EXHIBIT I

OPERATING AGREEMENT

OF

WORKFORCE HOUSING ADVISORS MM II LLC

(A NEW YORK LIMITED LIABILITY COMPANY)

WORKFORCE HOUSING ADVISORS MM II LLC

THIS OPERATING AGREEMENT, dated as of the 24th day of May, 2011 of WORKFORCE HOUSING ADVISORS MM II, a New York limited liability company, by and among the signatories to this agreement.

W I T N E S S E T H:

WHEREAS, the Company was formed pursuant to the provisions of the LLCL by the filing of its Articles of Organization with the Secretary of State of the State of New York on the 24th day of May, 2011; and

WHEREAS, the purpose of the Company is to act as the managing member of HABITARE URBANA FUND, LLC, a New York limited liability company (the "**Fund**") and to fulfill such other purposes as may be determined from time to time by the Members; and

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein and other good and valuable consideration, the parties hereto set forth their agreement as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions.

For purposes of this Agreement, capitalized terms used but not otherwise defined herein shall have the following meanings:

"**Adjusted Capital Account**" means, with respect to any Member, the balance in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) such Capital Account shall be deemed to be increased by any amounts that such Member is obligated to restore to the Company (pursuant to this Agreement or otherwise) or is deemed to be obligated to restore pursuant to (A) the penultimate sentence of § 1.704-2(g)(1) of the Regulations, or (B) the penultimate sentence of §1.704-2(i)(5) of the Regulations; and

(b) such Capital Account shall be deemed to be decreased by the items described in paragraphs (4), (5) and (6) of §1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted and applied consistently therewith.

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

"**Affiliate**" means, with respect to any Person, (a) any Person who is a member of the Immediate Family of any individual, (b) any entity which owns or controls (i.e., which owns directly, or indirectly, 50% or more of the beneficial interest in or otherwise has the right or power by any means to control), is owned or controlled by or which is under common ownership or control with a Person and (c) any individual who is an officer, director, trustee, member or employee of, or partner in, a Person referred to in the preceding clause (b).

"**Agreement**" shall mean this agreement, as the same may be amended and modified from time to time.

"**Articles of Organization**" means the Articles of Organization of the Company filed with the New York Secretary of State, as the same may be amended or amended and restated from time to time.

"**Available Cash**" means, with respect to any fiscal year, all cash receipts of the Company (excluding Capital Contributions and the Management Fee, but including the proceeds of any Loan which the Members do not anticipate using to fulfill the purposes of the Company and are, subject to the provisions of the Loan Documents, available for Distribution) during such year plus cash available from any reduction in the amount of any reserves of the Company during such year less the sum of the following to the extent made from such cash receipts or reserves:

(a) all cash expenditures of the Company made during such year (except Distributions), including debt service and expenses and costs incurred during such year in the acquisition, ownership and management of the Company Assets; and

(b) funds set aside as reserves for contingencies, working capital, debt service, taxes, insurance or other anticipated costs or expenses incident to the conduct of the Company's business.

"**Bankruptcy**" has the meaning set forth in Section 6.9(b).

"**Book Value**" means, with respect to any asset of the Company, the adjusted basis of such asset as of the relevant date for federal income tax purposes, except as follows:

(a) the initial Book Value of any asset contributed or deemed contributed by a Member to the Company shall be the Fair Market Value of such asset;

(b) the Book Values of all Company Assets (including intangible assets such as goodwill) may be adjusted to equal their respective Fair Market Values as of the following times as determined by the Members by Majority Consent:

(1) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution or contribution of more than a de minimis amount of property;

(2) the distribution by the Company to a Member of more than a de minimis amount of money or Company property as consideration for its interest in the Company;

(3) the liquidation of the Company within the meaning of §1.704-1(b)(2)(iv)(f)(5)(ii) of the Regulations and taking into account §1.704-1(b)(2)(iv)(l) of the Regulations; and

(4) any other event permitting or requiring an adjustment to Book Value pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations.

(c) if the Book Value of an asset has been determined or adjusted pursuant to subsection (a) or (b) above, such Book Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purpose of computing Net Profits and Net Losses and other items allocated pursuant to Article XII hereof.

The foregoing definition of Book Value is intended to comply with the provisions of §1.704-1(b)(2)(iv) of the Regulations and shall be interpreted and applied consistently therewith.

"**Business Day**" means any day other than Saturday, Sunday and any other day of the year on which banks are required or authorized to be closed in New York.

"**Capital Account**" means the capital account established and maintained for each Member pursuant to Article XI hereof.

"**Capital Contributions**" means the contributions by a Member to the capital of the Company pursuant to Section 6.2 or Section 6.6 hereof.

"**Capital Contribution Date**" has the meaning ascribed to such term in Section 6.2(c)(i).

"**Cash Needs**" has the meaning ascribed to such term in Section 6.2(c).

"**Cash Needs Capital Notice**" has the meaning ascribed to such term in Section 6.2(c)(i).

"**Cash Needs Loan Notice**" has the meaning ascribed to such term in Section 6.2(c)(ii).

"**Cause**" has the meaning ascribed to such term in Section 6.8.

"**Closing Date**" shall have the meaning ascribed to such term in Section 6.10(c).

"**Code**" means the Internal Revenue Code of 1986, as amended, or any corresponding provisions of superseding federal revenue statute.

"**Company**" means WORKFORCE HOUSING ADVISORS MM II LLC, a New York limited liability company.

"**Company Assets**" means all right, title and interest of the Company in and to all or any portion of its respective assets.

"**Company Minimum Gain**" means the aggregate amount of gain (of whatever character), determined for each Nonrecourse Liability of the Company, that would be realized by the Company if it disposed of the Company property subject to such liability in a taxable transaction in

full satisfaction thereof (and for no other consideration) and by aggregating the amounts so computed, determined in accordance with §§ 1.704-2(d) and (k) of the Regulations.

"**Company Minimum Gain Chargeback**" shall have the meaning set forth in Section 12.3(a)(iii).

"**Default Rate**" means an interest rate equal to the greater of ten percent (10%) per annum or five (5) percentage points over the rate of interest publicly announced from time to time by Citibank N.A., Main Branch in New York City, as its "prime" rate of interest, compounded on a monthly basis.

"**Depreciation**" means, for each Fiscal Year or part thereof, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Fiscal Year or part thereof, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, the depreciation, amortization or other cost recovery deduction for such Fiscal Year or part thereof shall be an amount which bears the same ratio to such Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for such Fiscal Year or part thereof bears to such adjusted tax basis and provided further that if the federal income tax basis of such asset is zero (0) or less, then the depreciation, amortization or other cost recovery deduction shall be whatever the Members by Majority Consent determine is reasonable under the circumstances.

"**Dissolution**" means the happening of any of the events set forth in Section 16.1.

"**Distribution**" means any cash and the Fair Market Value of any property (net of liabilities secured by such property that the Member is deemed to assume or take subject to under Section 752 of the Code) distributed by the Company to the Members in accordance with Article XIII or XVII of this Agreement.

"**Economic Interest**" means a Person's share of the Company's income, gain, loss, deductions, credits and similar items and distributions of the Company pursuant to this Agreement and the LLCL, but shall not include any rights of a Member, including, without limitation, the right to vote or participate in the management, or except, to the extent mandatory and not subject to waiver under the LLCL, any right to information concerning the business and affairs of the Company.

"**Economic Percentage Interest**" means the percentage of Distributions and allocations of Net Profits and Net Losses which a Person is entitled to receive pursuant to the terms of this Agreement or any contractual arrangement with any Member. The initial Economic Percentage Interests are set forth on Exhibit A, and shall be adjusted from time to time by the Members by Majority Consent in accordance with the terms of this Agreement.

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

"**Excess Cash Needs Loan**" means any loan made to the Company by a Member pursuant to Section 6.2(c)(ii) hereof.

"**Excess Capital Call**" has the meaning ascribed to such term in Section 6.2(c)(i).

"**Excess Loan Call**" has the meaning ascribed to such term in Section 6.2(c)(ii).

"**Exit Request Notice**" shall have the meaning set forth in Section 18.11.

"**Fair Market Value**" means, with respect to any property (including the Membership Interests), the value that would be obtained in an arm's length transaction to purchase such property for cash between an informed and willing seller and an informed and willing purchaser, each with an adequate understanding of the facts and under no compulsion to buy or sell.

"**Family Trust**" means, with respect to any individual, a trust for the benefit of such individual or for the benefit of any member of such individual's Immediate Family (for the purpose of determining whether or not a trust is a Family Trust, the fact that one or more of the beneficiaries (but not the sole beneficiary) of the trust includes a Person or Persons, other than a member of such individual's Immediate Family, entitled to a distribution after the death of the settlor if he, she, it, or they shall have survived the settler of such trust, which distribution is to be made of something other than a Membership Interest and/or includes an organization or organizations exempt from federal income tax pursuant to the provision of Section 501(a) of the Code and described in Section 501(c)(3) of the Code shall be disregarded); provided, however, that in respect of transfers by way of a testamentary or inter vivos trust, the trustee or trustees shall be solely such individual, a member or members of such individual's Immediate Family, a responsible financial institution, an attorney that is a member of the Bar of any State in the United States, an accountant duly licensed by any State in the United States or an individual or individuals approved by the Members, other than the interested Member.

