse to consummate such purchase within 30 days after expiration of the First Refusal Period), then the selling Limited Partner shall be free to sell all, but not less than all, of its Offered Interest to the Assignee (but not to any other Person) named in the First Refusal Offer upon the terms and conditions stated therein for a period of 90 days after the First Refusal Period. In no event shall the selling Limited Partner Transfer such Offered Interest to the Assignee (or any other Person) either for a price less than, or on terms more favorable to the Assignee (or such other Person) than, the purchase price and the terms stated in the First Refusal Offer without first offering the ROFR Purchaser the option to purchase such Offered Interest in the manner set forth above, at the same price and terms agreed upon between the selling Limited Partner and the proposed Assignee.

(e) An assignment by a Limited Partner or an Assignee of any interest in the Partnership shall be effected by (i) delivery to the General Partner and the Assignee of an executed instrument of assignment and assumption, reasonably satisfactory in form and substance to the General Partner and the Assignee, and such other documentation (including legal opinions) as the General Partner or legal counsel to the Partnership and the Assignee may deem advisable and shall reasonably request; (ii) payment of any expenses, including attorneys' fees and expenses, incurred by the Partnership in connection with such assignment; and (iii) the written consent by the General Partner to such assignment (unless otherwise provided in Section 9.3).

(f) If any interest in the Partnership is Transferred during any accounting period in compliance with the provisions of this Section 9.4, Net Income, Net Loss, Management Fees, each item thereof and all other items attributable to such interest for such period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during such period in accordance with Section 706(d) of the Code, using any conventions permitted by law and selected by the General Partner. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Partnership shall recognize such Transfer on the date of the written instrument whereby the General Partner receives valid notice of the assignment.

(g) The Partnership and the General Partner shall be entitled to treat the record owner (on the books of the Partnership) of any interest in the Partnership as the absolute owner thereof in

all respects, and shall incur no liability for distributions of cash or other property made in good faith to such owner until such time as a written instrument of assignment of such interest has been received and accepted by the General Partner and recorded on the books of the Partnership.

(h) Any purported Transfer by a Partner, including by an LTI Limited Partner, or any assignee of a partner of an interest in the Partnership that is not in compliance with this Agreement is hereby declared to be null and void and of no force or effect whatsoever.

9.5 Substitute Limited Partners. No Assignee shall have the right to become a substitute Limited Partner (a "Substitute Limited Partner") upon Transfer of an interest in the Partnership to it unless and until all the following conditions are satisfied:

(a) the duly executed and acknowledged written instrument of assignment and assumption, reasonably satisfactory in form and substance to the General Partner, shall have been filed with the Partnership;

(b) the Limited Partner and the Assignee shall have executed and acknowledged such other instruments and taken such other action as the General Partner shall deem reasonably necessary or desirable to effect such substitution, including, without limitation, the execution by the Assignee of a Subscription Agreement and a counterpart to this Agreement;

(c) other than, with respect to an ERISA Partner or Governmental Plan Partner, an assignment to a single successor plan or trustee, governmental unit or other funding agent, the conditions as set forth in Sections 9.3 and 9.4 shall have been satisfied, and, if requested by the General Partner, the Limited Partner or the Assignee shall have obtained an opinion of counsel reasonably satisfactory to the General Partner as to the matters set forth in subpart (e) of Section 9.4 above and such other matters as the General Partner may reasonably request;

(d) the Limited Partner or the Assignee shall have paid to the Partnership such amount of money as is sufficient to cover all reasonable expenses incurred by or on behalf of the Partnership in connection with such substitution; and

(e) other than, with respect to an ERISA Partner or Governmental Plan Partner, an assignment to a single successor plan or trustee, governmental unit or other funding agent, the General Partner shall have consented, in its sole and absolute discretion, in writing to such substitution.

9.6 Assignee's Rights. (a) Unless an Assignee becomes a Substitute Limited Partner in accordance with the provisions of Section 9.5, it shall not be entitled to any of the rights (including voting rights) granted to a Limited Partner hereunder or under the Act, other than the right to receive (or be allocated) the share of Net Income and Net Loss of the Partnership, distributions and any other items attributable to a Limited Partner's interest to which its assignor would otherwise be entitled.

(b) Any Limited Partner that shall Transfer all of its interest in the Partnership shall cease to be a Limited Partner; provided, however, that such Limited Partner shall be obligated to make Capital Contributions as provided in Section 3.1(a) and pay the Management Fee until its

Assignee or Assignees shall be admitted as a Substitute Limited Partner or Substitute Limited Partners.

9.7 Defaulting Partner. (a) If any Partner fails to contribute within 7 days after a Capital Demand Date any portion of the Capital Commitment or any other funds required to be contributed by such Partner pursuant to this Agreement, then such Partner shall be deemed a "Defaulting Partner," and subject to the sole and absolute discretion of the General Partner, the following paragraphs (b) through (h) of this Section 9.7 shall apply.

(b) The General Partner shall have the right to determine, in its sole discretion, that whenever the vote, consent or decision of a Limited Partner or of the Partners is required or permitted pursuant to this Agreement, except as required by the Act, any Defaulting Partner shall not be entitled to participate in such vote or consent, or to make such decision, and such vote, consent or decision shall be tabulated or made as if such Defaulting Partner were not a Partner.

(c) The General Partner shall have the right in its sole discretion to impose any or all of the following:

(i) determine that a Defaulting Partner shall (x) not be entitled to make any further Capital Contributions to the Partnership and participate in the Partnership's future Portfolio Investments; provided that the liability of such Defaulting Partner to make Capital Contributions or other payments to the Partnership pursuant to this Agreement shall in any case remain unchanged as if such default has not occurred and/or (y) forfeit to the nondefaulting Partners as recompense for damages suffered, and the Partnership shall withhold (for the account of such other Partners as set forth in the proviso to clause (ii) below), all distributions of Distributable Proceeds, and liquidating distributions that such Defaulting Partner would otherwise receive, except to the extent of Distributable Proceeds distributed pursuant to Section 10.3 hereof relating to 50% of Capital Contributions made by the Defaulting Partner less any expenses, deductions, unpaid Management Fees (including any accrued interest thereon) or losses allocated to such Limited Partner; and/or

(ii) either (A) assess a 50% reduction in the Capital Account balance and related Percentage Interest in Portfolio Investments (and associated distributions) of the Defaulting Partner; provided that any amounts forfeited by the Defaulting Partner or reduced by the General Partner pursuant to clauses (i) above and clause (A) of this sentence shall be distributed (after taking into account any Management Fees owed by the Defaulting Partner (as may be calculated prior to any forfeiture or reduction) in accordance with Section 9.7(i)) among the other Partners in proportion to their Percentage Interests in the Portfolio Investment or Partnership property giving rise to such distribution or, in the case of distribution upon liquidation, in proportion to the liquidating distributions to them pursuant to Section 10.3; or (B) upon delivery of written notice to the Defaulting Partner, cause the Defaulting Partner to transfer (and upon receipt of such notice such Defaulting Partner shall so transfer) all of its Partnership interest (as may have been reduced pursuant to clause (A) above with respect to prior defaults described in this Section 9.7) to one or more Partners and/or partners in the Parallel Funds (which, for the avoidance of any doubt, may be the General Partner or an

Affiliate of the General Partner), the Investment Advisor (or an Affiliate thereof) or third parties selected by the General Partner in its sole discretion, which have agreed to purchase such Partnership interest effective immediately at a transfer price equal to 50% of such Defaulting Partner's Capital Account as of the close of business on the effective date of such transfer; provided that any unpaid Management Fees or other unpaid expenses accrued or owed by such Defaulting Partner (including any expenses incurred in the sale and transfer of such Defaulting Partner's Interests) shall be paid from such transfer price.

(d) A Defaulting Partner shall be fully liable for any damages (including any punitive, consequential, incidental, indirect or special damages) resulting from, or in connection with the Defaulting Partner's default.