"**Fiscal Year**" means the fiscal and taxable year of the Company which shall be the year ending December 31.

"**Fund**" means Habitare Urbana Fund, LLC, a New York limited liability company.

"**Fund Operating Agreement**" means the Operating Agreement of the Fund, dated the ___ day of _____, 2011, as the same may be amended from time to time.

"**Immediate Family**" means, with respect to an individual, (a) such individual's spouse or domestic partner (former or current); (b) such individual's parents and grandparents; (c) such individual's children and grandchildren (in each case, natural or adoptive, of the whole or half blood); (d) such individual's sons-in-law and daughters-in-law (in each case, former or current); (e) any other ascendants and descendants (natural or adoptive, of the whole or half blood) of such individual's parent or of the parents of such individual's spouse (former or current); and (f) any lineal descendants (natural or adoptive) of such individual's spouse.

"**Indemnification Obligation**" has the meaning ascribed to such term in Section 14.1.

"**Indemnified Party**" has the meaning ascribed to such term in Section 14.1.

"**Investor Advisor**" has the meaning ascribed to such term is Section 19.19(h).

"**Lesser Funding Amount**" shall have the meaning ascribed to such term in Section 6.2(d)(iii).

"**Liquidation**" means the process of winding up and terminating the Company after its Dissolution.

"**LLCL**" means the New York Limited Liability Company Law; as amended from time to time.

"**Loan**" means any financing facility (other than an Excess Cash Needs Loan) obtained by the Company for Company purposes or for the direct or indirect benefit of the Company.

"**Loan Advance Date**" has the meaning ascribed to such term in Section 6.2(c)(ii).

"**Loan Document**" means any document evidencing or securing a Loan or the rights or obligations with respect to a Loan.

"**Majority Consent**" shall mean any three of John Crotty, Kevin Gallagher, John Warren and John Fitzgerald.

"**Management Fee**" shall mean the asset management fee paid by the Fund to the Company or any Affiliate of the Company in accordance with the provisions of Section 8.8 of the Fund Operating Agreement.

"**Member**" any Person who or which is bound by the provisions of this Agreement and who or which is admitted to the Company as a Member, in accordance with the terms of this Agreement.

"**Member Minimum Gain**" means the aggregate amount of gain (of whatever character), determined for each Member Nonrecourse Debt, that would be realized by the Company if it disposed of the Company property subject to such Member Nonrecourse Debt in a taxable transaction in full satisfaction thereof (and for no other consideration), determined in accordance with the provisions of §§ 1.704-2(i)(3) and (k) of the Regulations for determining a Member's share of minimum gain attributable to a Member Nonrecourse Debt.

"Member Minimum Gain Chargeback" shall have the meaning set forth in Section 12.3(a)(iv).

"**Member Nonrecourse Debt**" has the meaning ascribed to the term "partner non-recourse debt" specified in § 1.704-2(b)(4) of the Regulations.

"**Membership Interest**" means, with respect to each Member, the entirety of the interest of the Member in the Company, including all of the Economic Interest in the Company held by such Member, and such Member's rights to vote and participate in the management of the Company, and to receive allocations of Net Profits, Net Losses and Distributions.

"**Necessary Additional Funding**" shall have the meaning set forth in Section 6.2(d) (iii).

"**Net Losses**" means, with respect to any Fiscal Year, or part thereof, the net losses of the Company for such period computed using Book Values and applying the methods and principles of accounting used for federal income tax purposes, including, as appropriate, each item of income, gain, loss, deduction or credit entering into such determination, as determined by the accountants of the Company.

"**Net Profits**" means, with respect to any Fiscal Year, or part thereof, the net profits of the Company for such period computed using Book Values and applying the methods and principles of accounting used for federal income tax purposes, including, as appropriate, each item of income, gain, loss, deduction or credit entering into such determination, as determined by the accountants of the Company.

"**Nonrecourse Liability**" means any Company liability (or portion thereof) for which no Member bears the economic risk of loss for such liability under § 1.752-2 of the Regulations.

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

"**Property**" shall have the meaning set forth in the Fund Operating Agreement.

"**Proportionate Share**" shall have the meaning set forth in Section 6.7(a) hereof subject to adjustment pursuant to this Agreement. The Proportionate Share of any transferee shall be such portion of the Proportionate Share of the transferor as is indicated in the instrument of transfer and the Proportionate Share of the transferor shall be thereafter appropriately adjusted.

"**Proportionate Share of Necessary Additional Funding** shall have the meaning set forth in Section 6.2(d)(iii).

"**Qualified Appraiser**" means an appraiser who is not an Affiliate of any Member and has not been an employee of any Member or any Affiliate of the Member at any time, who is qualified to appraise the Project and is a member of the Appraisal Institute (or any successor association or body of comparable standing if such Institute is not then in existence) and who has held his or her certificate as an M.A.I. or its equivalent for a period of not fewer than 10 years, and has been actively engaged in the appraisal of projects comparable to the Project in New York or New York City immediately preceding his or her appointment under this Agreement.

"**Regulations**" means the Treasury Regulations (including temporary or proposed regulations) promulgated and in effect under the Code, as amended from time to time (including corresponding provisions of succeeding regulations).

"**Regulatory Allocations**" shall have the meaning set forth in Section 12.3(a)(vi).

"**Remaining Members**" shall have the meaning set forth in Section 6.8.

"**Requested Total Capital Amount**" shall have the meaning set forth in Section 6.2(c)(i).

"**Requested Total Loan Amount**" shall have the meaning set forth in Section 6.2(c)(ii).

"**§704(b) Regulations**" shall have the meaning set forth in Section 11.1.

"**Section 6.2(d)(iii) Notice**" shall have the meaning set forth in Section 6.2(d)(iii).

"**Securities Act**" shall have the meaning set forth in Section 18.1(c)(ii).

"**Seller**" shall have the meaning set forth in Section 6.10(c).

"**Tax Distribution Amount**" for a Fiscal Year shall mean the total tax liability of a Member (or of any Person whose tax liability is determined by reference to the income of such Member) with respect to the net taxable income allocated to such Member under Article XII for such Fiscal Year. For purposes of the computation of the Tax Distribution Amount, net income for income tax purposes shall be deemed to be reduced by any prior net losses for income tax purposes allocated to the Member that was made in a Fiscal Year after the last Fiscal Year for which a distribution was made to the Member pursuant to Section 13.1(b). Capital losses included in any such prior net losses for income tax purposes shall be included in the computation only to the extent of capital gains. The Tax Distribution Amount shall be determined taking into account the highest marginal combined federal, state and local income tax rate that would be applicable to any of the Members or their beneficial owners (as such rates may be adjusted from time to time) on the net income for income tax purposes allocated to that Member under Article XII. Such determination shall take into account the deductibility of taxes for federal income tax purposes for purposes of determining the net amount of tax due and shall otherwise be based on such reasonable assumptions as the Members, by Majority Consent, determine in good faith to be appropriate.

"**Tax Matters Partner**" shall have the meaning set forth in Section 10.5(a).

"**Terminating Event**" means, with respect to any Member, the occurrence of such Member's Bankruptcy, death, adjudication of incompetency, resignation, removal, expulsion or any event that, absent provisions to the contrary in this Agreement or otherwise, would terminate the continued membership of such Person in the Company by operation of law (including the dissolution of any Member that is not an individual).

"**Transfer**" means a sale, exchange, assignment, transfer, pledge, hypothecation or other disposition, directly or indirectly of all or any part of a Membership Interest (whether voluntary or involuntary or by operation of law); provided, however, that a Transfer shall not include the transfer of all of the membership interests in the Company to a holding company owned by John Crotty, John Warren, Kevin Gallagher, and John Fitzgerald.

"**Uncontributed Capital Amount**" shall have the meaning set forth in Section 6.2(c)(i).

"**Unadvanced Loan Amount**" shall have the meaning set forth in Section 6.2(c)(ii).

"**Unfunded Amount**" shall have the meaning ascribed to such term in Section 6.2(d)(iii).

"**Unreturned Capital Contributions**" means, with respect to any Member, the amount of such Member's Capital Contributions, reduced (but not below zero) by the aggregate amount of distributions to such Member under Section 13.1(a)(iii) and Section 13.1(a)(iv).

"**Withholding Advance**" shall have the meaning set forth in Section 13.2(b).

All other capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the LLCL or in the Fund Operating Agreement. To the extent that a term specifically defined in this Section 1.1 conflicts with a definition provided in the LLCL or in the Fund Operating Agreement, the specific definition set forth herein shall govern.

ARTICLE II

FORMATION

Section 2.1 Formation. The Company was formed upon the filing of the Articles of Organization with the Secretary of State of the State of New York pursuant to the LLCL and on behalf of the Members of the Company.