(e) No right, power or remedy conferred upon the Partnership or the General Partner in this Section 9.7 shall be exclusive, and each such right, power or remedy shall be cumulative and in addition to every other right, power or remedy whether conferred in this Section 9.7 or now or hereafter available at law or in equity or by statute or otherwise. No course of dealing between the General Partner and any Defaulting Partner and no delay in exercising any right, power or remedy conferred in this Section 9.7 or now or hereafter existing at law or in equity or by statute or otherwise shall operate as a waiver or otherwise prejudice any such right, power or remedy; provided that the General Partner may, in its sole and absolute discretion, waive any remedies against a Defaulting Partner under this Section 9.7.

(f) Each Partner acknowledges by its execution hereof that it has been admitted to the Partnership in reliance upon its agreements under this Agreement, that the General Partner and the Partnership may have no adequate remedy at law for a breach hereof and that damages resulting from a breach hereof may be impossible to ascertain at the time hereof or of such breach.

(g) As security for the prompt and complete payment of each Partner's obligation to make Capital Contributions in accordance with the terms of this Agreement and fund its Unfunded Capital Commitments hereunder, each Partner hereby grants and pledges to the Partnership a security interest in and continuing lien on all of such Partner's right, title and interest in the Partnership, whether now owned or existing or hereafter acquired or arising (collectively, the "Collateral"). Each Partner hereby authorizes the Partnership to file a Uniform Commercial Code Financing Statement against it evidencing the Partnership's security interest in such Partner's right, title and interest in the Partnership. Each Partner hereby consents to the making of such grant and pledge by each other Partner. Each Partner hereby represents and warrants to the Partnership that except for the lien granted to the Partnership hereunder, such Partner owns and, as to all Collateral whether now existing or hereafter acquired, will continue to own, the Collateral free and clear of any and all liens, rights or claims of all other Persons (other than nonconsensual liens, which nonconsensual liens such Partner agrees to discharge or bond off promptly after learning of same), and such Partner shall defend the Collateral against all claims and demands of all Persons at any time claiming the same or any interest therein adverse to the Partnership. The jurisdiction of organization of each Partner is set forth on Annex A hereto. Each Partner will from time to time promptly execute and deliver all further instruments, endorsements and other documents and take such further action as the Partnership may

reasonably request in obtaining the full benefits of the grant made hereunder. No Partner shall change its name, identity, corporate structure or its location without (i) giving the Partnership at least 15 days' prior written notice describing such new name, identity, corporate structure or new location and providing such other information in connection therewith as the Partnership may reasonably request and (ii) taking all actions reasonably requested by the Partnership to maintain the security interest of the Partnership in the Collateral intended to be granted hereby at all times fully perfected with the same priority and in full force and effect. If a Partner becomes a Defaulting Partner, in addition to its other remedies set forth herein, the Partnership shall be entitled to enforce the security interest granted herein in order to collect any Unpaid Capital Contributions, shall have all of the rights of a secured party under the Uniform Commercial Code, shall have all rights now or hereafter existing under all other applicable laws and, subject to any mandatory requirements of applicable law then in effect, shall have all the rights set forth herein and all the rights set forth with respect to the Collateral in any other agreement between the parties. The Partnership shall not pledge the Partners' pledges set forth above except in connection with any Subscription Facility.

(h) Notwithstanding the foregoing provision of this Section 9.7, in the event that the General Partner or any Affiliate thereof is the Defaulting Partner, then, for purposes of the application of this Section 9.7, any action to be taken or determination to be made by the General Partner pursuant to this Section 9.7 shall instead be taken or made by the Investment Advisor; provided that in the event of any default by the General Partner or any Affiliate thereof, prior to exercising any remedies, the Investment Advisor shall provide a report to the Investor Advisory Committee of the remedies it intends to pursue against the General Partner or such Affiliate and the Investor Advisory Committee shall have the right to object to any waiver of any remedies and in case of such objection, any action to be taken or determination to be made by the Investment Advisor pursuant to this Section 9.7 shall instead be taken or made by the Investor Advisory Committee.