Section 2.2 Name. The name of the Company is "WORKFORCE HOUSING ADVISORS MM II LLC". The business of the Company will be conducted under such name or such other trade or fictitious names as may be adopted in accordance with Section 2.3.

Section 2.3 Trade Name Affidavits. The Company will file such trade name or fictitious name affidavits and other certificates as may be necessary or desirable in connection with the formation, existence and operation of the Company (including those filings required in any jurisdiction where the Company owns property).

Section 2.4 Foreign Qualification. The Company will apply for authority to transact business in those jurisdictions where it is required to do so. The Company will file such other certificates and instruments as may be necessary or desirable in connection with its formation, existence and operation.

Section 2.5 Term. The term of the Company commenced on the date of its formation under Section 2.1 and shall continue until dissolved, wound up and terminated in accordance with Articles XVI and XVII of this Agreement.

ARTICLE III

OFFICES

Section 3.1 Registered Office; Place of Business; Registered Agent. The Company shall maintain a registered office at 271 Madison Avenue, Suite 1007, New York, New York 10016, or such other office within the State of New York as is chosen by the Majority Consent. The Company shall maintain an office and principal place of business at 271 Madison Avenue, Suite 1007, New York, New York 10016 or at such other place as may from time to time be determined as its principal place of business by Majority Consent.

Section 3.2 Other Offices. The Company may also have offices at other places, either within or without the State of New York, as the Members, by Majority Consent, may from time to time determine in accordance with the terms of this Agreement or as the business of the Company may require.

ARTICLE IV

BUSINESS AND POWERS

Section 4.1 Business. The business of the Company shall be to act, whether directly or through one or more Affiliates or wholly owned subsidiaries, as the managing member of the Fund and to fulfill such other purposes as may be determined from time to time by the Members, by Majority Consent.

Section 4.2 Powers. The Company shall have all the powers permitted to a limited liability company under the LLCL and which are necessary, convenient or advisable in order for it to conduct its business.

ARTICLE V

INTERESTS IN THE COMPANY

Section 5.1 General Rights. Membership Interests shall not have a stated value or any rights to Distributions unless the Members, by Majority Consent, pursuant to the terms hereof, have declared such a Distribution out of funds legally available therefor.

Section 5.2 Membership Interests. The interest of each Member in the profits and losses of the Company shall be as set forth in Article I hereto, in the definition of "Membership Interest."

Section 5.3 Economic Interests. Any Person holding an Economic Interest shall be deemed to be a Member solely for federal income tax purposes and for provisions of this Agreement relating solely thereto, including Articles V, X, XI, XII, XIII, XVII and, as appropriate, Article I.

ARTICLE VI

CAPITAL CONTRIBUTIONS; MEMBERS

Section 6.1 Intentionally Deleted.

Section 6.2 Capital Contributions; Additional Capital Contributions.

(a) Intentionally Deleted.

(b) Capital Contributions. The Members have contributed to the Company (i) cash in the amounts set forth next to their names on Exhibit A, which also sets forth their respective Proportionate Shares.

(c) Additional Capital. If, as and when the Members by Majority Consent determine that the Company requires additional funds ("**Cash Needs**") and the Members by Majority Consent elect not to obtain such additional funds from one or more Loans to the Company, the Members by Majority Consent may, but are not required to, secure funding of such additional

Cash Needs by either (1) requesting additional Capital Contributions from the then Members pursuant to subsection (i) below, (2) by seeking Excess Cash Needs Loans from the then Members pursuant to subsection (ii) below or (3) in accordance with Section 6.2(d) or Section 6.6, seeking capital contributions from new Members.

(i) To secure additional Capital Contributions the Members, by Majority Consent, may, by written notice to the Members (a "**Cash Needs Capital Notice**") given at any time, or from time to time, after the date of this Agreement, request the Members to fund additional capital to the Company during a specified period of time from the date of the sending of the Cash Needs Capital Notice (such amount of capital, the "**Requested Total Capital Amount**") and the date (the "**Capital Contribution Date**") upon which the Requested Total Capital Amount is to be contributed, or, if the contribution is to be made in installments, the Capital Contribution Date for each installment. The Cash Needs Capital Notice shall identify the capital call as an "**Excess Capital Call**." Any Member may, but is not required to, fund all or any portion of the balance of the Requested Total Capital Amount (the "**Uncontributed Capital Amount**") within ten (10) days of notice from the Company of the portion of the Requested Total Capital Amount which remains unfunded. Any amounts funded to the Company under this Section 6.2(c)(i) shall be treated as Capital Contributions for all purposes under this Agreement and, effective as of the outside date by which such Capital Contributions may be advanced, the Proportionate Shares of each of the Members shall be recalculated and adjusted to a percentage obtained by dividing such Member's aggregate Capital Contributions (including the Capital Contributions on account of the Excess Capital Call) as of such date by the total amount of the Capital Contributions by all Members as of such date. Effective upon such recalculation, the Economic Percentage Interests shall be similarly adjusted. If Capital Contributions advanced by the Members pursuant to this subsection (i) do not fully fund the amount of the Excess Capital Call, the Members may seek such needed funds through the admission of new Members pursuant to Section 6.6 below (or by seeking Excess Cash Needs Loans) and if more than the Requested Total Capital Amount is advanced, the excess shall be refunded, without interest, to those Members who have made capital contributions pursuant to this section in excess of their Proportionate Shares of the Uncontributed Capital Amount. Notwithstanding anything to the contrary set forth in this Agreement, no Member (other than to the extent set forth above) shall have any obligation to advance Capital Contributions pursuant to this Section 6.2(c)(i) and the failure to do so shall not constitute a default under this Agreement.

(ii) In addition to its rights under Section 6.2(c)(i), to secure additional funds beyond the aggregate Capital Contribution obligations of the Members described in Section 6.2(b), the Members, by Majority Consent, may, by written notice to the Members (a "**Cash Needs Loan Notice**") given at any time, or from time to time, after the date of this Agreement, request the Members to lend Funds ("**Excess Cash Needs Loan**") to the Company during a specified period of time from the date of the sending of the Cash Needs Loan Notice at an annual rate of interest set forth in the Cash Needs Loan Notice (such amount, the "**Requested Total Loan Amount**") and the date (the "**Loan Advance Date**") upon which the Requested Total Loan Amount is to be advanced, or, if the loan is to be made in installments, the Loan Advance Date for each installment. The Cash Needs Loan Notice shall identify the request for funds as an "**Excess Loan Call**." Any Member may,

but is not required to, fund all or any portion of the balance of the Requested Total Loan Amount (the "**Unadvanced Loan Amount**") within ten (10) days of notice from the Company of the Unadvanced Loan Amount. If advances by the Members pursuant to this subsection (ii) do not fully fund the amount of the Excess Loan Call, the Members may seek such needed funds through the admission of new Members pursuant to Section 6.6 below and if more than the Requested Total Loan Amount is advanced, the excess shall be refunded, without interest, to those Members who have made advances pursuant to this section in excess of their Proportionate Shares of the Unadvanced Loan Amount. Notwithstanding anything to the contrary set forth in this Agreement, no Member (other than to the extent set forth above) shall have any obligation to make an Excess Cash Needs Loan to the Company pursuant to this Section 6.2(c)(ii) and the failure to do so shall not constitute a default under this Agreement. Any loan funds advanced to the Company pursuant to this Section 6.2(c)(ii) shall constitute a loan to the Company, and shall be treated as an obligation of the Company for tax purposes.

(iii) If after the Required Excess Contribution or the Required Excess Loan, as applicable, has been made, any Member advances funds pursuant to a Cash Needs Capital Notice or a Cash Needs Loan Notice and the aggregate amount requested in the Cash Needs Capital Notice or the Cash Needs Loan Notice, as applicable, is not advanced by the Members on or prior to the close of the 10-day period following notice of the Uncontributed Capital Amount or the Unadvanced Loan Amount, as applicable, then the Company shall so notify each Member which has made an advance of funds and each such Member shall have the right, exercisable by written notice given to the Company within fourteen (14) days following such notice to require the immediate repayment, without interest, of the funds advanced by the Member. The Company shall not expend any funds advanced following a Cash Needs Loan Notice until the expiration of such 14-day period or the earlier collection of the full requested amount.

(d) Supplemental Funding.

(i) In the event the Members by Majority Consent determine, in their sole and absolute discretion, that by reason of an unforeseen event or series of events or other emergency or by reason of time exigencies funding in addition to the amount contributed pursuant to Section 6.2 (b) are required in order to provide such funding as the Members, by Majority Consent, deem necessary and the amount needed will not, in the reasonable opinion of the Members, by Majority Consent, be available from the Members or for any other reason, it is not practical to send out either a Cash Needs Capital Notice or a Cash Needs Loan Notice, the Members, by Majority Consent, may obtain Capital Contributions or Loans to the Company from any Person, including from a Person providing a Loan, on such terms and conditions, including the providing to a Person providing a Loan, a share of Available Cash or other participation in the equity of the Company, as the Members deem appropriate without first complying with the provisions of Section 6.2(c);

(ii) In connection with any Capital Contributions made pursuant to Majority Consent pursuant to Section 6.2(d)(i), the Members of the Company may (A) adjust the priority of payment to the Members of the Company of Distributions pursuant to this Agreement to provide that such funding and any return thereon may be paid prior to the

making of any other Distributions under this Agreement and (B) provide for a return on such additional funding in an amount determined by the Members; provided, however, (I) all adjustments with respect to the Members of the Company shall, *inter sese*, be proportionate and non-discriminatory and (II) all adjustments among Persons contributing funds at the same level (e.g. of their Proportionate Share of Additional Funding or of a Lesser Funding Amount or of an Unfunded Amount under this Section and under Section 6.2(d)(iii)) shall be adjusted proportionately and (III) all adjustments in Proportionate Shares shall be proportionate to the capital contributed by each Person to the capital contributed by all Persons who have contributed equity pursuant to this Agreement and (iv) corresponding adjustments shall be made to the allocations of Net Profits and Net Losses pursuant to Section 12.1 of this Agreement; and

(iii) No Third Party Benefit. The provisions of this Section 6.2 are intended only to govern the obligations of the Members *inter se*, and shall not be enforceable against the Members by any creditor of the Company or of any Member, or by any party claiming by or through any such creditor or any Member.

Section 6.3 No Additional Contribution. Except as expressly provided in Section 6.2 or in the LLCL, no Member will be required to make any Capital Contributions or restore any deficit to its Capital Account.

Section 6.4 Withdrawal of Capital. Except as specifically provided in this Agreement, no Member will be entitled to withdraw all, or any part of, such Member's Capital Contribution or Capital Account from the Company nor to receive any repayment of an Excess Cash Needs Loan prior to the Company's Dissolution and Liquidation. When such withdrawal is permitted, no Member will be entitled to demand a Distribution of property other than money.

Section 6.5 No Interest on Capital. No Member will be entitled to receive interest on such Member's Capital Account or any Capital Contribution, except as otherwise provided specifically herein.

Section 6.6 Admission of Members.

(a) Members. Each Member was admitted as such upon execution and delivery of this Agreement and the contribution of its initial Capital Contribution and the execution of a counterpart of this Agreement. Each such Member has received a share (the "**Proportionate Share**") set forth on Exhibit A which reflects the percentage of the Capital Contributions of such member to the Capital Contributions of all Members.

(b) Subsequent Members. Consistent with Section 6.2(c) and Section 6.2(d) above, the Members, by Majority Consent, may from time to time admit any Person as a new Member in order to fund Cash Needs in excess of the Capital Contribution obligations of the Members described in Section 6.2(b), provided that the Members may secure and accept such additional funding from new Members solely if and to the extent that such additional funding requested by the Excess Contribution Call or Excess Cash Needs Loans are not forthcoming in accordance with Section 6.2(c)(i) or Section 6.2(c)(ii) above; provided, however, in the event of an emergency or the occurrence of other events described in Section 6.2(d) which in the opinion of

the Members, by Majority Consent, requires funds prior to the expiration of the notice periods provided for in Section 6.2(c), the Members need not first seek such funds under Section 6.2(c). The conditions to and procedures for admission of any such new Member shall be as determined by Majority Consent. Any such new Member (i) shall receive a Proportionate Share equal to the percentage equivalent of a fraction obtained by dividing such Member's Capital Contribution (as agreed by the new Member and the Company on behalf of the Company and set forth on the amended Exhibit A) and the total amount of the Capital Contributions of all the then Members and (ii) shall be required to make any Capital Contributions necessary to ensure that as of the date of admission such Member has made Capital Contributions equal to its Proportionate Share of the total of all Capital Contributions made as of such date. Effective upon such admission, the Proportionate Shares of the then current Members and the Economic Percentage Interests of holders of Economic Interests shall be similarly adjusted.

(c) Transferees. Upon the Transfer (other than any pledge or hypothecation) of any Membership Interest(s) to any Person who is not a Member, and the approval in accordance with Article XVIII hereof (i) such Person shall be admitted to the Company as a Member and (ii) the Proportionate Shares or Economic Percentage Interests, as applicable, of the transferor and transferee shall be adjusted accordingly.

Section 6.7 Capital Return. Any Member who has received the return of all or any part of such Member's Capital Contribution pursuant to any Distribution that has been wrongfully or erroneously made to such Person in violation of the LLCL, the Articles of Organization or this Agreement will be required to return such Distribution to the Company if notice of an obligation to return such amount is given to such Member within three (3) years of the date of such Distribution.

Section 6.8 Removal of Member for Cause. Any Member may be removed as a Member for Cause upon the consent of those Members (other than the Member to be removed) then holding in excess of fifty (50%) of all remaining Proportionate Shares (the "**Remaining Members**") by delivering a copy of such written consent to such Member. As used herein, "**Cause**" means that a final judgment or order which is not subject to any further appeal has been entered by a court of competent jurisdiction and has determined that the Member to be removed shall have (a) engaged in fraud or embezzlement relating to the Company or the Fund, (b) committed an act of dishonesty, gross negligence or willful misconduct that has had a material adverse effect on the Company or the Fund, or (c) engaged in (i) criminal activity or (ii) other acts that materially adversely affect the Company's ability (or that of the Fund) to secure or maintain licenses or other governmental approvals necessary or appropriate for the conduct of its business. A Member that has been removed for Cause pursuant to this Section 6.8 shall continue to possess the Member's Economic Interest in the Company, but shall possess no rights of approval or decision otherwise attendant to such interest. Such Member's Proportionate Share, therefore, shall not be taken into account in calculating required voting percentages. Any Member removed pursuant to this Section 6.8 will be treated as resigning from any and all positions with the Company and shall immediately cause any and all of its designees or representatives to resign immediately from any and all positions held with the Company on the effective date of such Member's removal. The rights and remedies of the Company and the Members pursuant to this Section 6.8 and Section 6.10 below shall be in addition to and shall not in any way limit or restrict any other rights or remedies at law or in equity of the Company or the Members.

Section 6.9 Terminating Events.

(a) Notice. Within ten (10) days after the occurrence of a Terminating Event with respect to any Member, such Member (or such Member's legal representative or other successor in interest) shall give notice to the Company of the occurrence of such Terminating Event. Absent such notice, a Member's Terminating Event will be deemed to occur upon the date any other Member has actual notice of such Terminating Event.

(b) Bankruptcy. The bankruptcy ("**Bankruptcy**") of a Member will be deemed to occur when (a) such Person shall commence any case, proceeding or other action (i) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (ii) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or such Person shall make a general assignment for the benefit of its creditors; (b) there shall be commenced against such Person any case, proceeding or other action of a nature referred to in clause (a) above that (i) results in the entry of an order for relief or any such adjudication or appointment or (ii) remains undismissed, undischarged or unbonded for a period of one hundred twenty (120) days; or (c) there shall be commenced against such Person any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within one hundred twenty (120) days from the entry thereof.

(c) Effect. Upon the occurrence of a Terminating Event with respect to a Member, the Member shall continue to possess the Member's Economic Interest in the Company, but shall possess no rights of approval or decision otherwise attendant to such interest. Such Member's Proportionate Share, therefore, shall not be taken into account in calculating required voting percentages. Any Member as to whom a Terminating Event has occurred will be treated as resigning from any and all positions with the Company and shall immediately cause any and all of its designees or representatives to resign immediately from any and all positions held with the Company on the effective date of such Member's Terminating Event. The rights and remedies of the Company and the Members pursuant to this Section 6.9 and Section 6.10 below shall be in addition to and shall not in any way limit or restrict any other rights or remedies at law or in equity of the Company or the Members based upon the Terminating Event.

Section 6.10 Purchase Rights.

(a) Member Purchase. Upon either (i) the removal of a Member for Cause pursuant to Section 6.8 or (ii) a Terminating Event with respect to a Member, the Remaining Members (*i.e.*, other than a Member as to whom a removal for Cause or a Terminating Event has occurred) may elect either (x) to convert the Membership Interest of the affected Member to an Economic Interest (with an Economic Percentage Interest equal to the Proportionate Share of such Member) or (y) to purchase such Member's entire Membership Interest in the Company, including any Economic Interest then owned by such Member, (but not less than the entire interest) by written

notice to the Member removed for Cause or to the Member affected by the Terminating Event or to the terminated Member's successor or legal representative within ninety (90) days of the Terminating Event. Any election under clause (x) shall be by the unanimous vote of the Remaining Members but each Remaining Member may make an election under clause (y); provided, however, if more than one makes an election under clause (y), the interests to be purchased shall be allocated among the electing Remaining Members pro rata in accordance with the respective Proportionate Shares of such electing Members. Upon such election, the purchase price payable to the Member shall be (A) following a Terminating Event, the Fair Market Value of the Member's Membership Interest as of the date of the Terminating Event and (B) following a removal for Cause, the Fair Market Value of the Member's Membership Interest as of the date of such removal, less five percent (5%), representing liquidated damages to the Company occasioned by such Cause, the Members and the Company having agreed that the damages to the Company will be difficult to ascertain and therefore have agreed to provide for liquidated damages. Notwithstanding the foregoing, alternatively, the Company may elect to seek to recover from said Member the actual damages resulting from said Cause.