(i) If any Partner fails to pay, in a timely manner, any portion of the Management Fee required to be paid by such Partner pursuant to Section 7.3 and such failure continues for five (5) Business Days after delivery by the General Partner to such Partner of notice, confirmed by telephone, of such failure, then (i) such Partner shall be deemed a Defaulting Partner and this Section 9.7 shall apply in the same manner and to the same extent as if such Partner had failed to contribute a portion of the Capital Commitment required to be contributed by such Partner hereunder and (ii) prior to any distributions of amounts forfeited or reduced with respect to such Defaulting Partner, any distributions that thereafter would otherwise be paid to such Partner hereunder shall instead be paid to the General Partner in payment of the Management Fee such Partner failed to pay plus interest thereon at the lesser of (x) the rate of 10% per annum and (y) the maximum rate permitted by applicable law. The General Partner shall be entitled to exercise all remedies available at law or in equity to collect any unpaid Management Fees, including foreclosure upon any Defaulting Partner's interest in the Partnership pursuant to Section 9.7(c) (provided that such remedies, other than the collection of interest, shall be inapplicable if Management Fees are not paid after the Commitment Period from distributions pursuant to Section 7.3(e)).

(j) Notwithstanding the foregoing provisions of this Section 9.7, in the event that a Participating Plan shall fail to pay its respective proportion of any portion of the Capital

Commitment required pursuant to this Agreement to be contributed by the Group Trust, the Group Trust shall be a Defaulting Partner only with respect to such Participating Plan's beneficial interest in the Group Trust, and the provisions of this Section 9.7 shall apply only in respect of that proportion of the Group Trust's interest in the Partnership, and the Group Trust shall be deemed to be a non-Defaulting Partner in respect of the beneficial interests of those Participating Plans that have paid their portion of the Capital Commitment required to be contributed by the Group Trust. The General Partner shall make appropriate adjustments to give effect to this provision.

9.8 Further Actions. The General Partner shall cause this Agreement to be amended to reflect as appropriate the occurrence of any of the transactions referred to in this Article IX as promptly as is practicable after such occurrence.

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

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

ARTICLE X

Term and Dissolution of the Partnership

10.1 Term. The term of the Partnership commenced on the date of the filing of the Certificate pursuant to the Act and shall continue until the Partnership is dissolved, which dissolution shall occur upon the first of any of the following events (each an "Event of Dissolution"):

(a) the 5th anniversary of the Expiration Date; provided that the term of the Partnership may be extended for up to two additional one-year terms after such date by the General Partner in its sole discretion;

(b) the occurrence of a Disabling Event; provided that the Partnership shall not be dissolved if, within 90 days after such Disabling Event, a majority in Interest of the Fund Partners (other than Affiliates of the General Partner and the Lehman Side-by-Side Investment), or such greater number as may be required by the Act (constituting, in any event, no less than a majority in Interest of all Fund Partners), agree in writing to continue the business of the

Partnership and to the appointment, effective as of the date of the Disabling Event, of a substitute General Partner to replace the existing General Partner who has ceased to be a general partner of the Partnership; provided, further, that in the event that no substitute General Partner has been appointed by the Fund Partners within such 90-day period, the business of the Partnership shall continue if the Investment Advisor selects a substitute General Partner; provided, further, that upon appointment by the Fund Partners or the Investment Advisor, as applicable, such successor general partner shall be admitted as General Partner and each of the terms and conditions in Sections 9.1(d)(ii), 9.1(d)(iii), 9.1(d)(iv) and 9.1(d)(v) shall be satisfied;

(c) Fund Partners holding at least 66⅔% in Interest of the Fund Partners elect to cause the dissolution and liquidation of the Partnership following the occurrence of a Key Group Event in accordance with Section 6.18;

(d) Fund Partners holding at least 66⅔% in Interest of the Fund Partners elect to cause the dissolution and liquidation of the Partnership following the termination of the Investment Advisory Agreement and failure of the Investor Advisory Committee to approve a new investment advisor in accordance with Section 6.5(b);

(e) after the Commitment Period, a good faith determination by the General Partner that the Partnership has disposed of and reduced to cash substantially all of its Portfolio Investments; or

(f) the entry of a decree of judicial dissolution under Section 17-802 of the Act.