(b) Company Purchase. If, following a removal for Cause or a Terminating Event no election under Section 6.10(a) is made by the Remaining Members, the Remaining Members (other than a Member as to whom a removal for Cause or a Terminating Event has occurred) may elect by unanimous vote to cause the Company to purchase the Member's Membership Interest, including any Economic Interest then owned by such Member, for the purchase price specified in subsection (a) above and shall have the right to secure a Loan for the Company to finance such acquisition; provided, however, that the Company may pay such purchase price in up to sixty (60) equal interest-free monthly installments, with the first such installment to be made on the Closing Date described below and the remaining payments to be made on the first day of each month thereafter.

(c) Closings. The Members (or the Company if the Members do not so elect) electing to purchase the interest of another Member (the "**Seller**") in the Company pursuant to this Section 6.10 shall fix a closing date (the "**Closing Date**") not later than ninety (90) days following the date of the determination of the applicable Fair Market Value, by notifying the Seller in writing of the Closing Date not less than 30 days prior thereto. The closing shall take place on the Closing Date at the principal office of the Company. Subject to the proviso in subsection (b) above, the purchase price of a Member's Membership Interest shall be paid by immediately available funds. Each Member agrees to cooperate and to take all actions and execute all documents reasonably necessary or appropriate to reflect the purchase of such Member's interest. The Company shall prepare a balance sheet for the Company as of the Closing Date showing all items of income and expense of the Company earned or accrued or expended and such income and expense shall be prorated between the purchaser(s) and the Seller as of the date as of which the Fair Market Value was determined (based on the Seller's Proportionate Share prior to the Closing Date). Any risk of casualty or loss prior to the Closing Date shall be borne by the purchaser(s), who shall succeed to all rights of insurance proceeds or condemnation awards attendant to the purchased Membership Interest.

(d) Fair Market Value. The Fair Market Value of a Member's Membership Interest, including any Economic Interest then owned by such Member, shall be determined as follows:

(i) The Member and the Company shall endeavor to agree upon Fair Market Value. If the parties cannot so agree within ten (10) days after a request for determination from either party, within ten (10) days after the expiration of such 10-day period, each party (A) shall set forth in writing such party's determination of Fair Market Value and (B) shall designate, by notice given to the other, a Qualified Appraiser for determination of Fair Market Value. If the parties' two valuations vary by 5% or less of the greater value, Fair Market Value shall be the average of the two party-determined values. If the values vary by more than 5% of the higher value, within thirty (30) days after the close of the 10-day period, each such Qualified Appraiser shall submit to the parties such Person's determination of the Fair Market Value of a Member's Membership Interest.

(ii) If either party fails to express its determination of Fair Market Value or designate a Qualified Appraiser within the 10-day period described above or in the event that a Qualified Appraiser designated by a party fails to submit its valuation within the required 30-day period, and if any such failure continues for 10 days after written notice of such failure from the other party, such failure shall be deemed for all purposes to constitute acceptance of the valuation expressed by the party complying with each of such procedural requirements. If the two Qualified Appraisers are appointed and deliver reports in a timely fashion and if the two valuations set forth vary by 5% or less of the greater value, Fair Market Value shall be the average of the two values determined.

(iii) If the valuations set forth in the two reports vary by more than 5% of the greater value, the parties shall jointly agree upon and select a third Qualified Appraiser within seven days after delivery of such two reports to the parties. If the parties are unable to agree upon the appointment of a third Qualified Appraiser within the required seven-day period, either party may, upon written notice to the other, request that such appointment be made by the President of the Real Estate Board of New York, Inc.

(iv) The third Qualified Appraiser shall, within 25 days thereafter, submit a valuation to the other two Qualified Appraisers and to the parties in writing, which valuation must be one of the valuations determined by one of the first two Qualified Appraisers and the Fair Market Value shall be deemed to be the valuation so submitted for all purposes.

(v) In the event that any Qualified Appraiser appointed hereunder resigns, refuses or is unable to perform his or her obligation hereunder for reasons unrelated to the acts or omissions of the appointing party, then the party appointing such Qualified Appraiser shall have the right unilaterally to appoint a substitute Qualified Appraiser and the deadline for the production of such Qualified Appraiser's appraisal shall be subject to an extension of not more than 10 days.

(vi) In calculating the Fair Market Value, the Qualified Appraisers shall be directed to deduct the expenses that the Company would have incurred in connection with an arms length sale of the Company's assets to an unrelated third party including, without limitation, brokerage commissions, legal fees and closing costs based on the sale of like assets in the same geographical location.

(vii) In connection with any valuation process, the Members will provide the Qualified Appraisers full access during normal business hours to examine all pertinent books, records and files, agreements, leases and other operating agreements. The fees and expenses of the Qualified Appraisers shall be borne by the Company.

Section 6.11 Outside Businesses. Any Member and any principal of a Member which is not an individual may engage in or possess an interest in other business ventures of any nature or description, independently or with others. Except as otherwise provided herein, the Company and the Members shall have no rights by virtue of this Agreement in and to such independent ventures, or the income or profits derived therefrom, and the pursuit of any such venture shall not be deemed wrongful or improper.

Section 6.12 Right of Contribution. No Member is liable for the repayment of the debts and obligations of the Company solely by reason of being a Member. If any Member agrees to personally guaranty the repayment of any Loan (the **"Guarantying Member"**), including any Loan made to the Fund or any of the Fund's Affiliates, and such the Guarantying Member is required to make payment under such guaranty, then the other Members shall, promptly upon receipt of notice thereof, pay to the Guarantying Member their pro-rata share, based on Membership Interests owned, of the amount, if any, by which the amount paid by the Guarantying Member exceeds the Guarantying Member's Proportionate Share of the amounts paid by all of the Members under guaranties of the Loan so repaid.

ARTICLE VII

MEETINGS

Section 7.1 Annual Meeting. A meeting of the Members shall, if requested by any Member, be held annually for the transaction of business as may properly come before the Members at such meeting. The annual meeting shall be held at such place within New York City, on the date and at the hour as shall be designated in the notice by the Company thereof.

Section 7.2 Special Meeting. Special meetings of the Members for any purpose or purposes may be called by any Member who owns a Membership Interest with Proportionate Shares aggregating at least ten percent (10%) and shall be held at such place within the City of New York on the date and at the hour as shall be designated in the notice thereof.

Section 7.3 Notice of Meetings.

(a) Notice of each meeting of the Members shall be given not less than ten (10) nor more than sixty (60) calendar days before the date of the meeting to each Member by mailing such notice, postage prepaid, to each Member at the address of such Member as it appears on the records of the Company. Every such notice shall state the place, date, and hour of the meeting and the purpose or purposes for which the meeting is called. Except as provided in the immediately succeeding sentence, notice of any adjourned meeting of the Members need not be given if the time and place thereof is announced at the meeting at which the adjournment is taken and there is no change in the purposes for which the meeting was called. If the adjournment is for more than thirty (30) calendar days or if, after the adjournment, a new record date is fixed for the adjourned

meeting, notice of the adjourned meeting shall be given to each Member in the manner and containing the information set forth in the first and second sentences of this Section 7.3(a), respectively.

(b) A written waiver of notice, signed by a Member entitled thereto, whether before or after the notice period required by Section 7.3(a), shall be deemed equivalent to notice of the meeting relating thereto. Attendance of a Member in person or by proxy at a Members' meeting shall constitute a waiver of notice to such Member of such meeting, except when such Member attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not duly called or convened.

Section 7.4 Record Date. For the purpose of determining the Members entitled to notice of or to vote at any meeting of the Members or any adjournment of such meeting, the date which is five (5) Business Days prior to the date on which notice of the meeting is mailed shall be the record date for making such a determination. When a determination of Members entitled to vote at any meeting of the Members has been made pursuant to this Section 7.4, such determination of Members shall also apply to any adjournment of the meeting. For the purpose of determining the Members for any other purpose (excluding entitlement to Distributions which shall be governed by the provisions contained in Article XIII), the date established by the Company as the record date for making such determination shall be deemed to be the record date for making such a determination.

Section 7.5 List of Members. It shall be the duty of the secretary, or other officer of the Company (or a duly qualified transfer agent authorized to act on behalf of the Company) who shall have charge of the Company's records, to prepare and keep a complete list of the Members, their addresses and ownership interests. Such custodian shall make available for inspection such list in accordance with the provisions of Section 10.2.