10.2 Winding-Up. Upon the occurrence of an Event of Dissolution, the Partnership shall be wound up and liquidated as promptly as business circumstances allow. Subject to the right of the Investor Advisory Committee to approve the appointment of the liquidator pursuant to Sections 6.5(b) and 6.18, (i) for so long as the Investment Advisory Agreement is in full force and effect, the Investment Advisor, or, (ii) if the Investment Advisory Agreement is no longer in effect, the General Partner or, if there is no general partner, a liquidator who may be appointed by a majority in Interest of the Fund Partners, shall proceed with the Dissolution Sale and the Final Distribution. In the Dissolution Sale, the Investment Advisor, the General Partner or such liquidator shall use its best efforts to reduce to cash and cash equivalent items such assets of the Partnership as the Investment Advisor, the General Partner or such other liquidator shall deem it advisable to sell, subject to obtaining fair value for such assets and any tax or other legal considerations; provided, however, that, in any event, the General Partner shall not make distributions in kind except as permitted under Section 4.4.

10.3 Final Distribution. Subject to the Act, after the Dissolution Sale, the proceeds thereof and the other assets of the Partnership (including, without limitation, restricted securities) shall be distributed in one or more installments in the following order of priority:

(a) To creditors of the Partnership (including, if applicable, (A) the General Partner and its Affiliates, including in respect of fees payable to the General Partner and its Affiliates pursuant to Section 4(e) of the Investment Advisory Agreement and (B) the Investment Advisor and its Affiliates, including in respect of fees payable to the Investment Advisor and its Affiliates pursuant to Section 7.4 hereof and Section 4(e) of the Investment Advisory Agreement), to the

extent otherwise permitted by law, in satisfaction of liabilities of the Partnership, including the expenses of the winding-up, liquidation and dissolution of the Partnership (whether by payment or the making of reasonable provision for payment thereof).

(b) Provision for such reserves as the liquidator deems necessary or desirable shall next be made;

(c) The remaining proceeds, if any, plus any remaining assets of the Partnership, shall be applied and distributed to those Partners, including the LTI Limited Partners, having positive Capital Accounts, in accordance with such relative positive amounts and in compliance with Regulation Section 1.704-1(b)(2)(ii)(b)(2). For purposes of the application of this Section 10.3(c) and determining Capital Accounts on dissolution, all unrealized gains, losses and accrued income and deductions of the Partnership shall be treated as realized and recognized immediately before the date of distribution.

When the liquidator has complied with the foregoing liquidation plan, the liquidator, on behalf of all Partners, shall execute, acknowledge and cause to be filed an instrument evidencing the cancellation of the certificate of limited partnership of the Partnership, at which time the Partnership shall be terminated.

ARTICLE XI

Miscellaneous

11.1 Waiver of Partition. Except as may be otherwise required by law in connection with the winding-up, liquidation and dissolution of the Partnership, each Partner, including each LTI Limited Partner, hereby irrevocably waives any and all rights that it may have to maintain an action for partition of any of the Partnership's property.

11.2 Power of Attorney. (a) Each Limited Partner, including each LTI Limited Partner, hereby acknowledges and confirms that it has duly appointed the General Partner and the general partner of the General Partner and the officers of such general partner, and any successor of it or them, as its true and lawful attorney-in-fact for the limited purposes and upon the terms and conditions specified in the power of attorney contained in the Subscription Agreement. Such appointment shall expire immediately if the General Partner is subject to bankruptcy proceedings or is adjudicated incompetent by a court of competent jurisdiction.