Section 7.6 Quorum. At each meeting of the Members, except as otherwise required by law, the Members constituting a Majority Consent shall be present in person or by proxy to constitute a quorum for the transaction of business. In the absence of a quorum at any such meeting or any adjournment or adjournments thereof, a majority in Proportionate Shares of those present in person or represented by proxy and entitled to vote, or, in the absence from the meeting of all the Members, any officer entitled to preside at, or to act as secretary of, such meeting may adjourn such meeting from time to time until the requisite Members for a quorum shall be present in person or by proxy. At any such adjourned meeting at which a quorum may be present, any business may be transacted that might have been transacted at the meeting as originally called.

Section 7.7 Organization. At each meeting of the Members, John Crotty or another Member designated by Majority Consent shall act as chairman of and preside at the meeting.

Section 7.8 Order of Business. The order of business at each meeting of the Members shall be determined by the chairman of such meeting.

Section 7.9 Voting. Each Member shall, with respect to all matters requiring its vote, be entitled to one vote in person or by proxy for each percentage point of Proportionate Shares registered in such Member's name and as part of its Membership Interest on the transfer books of

the Company on the date fixed pursuant to the provisions of Section 7.4 as the record date for the determination of Members who shall be entitled to receive notice of and to vote at such meeting.

Section 7.10 Action by Written Consent. Any action required or permitted to be taken at any annual or special meeting of the Members may be taken without a meeting, without a vote if, after sending the proposed consent to all Members, a consent or consents in writing setting forth the action so taken, shall be signed by the Members who hold of record the minimum number of votes that would be necessary to authorize or to take such action at a meeting at which all the Members required to vote thereon were present and voted and shall be delivered to the secretary or other officer of the Company who shall have charge of its records. Every consent must be signed and dated by the Member or its attorney-in-fact. Any consent given under a power-of-attorney shall be presented together with the executed, dated and notarized document granting such power upon the Person claiming the same.

Section 7.11 Action by Communication Equipment. The Members may participate in a meeting of Members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear or otherwise interactively communicate with each other, and such participation shall constitute presence in person at such meeting.

Section 7.12 Proxies.

(a) A Member may vote in person or by a proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Every proxy must be signed and dated by the Member or its attorney-in-fact. Any proxy given under a power-of-attorney shall be presented together with the executed, dated and notarized document granting such power upon the Person claiming the same. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided in this Section 7.12. In the event of conflicting proxies, the later dated proxy shall govern.

(b) Except when other provisions shall have been made by written agreement between the parties, the holder of record of a Membership Interest who holds such Membership Interest as nominee, pledgee or otherwise as security collateral, shall issue to the pledgor or to such owner of such Membership Interest, if such pledgor or owner be a Member, upon demand therefor and payment of necessary expenses thereof, a proxy to vote or take other action thereon.

(c) A proxy relating to the voting of a the Proportionate Shares of a particular Membership Interest may be revoked, notwithstanding a provision making it irrevocable, by a purchaser of such Membership Interest who, at the time of such purchase, was without knowledge of the existence of such proxy.

ARTICLE VIII

MANAGEMENT

Section 8.1 General Powers.

(a) The control, management direction and operation of the affairs of the Company shall be managed by the Members.

(b) Intentionally deleted.

(c) The Company shall be managed by its Members within the meaning of the LLCL and are authorized, by Majority Consent, to take any and all lawful acts which are either permitted under the LLCL or that such Members, by Majority Consent, consider necessary, advisable, or in the best interests of the Company in connection with the operations and business of the Company, or both, on such terms and conditions as such Members shall determine and approve in their sole discretion.

Section 8.2 Binding Authority. Unless specifically authorized to do so by this Agreement, no Member or other Person shall have any power or authority to bind the Company, unless such Member or other Person has been authorized by Majority Consent to act on behalf of the Company. The signature of a Member on behalf of the Company whether or not in contravention of this Agreement, shall be deemed conclusively to bind the Company, as applicable for the benefit of third parties who need not see the consent or approval of the remaining Members; provided, however, that the Members shall remain liable to the other Members for acts which exceed the authority of a Member under this Agreement.

Section 8.3 Intentionally deleted.

Section 8.4 Intentionally deleted.

Section 8.5 Compensation; Expenses.

(a) (i) No Member shall receive any stated salary or compensation for its services, other than as set forth in this Section 8.5.

(ii) Intentionally omitted.

(iii) Upon receipt of the Management Fee from the Fund, after deduction for all accrued but unpaid Expenses payable in accordance with paragraph (b) below, the Company shall cause the Management Fee to be paid, in equal shares, to John Crotty, Kevin Gallagher, John Warren and John Fitzgerald; provided, however, that any Available Cash which may be characterized as a deferred developers or similar fee shall be distributed in accordance with ARTICLE XIII.

(iv) Each Member shall be reimbursed by the Company for all ordinary and necessary costs and expenses incurred in performing the functions of the Company.

(b) The Company shall be responsible for paying, and the Members shall cause to be paid directly out of Company funds, all Expenses incurred directly and exclusively in connection with the business of the Company. For purposes of this Agreement, the term "**Expenses**" shall include, without limitation, administrative, legal, accounting and other costs and expenses incurred by the Members in connection with the maintenance of the Company's existence in good standing in the State of New York, the payment of related franchise or business license fees or assessments and the payment of liability and other insurance premiums, expenses in the preparation of reports to the Members and legal, accounting and other professional fees and expenses, in each case to the extent such expenses are incurred exclusively in connection with the business of the Company.

Section 8.6 Intentionally deleted.

Section 8.7 Officers.

(a) The Members may by Majority Consent, in their discretion, establish one or more Members or other Persons as officers of the Company. Each shall have the powers and perform such duties as may from time to time be assigned to it by such Members and shall be subject to the limitations of this Agreement and applicable law.

(b) Any officer may be removed at any time with or without cause, by Majority Consent of the Members.

Section 8.8 Transactions with Affiliates; Agreements, Fees and Commissions.

(a) Nothing in this Agreement shall preclude transactions between the Company and an Affiliate or any of their employees or agents acting in and for his/her or its own account, provided that any services performed by Affiliates are services that the Members, by Majority Consent, reasonably believe, at the time of requesting such services, to be in the best interests of the Company, and further provided that all such transactions shall be on a fair market "arm's length" basis (including, without limitation, that the rate of compensation to be paid for any such services shall be comparable to the amount paid for similar services under similar circumstances to independent third parties). In any event, the Members, by Majority Consent, shall use reasonable judgment in awarding any work on behalf of the Company.

(b) In addition, the Members, by Majority Consent, may delegate any of their responsibilities and obligations to an Affiliate and such Affiliate shall be reimbursed for all fees, costs and expenses in connection therewith, provided they are comparable to equivalent fair market arms' length payments.

Section 8.9 Delegated Authority. Notwithstanding anything to the contrary set forth herein, the exclusive control, decision making authority and power of the Members over the business and affairs of the Company shall be subject to the Member's delegation of authority or responsibility as and when deemed appropriate by the Members by Majority Consent.

Section 8.10 Other Business Activities. Each Member shall devote such of his business time deemed by such Member, in his reasonable discretion, necessary to manage and operate the Company and to perform his obligations hereunder. No Member shall be required to devote a major part of his time to the Company and, subject to the limitations in the Fund Operating Agreement, each Member may engage in other businesses, including businesses identical or similar to or competitive with the Company's business and may engage in or possess any interest, directly or indirectly, in any other business venture of any nature or description independently or with others. Membership in the Company and the assumption by a Member of any duties hereunder shall be without prejudice to such Member's right (and the right of his Affiliates) to have such other interests and activities and to receive and enjoy profits or compensation therefrom. Neither the Company nor the other Members shall have any right by virtue of this Agreement in and to such venture or the income or profits derived therefrom.

Section 8.11 Investment Opportunities. Consistent with Section 8.10, subject to the requirements of the Fund Operating Agreement, no Member shall be obligated to present any investment opportunity to the Company, even if the opportunity is of a character consistent with the Company's other activities and interests; and each Member shall have the right to take for its own account, or to recommend to others, any investment opportunity presented to such Member; provided, however, that prior to making any such investment, the investing Member shall obtain the prior written consent of all of the other Members of the Company if such investment competes with the business of the Company or the Fund.

ARTICLE IX

CONTRACTS, CHECKS, DRAFTS, BANK ACCOUNTS, PROXIES, ETC.

Section 9.1 Execution of Documents. The Members, by Majority Consent, shall have the power to execute and deliver deeds, leases, contracts, mortgages and other grants of security interests, bonds, debentures, notes and other evidences of indebtedness, checks, drafts and other orders for the payment of money and other documents for and in the name of the Company, and such power may be delegated (including power to redelegate) by written instrument to employees or agents of the Company.

Section 9.2 Deposits. All funds of the Company not otherwise utilized shall be deposited from time to time to the credit of the Company or otherwise in accordance with Company policy as approved by a Majority Consent of the Members.