(b) Each Limited Partner, including each LTI Limited Partner, further agrees and acknowledges that the Power of Attorney granted in the Subscription Agreement and referred to in (a) above includes the General Partner's authority to do any of the following: (i) to execute, acknowledge, verify, swear to, deliver, record and file, in the Limited Partner's name, place and stead any French real property tax returns and/or any other related forms or letters with respect to French real property taxation of the Partnership's Portfolio Investments in France, (ii) to pay or cause to be paid any and all French tax liabilities that may accrue to a Limited Partner in connection with French real property taxation of the Partnership's Portfolio Investments in France, (iii) to appoint a tax preparation provider to carry-out the authority granted to the General Partner in Section 4.5(b), and (iv) to exercise the authority granted in Section 4.5(b) and

subsection (iii) hereof with respect to any similar real property taxation in other jurisdictions in which the Partnership has Portfolio Investments; provided that in each and every case the forgoing shall be conducted pursuant to the terms of the Partnership Agreement.

11.3 Amendments. (a) Except as required by law or for an amendment to Annex A hereto pursuant to Section 3.1(k) hereof or amendments made pursuant to Section 3.2(e), this Agreement may be amended by the General Partner with the consent of a majority in Interest of the Fund Partners; provided, however, that amendments that do not adversely affect the Limited Partners, the Fund Partners, the Partnership or the Parallel Funds may be made to this Agreement and the Certificate, from time to time, by the General Partner, without the consent of any of the Limited Partners or the Fund Partners, as the case may be, (i) to amend any provision of this Agreement and the Certificate that requires any action to be taken by or on behalf of the General Partner or the Partnership pursuant to requirements of Delaware law if the provisions of Delaware law are amended, modified or revoked so that the taking of such action is no longer required, (ii) to take such action in light of changing regulatory conditions or of the then current ERISA regulations, as the case may be, as is necessary in order to permit the Partnership to continue in existence, (iii) to add to the duties or obligations of the General Partner, or to surrender any right granted to the General Partner herein, for the benefit of the Limited Partners, including the LTI Limited Partners, or the Fund Partners, (iv) to correct any clerical mistake or to correct or supplement any immaterial provision herein or in the Certificate that may be inconsistent with any other provision herein or therein, or correct any printing, stenographic or clerical errors or omissions, that shall not be inconsistent with the provisions of this Agreement or the status of the Partnership as a partnership for federal income tax purposes, (v) to admit one or more New Partners or one or more Substitute Limited Partners, or withdraw one or more Limited Partners in accordance with the terms of this Agreement, (vi) to amend Annex A hereto to provide any necessary information regarding any Partner, a successor General Partner, any New Partner or Substitute Limited Partner, (vii) to reflect any change in the amount of the Capital Commitments of any Partner in accordance with the terms of this Agreement, (viii) to change the name of the Partnership or to make any other change that is for the benefit of, or not adverse to the interests of, the Limited Partners, including the LTI Limited Partners, or the Fund Partners and (ix) to make any changes negotiated with a Limited Partner admitted at a Subsequent Closing (or limited partners admitted at the closing of a Parallel Fund) so long as such changes do not materially adversely affect the rights and obligations of existing Limited Partners taken as a whole; provided, further, that except as provided in Section 3.2(e) no amendment shall (i) disproportionately alter the interest of a Limited Partner, including an LTI Limited Partner, in allocations under Section 3.3 or in distributions under Section 4.2 without the consent of such Limited Partner, (ii) increase the Capital Commitment of any Partner, including an LTI Limited Partner, without the consent of each Partner so affected, (iii) change the percentage in Interests of Limited Partners or Fund Partners, as applicable (the "Required Interest") necessary for any consent required hereunder to the taking of an action unless such amendment is approved by Limited Partners or Fund Partners, as the case may be, who then hold Interests equal to or in excess of the Required Interest for the subject of such proposed amendment, (iv) reduce the percentage of Fund Partners required to approve amendments as provided in the other clauses of this Section 11.3 without the consent of the percentage of Fund Partners required by such clause prior to the effectiveness of reduction, (v) adversely affect the rights of a removed General Partner without the written consent from the removed General

Partner pursuant to Section 9.1(e) or (vi) amend Section 5.4 without the consent of a majority in Interest of all ERISA Partners.