Section 9.3 Proxies in Respect of Stock or Other Securities of Other Companies. Members, by Majority Consent, shall have the authority (a) to appoint from time to time an agent or agents of the Company to exercise in the name and on behalf of the Company the powers and rights that the Company may have as the holder of stock or other securities in any other company, (b) to vote or consent in respect of such stock or securities and (c) to execute or cause to be executed in the name and on behalf of the Company such written proxies, consents, powers of attorney or other instruments as they may deem necessary or appropriate in order that the Company may exercise such powers and rights.

ARTICLE X

BOOKS AND RECORDS; RIGHT OF INSPECTION; TAX MATTERS

Section 10.1 Books and Records. The Company will keep accurate books and records relating to transactions with respect to the assets of the Company based on Book Values using federal income tax accounting principles, which shall be available for the inspection of the Member or such Member's representative, upon reasonable notice. The Company will also keep the following books and records at the Company's principal office: (i) a current list of the full name and last known business, residence or mailing address of each Member, (ii) a copy of the Articles of Organization and of this Agreement (as well as any signed powers of attorney pursuant to which any such document was executed); (iii) a copy of the Company's federal, state and local income tax returns and reports, and annual financial statements of the Company, for each of the most recent three (3) Fiscal Years; and (iv) minutes, or minutes of action (or written consent without a meeting), of every meeting of the Members.

Section 10.2 Information.

(a) Each Member has the right to the fullest extent granted under the LLCL to obtain from the Company: (i) a current list of the full name and last known business, residence or mailing address of each Member, (ii) a copy of the Articles of Organization and of this Agreement (as well as any signed powers of attorney pursuant to which any such document was executed); and (iii) a copy of the Company's federal, state and local income tax returns and reports, and annual financial statements of the Company, for all Fiscal Years.

(b) Upon the written request of a Member, the Member shall have the right pursuant to the LLCL at the sole expense of such Member to inspect the books and records of the Company during ordinary business hours upon reasonable prior written notice.

Section 10.3 Tax Returns. The Company, at its expense, will cause the preparation and timely filing (including extensions) of all tax returns required to be filed by the Company pursuant to the Code as well as all other required state and local tax returns in each jurisdiction in which the Company owns property or does business. Within ninety (90) days following the end of each Fiscal Year, the Company shall use reasonable efforts to provide each Member with all necessary tax reporting information, a copy of the Company's informational federal income tax return for such Fiscal Year and such other information as is reasonably necessary to enable the Members to comply with their tax reporting requirements. If the final federal income tax return is not completed within such ninety (90) day period, the Company will provide estimates of income, gain, loss, deductions and credit to the Members and will endeavor to complete the Company's income tax returns for such Fiscal Year within reasonably timely extension periods.

Section 10.4 Tax Elections The Company shall make and revoke such tax elections as the Members may from time to time determine by Majority Consent.

Section 10.5 Tax Matters Partner.

(a) John Fitzgerald, or such other Member as determined by Majority Consent, shall be the tax matters partner (the "**Tax Matters Partner**") under Section 6231(a)(7) of the Code.

(b) The Tax Matters Partner will be responsible for notifying all Members of ongoing proceedings, both administrative and judicial, and will represent the Company throughout any such proceeding. Each Member agrees, and each holder of Membership Interests who is not a Member shall be deemed by virtue of its ownership of Membership Interests to agree, that it will furnish the Tax Matters Partner with such information as the Tax Matters Partner may reasonably request in order to allow the Tax Matters Partner to timely provide the Internal Revenue Service or other applicable taxing authority with sufficient information with respect to any such proceedings.

(c) If an administrative proceeding with respect to a partnership item under the Code has begun, and the Tax Matters Partner so requests, each Member agrees, and each holder of Membership Interests who is not a Member shall be deemed by virtue of its ownership of Membership Interests to agree, that it will notify the Tax Matters Partner of its treatment of any partnership item on its federal income tax return, if any, that is inconsistent with the treatment of that item on the partnership return for the Company. Any settlement agreement with the Internal Revenue Service will be binding upon the holder of Membership Interests only as provided in the Code. The Tax Matters Partner will not bind any other holder of Membership Interests to any extension of the statute of limitations or to a settlement agreement without such holder's written consent (such consent not to be unreasonably withheld or delayed). Any holder of Membership Interests who enters into a settlement agreement with respect to any partnership item will notify the other holders of Membership Interests of such settlement agreement and its terms within thirty (30) days from the date of settlement.

(d) If the Tax Matters Partner does not file a petition for readjustment of partnership items in the Tax Court, Federal District Court or Claims Court within the ninety (90) day period following a notice of a final partnership administrative adjustment, any notice partner and 5-percent group (as such terms are defined in the Code) may institute such action within the following sixty (60) days. The Tax Matters Partner will timely notify the other Members in writing of its decision. Any notice partner and 5-percent group will notify any other Member of its filing of any petition for readjustment.

Section 10.6 No Partnership. The Members intend for the Company to be treated as a partnership for federal, state and local tax purposes. The Members hereby agree that (i) they will not cause or permit the Company to be excluded from the provisions of Subchapter K of the Code under Code Section 761 or otherwise; and (ii) they will not, nor cause or permit the Company to, file the election under Treasury Regulations Section 301.7701-3 (or successor provision) or take any other action that would result in the Company being classified as a corporation for federal, state or local income tax purposes. In the event that the Company shall hereafter be treated as a "disregarded entity" for federal income tax purposes, then the Company shall cease filing tax returns as a partnership for federal income tax purposes and, to the extent permitted under applicable state and local tax purposes, for state and local tax purposes as well. The classification of the Company as a partnership will apply only for federal (and, as appropriate, state and local) income tax purposes. This characterization, solely for tax purposes, does not create or imply a general partnership among the Members for state law or any other purpose. Instead, the Members acknowledge the status of the Company as a limited liability company formed under the LLCL. The Members, by Majority Consent, shall have the right to change the tax classification of the

Company, provided that such reclassification does not have an adverse tax impact on the Company or any of its Members.

Section 10.7 Title to Company Assets. Title to, and all right and interest in, the Company Assets shall be acquired in the name of and held by the Company, or, if acquired in any other name, be held for the benefit of the Company. The Members, by Majority Consent, shall have the right to form entities for the purposes of holding any of the Company Assets.

ARTICLE XI

CAPITAL ACCOUNTS

Section 11.1 Maintenance. Each Member agrees that a single capital account (each a "**Capital Account**") shall be established and maintained for each Member and shall be credited, charged and otherwise adjusted as provided in this Article XI and as required by the Regulations promulgated under §704(b) of the Code (the "**§704(b) Regulations**"). The Capital Account of each Member shall be:

(a) credited with (i) each Capital Contribution made by such Member, (ii) such Member's allocable share of Net Profits and other items of income and gain of the Company, including items of income and gain exempt from tax, and (iii) all other items properly credited to the Capital Account of such Member as required by the §704(b) Regulations; and

(b) charged with (i) each Distribution made to such Member by the Company, (ii) such Member's allocable share of Net Losses and other items of loss and deduction of the Company and (iii) all other items properly charged to the Capital Account of such Member as required by the §704(b) Regulations.

Section 11.2 Adjustments. The Members intend to comply with the §704(b) Regulations in all respects, and agree that their Capital Accounts may be adjusted by the Company to the full extent that the §704(b) Regulations may apply (including, without limitation, applying the concepts of the minimum gain chargebacks and qualified income offsets). To this end, each Member agrees that the Company may make any Capital Account adjustment that, in the opinion of tax counsel selected by the Company, is necessary or appropriate to maintain equality between the aggregate Capital Accounts of the Members and the amount of capital of the Company reflected on its balance sheet (as computed for book purposes), as long as such adjustments are consistent with the underlying economic arrangement of the Members and are based on, wherever practicable, and consistent with federal tax accounting principles.

Section 11.3 Market Value Adjustments. Each Member agrees that appropriate adjustments (if any) shall be made to the Capital Accounts of all Members upon any Transfer of Membership Interests, including those that apply upon the constructive liquidation of the Company under Section 708(b)(1) of the Code or the liquidation of a Member's Membership Interests, all in accordance with the Section 704(b) Regulations.

Section 11.4 Transfer. Each Member agrees that, if all or any part of its Membership Interests are Transferred in accordance with this Agreement, except to the extent otherwise provided in the §704(b) Regulations, upon admission of the transferee as a Member, the Capital

Account of the transferor that is attributable to the Transferred Membership Interests will carry over to the transferee.