(b) Any amendment to this Agreement that may be made solely with the approval of the General Partner and any amendment to Annex A hereto pursuant to Section 3.1(k) may be executed on behalf of each Limited Partner by the General Partner pursuant to the power of attorney given by the Limited Partners under the Subscription Agreement. Each Limited Partner hereby agrees that, upon the request of the General Partner, it shall execute any amendment to this Agreement that has been duly authorized pursuant to Section 11.3(a).

(c) Notwithstanding anything to the contrary contained in this Section 11.3, at any time a Subscription Facility is in place, no amendment to the Agreement or to the Subscription Agreements that amends, modifies, supplements, cancels, terminates, reduces or suspends any provision of this Agreement or any obligations of any Limited Partner under the Subscription Agreement shall be effective without the prior written consent of the lender if required under such Subscription Facility.

(d) Any request for consent of the Limited Partners in this Section 11.3 shall be made by written notification from the General Partner to the Limited Partners at the address listed on Annex A hereto. Failure of a Limited Partner to respond within 10 Business Days after notification is sent shall be deemed a consent to the proposed amendment by such Limited Partner.

(e) Notwithstanding anything to the contrary contained in this Section 11.3, no amendment that adversely affects an LTI Limited Partner may be made to the Agreement without the consent of such LTI Limited Partner.

11.4 Interest. Unless explicitly provided otherwise, any interest accruing on amounts due to the Partnership under this Agreement shall accrue at a rate of 10% per annum and shall compound annually.

11.5 Entire Agreement. This Agreement, the partnership agreements of the Parallel Funds and the other agreements referred to herein constitute the entire agreement among the Partners with respect to the subject matter hereof and supersede any prior agreement or understanding among or between them with respect to such subject matter. The representations and warranties of the Limited Partners in, and the other provisions of, the Subscription Agreements shall survive the execution and delivery of this Agreement. The parties hereto acknowledge that the Partnership or the General Partner, without any further act, approval or vote of any Partner, may enter into side letters or other writings with individual Limited Partners which have the effect of establishing rights under, or altering or supplementing, the terms of, this Agreement. The General Partner hereby agrees to continue to be bound by the provisions contained in any side letter entered into with a Limited Partner prior to the date hereof and further confirms that section references to this Agreement in any side letter shall be deemed updated to reflect any changes to section numbering effected by the amendment and restatement of the Fourth Amended and Restated Agreement of Limited Partnership; provided, however, that notwithstanding anything to the contrary contained in any side letter, this Agreement shall control in the event of any inconsistency between the provisions of this Agreement and the

provisions of any side letter with respect to (i) the delegation of the General Partner's rights, powers or obligations pursuant to Sections 2.4(v) and 6.5, (ii) the affiliation of the Investment Advisor and Real Estate Principals with the General Partner or (iii) the payment of additional fees or incentive amounts as contemplated by Sections 4.2(b) and 7.4 of this Agreement or Section 4 of the Investment Advisory Agreement.

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

11.7 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if sent (i) if to any Partner, including any LTI Limited Partner, to the Person specified at such Partner's business address set forth on Annex A hereto and to his designees if written notice specifying the Person and address of such designee is provided to the Person required to give notice and (ii) if to the Partnership or the Investment Advisor, to the General Partner at the General Partner's business address set forth on Annex A hereto; or to such other address as any Partner, including any LTI Limited Partner, or the Investment Advisor shall have last designated by notice to the Partnership at least 15 days prior thereto, and in the case of a change in address by the General Partner, by notice to the Limited Partners, including the LTI Limited Partners. Any notice shall be deemed to have been duly given if personally delivered or sent by certified, registered or overnight mail or courier or by e-mail or facsimile transmission and shall be deemed received, unless earlier received, (i) if sent by certified or registered mail, return receipt requested, when actually received, (ii) if sent by overnight mail or courier, when actually received, (iii) if sent by e-mail or facsimile transmission, on the date sent (provided that with respect to Capital Demand Notices, confirmatory notice is sent as provided in the preceding clauses (i) or (ii) and such notice is actually received), and (iv) if delivered by hand, on the date of receipt.

11.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to principles of conflict of laws.

11.9 Successors and Assigns. Except with respect to the rights of Indemnified Parties and members of the Investor Advisory Committee and the Investment Advisor hereunder, this Agreement shall be binding upon and inure to the benefit of the Partners, including the LTI Limited Partners, and their legal representatives, successors and permitted assigns.

11.10 No Third-Party Beneficiaries. This Agreement (together with all other documents and instruments referred to herein) is not intended to confer upon any other Person other than a Partner or an Indemnified Party any rights or remedies. Without limiting the generality of the foregoing, except as may be provided in any credit agreement between the Partnership and the

lender under any Subscription Facility, none of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Partnership and no creditor who makes a loan to the Partnership may have or acquire at any time as a result of making the loan any direct or indirect interest in profits, losses, distributions, Unfunded Capital Commitments or Portfolio Investments.

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

11.12 Headings; Gender; Time Periods; etc. The Section headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof. As used herein, (i) masculine pronouns shall include the feminine and neuter, and the singular shall be deemed to include the plural, (ii) the word "or" shall not be exclusive and (iii) the terms "includes" and "including" and words of similar import shall be deemed to be followed by the words "without limitation" to the extent such words do not already follow any such term. If any time period set forth herein shall expire on a day that is not a Business Day, such time period shall be automatically extended to the first Business Day immediately following the non-Business Day on which such time period would otherwise expire.

11.13 Delivery of Certificate, etc. The General Partner shall provide a copy of the Certificate, this Agreement and each amendment to the Certificate or this Agreement to each Limited Partner, including each LTI Limited Partner.

11.14 Further Assurances. Each Partner, including each LTI Limited Partner, agrees to take any and all action necessary or appropriate for the accomplishment of the purposes of the Partnership set forth in Section 2.4 hereof.

11.15 Fund Experts. The General Partner has retained Mayer Brown LLP and Ernst & Young LLP in connection with the formation of the Partnership and may retain these experts or other counsel and accountants in connection with the operation of the Partnership and any Parallel Fund (collectively, "Fund Experts"), including making, holding and disposing of investments. Each Limited Partner acknowledges that no Fund Expert represents any Limited Partner (in its capacity as such) in the absence of a clear and explicit written agreement to such effect between such Limited Partner and such Fund Expert (and then only to the extent specifically set forth in such agreement), and that in the absence of any such agreement, no Fund Expert shall owe any duties to any Limited Partner (in such capacity) (or to the Limited Partners as a group), whether or not such Fund Expert has in the past represented or is currently representing such Limited Partner with respect to other matters.

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

GENERAL PARTNER:

LEHMAN BROTHERS REAL ESTATE ASSOCIATES II, L.P.

By: Silverpeak Real Estate Partners L.P., as Attorney-in-Fact

By: REPE CP ManageCo LLC, its general partner

By: _____
Name:
Title: Rodolpho Ambess Authorized Person

INVESTMENT ADVISOR:

SILVERPEAK REAL ESTATE PARTNERS L.P.

By: REPE CP ManageCo LLC, its general partner

By: _____
Name: Rodolpho Ambess
Title: Authorized Person

LIMITED PARTNERS:

All Limited Partners, including the LTI Limited Partners, now and previously admitted as limited partners of the Partnership pursuant to powers of attorney executed in favor of and delivered to the General Partner.

By: LEHMAN BROTHERS REAL ESTATE ASSOCIATES II. L.P., as Attorney-in-Fact:

By: Silverpeak Real Estate Partners L.P., as Attorney-in-Fact

By: REPE CP ManageCo LLC, its general ~~partner~~

By: _____
Name: Rodolpho Ambess
Title: Authorized Person

Annex A

PARTNERS' CAPITAL COMMITMENTS AND BUSINESS ADDRESSES

[*See Attached*]

Annex B

INVESTOR ACKNOWLEDGMENT

[*See Attached*]

Annex C

FORM OF INVESTMENT ADVISORY AGREEMENT

[*See Attached*]