ARTICLE XII

ALLOCATION OF INCOME, GAIN, LOSS AND DEDUCTION

Section 12.1 Allocation of Net Profits and Net Losses. The Net Profits and the Net Losses for each Fiscal Year shall be allocated among the Members as follows:

(a) Subject to Sections 12.3 and 12.4, Net Profits for a Fiscal Year shall (except as otherwise required by Section 704(b) of the Code or the §704(b) Regulations as determined by the Members by Majority Consent) be allocated among the Members as follows:

(i) First, to the Members in the same ratio in which Net Losses have been allocated to each Member pursuant to Section 12.1(b)(iii) until the aggregate amount of Net Profits allocated to each Member pursuant to this Section 12.1(a)(i) as of the end of such Fiscal Year (i.e., the aggregate amount for the Fiscal Year in question and all prior Fiscal Years) equals the aggregate amount of Net Losses allocated to each Member pursuant to Section 12.1(b)(iii);

(ii) Second, to the Members in the same ratio in which Net Losses have been allocated to each Member pursuant to Sections 12.1(b)(ii) until the aggregate amount of Net Profits allocated to each Member pursuant to this Section 12.1(a)(ii) as of the end of such Fiscal Year (i.e., the aggregate amount for the Fiscal Year in question and all prior Fiscal Years) equals the aggregate amount of Net Losses allocated to each Member pursuant to Section 12.1(b)(ii); and

(iii) Thereafter, the balance, if any, to the Members in accordance with their respective Proportionate Shares and to the holders of Economic Interests, if any, in accordance with their respective Economic Percentage Interests, as applicable.

(b) Subject to Sections 12.3 and 12.4, Net Losses for a Fiscal Year shall (except as otherwise required by Section 704(b) of the Code or the §704(b) Regulations as determined by the Members) be allocated among the Members as follows:

(i) First, to those Members who were previously allocated Net Profits pursuant to Section 12.1(a)(iii), in proportion to the amounts so allocated up to an amount equal to the excess, if any, of the aggregate Net Profits allocated under Section 12.1(a)(iii) over the aggregate Distributions made to the Members under Section 13.1(a)(v) and the aggregate Distributions made to the Members in respect of Section 13.1(a)(v) pursuant to Section 13.1(b) as of the end of such Fiscal Year;

(ii) Second, to the Members *pro rata* in proportion to the positive balances in their Adjusted Capital Accounts; and

(iii) Thereafter, the balance, if any, to the Members in accordance with their respective Proportionate Shares and to the holders of Economic Interests, if any, in accordance with their respective Economic Percentage Interests, if applicable.

(c) Notwithstanding paragraphs (a) or (b) of this Section 12.1, but subject to any special allocations provided for in Section 12.3, Net Profits or Net Losses of the Company on any sale of all or substantially all of the Company's assets, shall be allocated among the Members in such a manner that, after such allocation, the Capital Account balance of each Member equals, as nearly as possible, the Distribution that such Member would receive if the Company were to distribute all of its assets, including the proceeds of such sale, in accordance with the provisions of Article 13 (taking into account the effect, if any, of Section 6.2(c)(ii)).

Section 12.2 Allocation in the Event of Property Distribution. In the event that property other than cash is distributed to each Member, such property shall be deemed sold at its Fair Market Value immediately prior to its Distribution, and any gain or loss resulting from such deemed sale shall be allocated among the Members in accordance with Section 12.1.

Section 12.3 Special Rules. Notwithstanding the general allocation rules set forth in Section 12.1 or the allocation rules set forth in Section 12.2, the following special allocation rules shall apply under the circumstances described.

(a) Deficit Capital Account and Nonrecourse Debt Rules.

(i) Limitation on Loss Allocations. The Net Losses allocated to any Member pursuant to Section 12.1 with respect to any Fiscal Year shall not exceed the maximum amount of Net Losses that can be so allocated without causing such Member to have a deficit in its Adjusted Capital Account at the end of such Fiscal Year. All Net Losses in excess of the limitation set forth in the preceding sentence of this Section 12.3(a)(i) shall be allocated to the maximum extent permitted by the Code and the Regulations, pro rata among the Members having positive balances in their Adjusted Capital Accounts (after giving effect to the allocations required by Section 12.1) in the ratio obtained by dividing (x) each such Member's Capital Account balance by (y) the sum of all such Members' Capital Account balances.

(ii) Qualified Income Offset. If in any Fiscal Year a Member unexpectedly receives an adjustment, allocation or distribution described in §§ 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, and such adjustment, allocation or distribution causes, or increases, a deficit in the Adjusted Capital Account for such Member, then, before any other allocations are made under this Agreement or otherwise, such Member shall be allocated items of income and gain (consisting of a pro rata portion of each item of income, including gross income and gain) in an amount and manner sufficient to eliminate such deficit in the Adjusted Capital Account as quickly as possible.

(iii) Company Minimum Gain Chargeback. If there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be allocated items of income and gain for such Fiscal Year (and, if necessary, for subsequent Fiscal Years) in proportion to, and to the extent of, an amount equal to the portion of such Member's share

of the net decrease in Company Minimum Gain during such Fiscal Year, subject to the exceptions set forth in §§ 1.704-2(f)(2), (3) and (5) of the Regulations (hereinafter referred to as **"Company Minimum Gain Chargeback"**); provided that, if the Company has any discretion as to an exception set forth in § 1.704-2(f)(5), the Tax Matters Partner (with the consent of the other Members) shall exercise such discretion on behalf of the Company. The Tax Matters Partner shall, if the application of this Section 12.3(a)(iii) would cause a distortion in the economic arrangement among the Members, ask the Commissioner of the Internal Revenue Service to waive the Company Minimum Gain Chargeback requirements pursuant to § 1.704-2(f)(4) of the Regulations. To the extent that this Section is inconsistent with § 1.704-2(f) or 1.704-2(k) of the Regulations or incomplete with respect to such Sections of the Regulations, the Company Minimum Gain Chargeback provided for herein shall be applied and interpreted in accordance with such Sections of the Regulations.

(iv) Member Minimum Gain Chargeback. If there is a net decrease in Member Minimum Gain during any Fiscal Year, each Member shall be allocated items of income and gain for such Fiscal Year (and, if necessary, for subsequent Fiscal Years) in proportion to, and to the extent of, an amount equal to such Member's share of the net decrease in Member Minimum Gain during such Fiscal Year, subject to the exceptions set forth in §§1.704-2(f)(2), (3), and (5) of the Regulations as referenced by §1.704-2(i)(4) of the Regulations (hereinafter referred to as **"Member Minimum Gain Chargeback"**). The Tax Matters Partner shall, if the application of this Section 12.3(a)(iv) would cause a distortion in the economic arrangement among the Members, ask the Commissioner of the Internal Revenue Service to waive the Member Minimum Gain Chargeback requirement pursuant to §1.704-2(i)(4) of the Regulations. To the extent that this Section 12.3(a)(iv) is inconsistent with §§1.704-2(i)(4) or 1.704-2(k) of the Regulations or incomplete with respect to such Sections of the Regulations, the Member Minimum Gain Chargeback provided for herein shall be applied and interpreted in accordance with such Sections of the Regulations.

(v) Nonrecourse Deductions. Nonrecourse deductions (within the meaning of §1.704-2(b) of the Regulations) shall be allocated among the Members in accordance with Section 12.1(b)(iii) hereof. Nonrecourse Deductions shall be allocated among the Members in accordance with the ratios in which the Members share the economic risk of loss for the Member Nonrecourse Debt that gave rise to those deductions as determined under §1.752-2 of the Regulations. This allocation is intended to comply with the requirements of §1.704-2(i) of the Regulations and shall be interpreted and applied consistently therewith.

(vi) Limited Effect and Interpretation. The special rules set forth in Sections 12.3(a)(i), (ii), (iii), (iv) and (v) (the "**Regulatory Allocations**") shall be applied only to the extent required by applicable Regulations for the resulting allocations provided for in this Section 12.3, taking into account such Regulatory Allocations, to be respected for federal income tax purposes. The Regulatory Allocations are intended to comply with the requirements of §§1.704 1(b), 1.704-2 and 1.752-1 through 1.752-5 of the Regulations and shall be interpreted and applied consistently therewith.

(vii) Curative Allocations. The Regulatory Allocations may not be consistent with the manner in which the Members intend to divide the Net Profits, Net Losses and similar items. Accordingly, Net Profits, Net Losses and other items will be reallocated among the Members in a manner consistent with §§1.704-1(b) and 1.704-2 of the Regulations so as to negate as rapidly as possible any deviation from the manner in which Net Profits, Net Losses and other items are intended to be allocated among the Members pursuant to Sections 12.1 and 12.2 that is caused by the Regulatory Allocations.

(viii) Change in Regulations. If the Regulations incorporating the Regulatory Allocations are hereafter changed or if new Regulations are hereafter adopted, and such changed or new Regulations, in the opinion of independent tax counsel for the Company, make it necessary to revise the Regulatory Allocations or provide further special allocation rules in order to avoid a significant risk that a material portion of any allocation set forth in this Article XII would not be respected for federal income tax purposes, the Members shall make such reasonable amendments to this Agreement as, in the opinion of such counsel, are necessary or desirable, taking into account the interests of the Members as a whole and all other relevant factors, to avoid or reduce significantly such risk to the extent possible without materially changing the amounts allocable and distributable to any Member pursuant to this Agreement.

(b) Change in Member's Interests. If there is a change in any Member's share of the Net Profits, Net Losses or other items of the Company during any Fiscal Year, allocations among the Members shall be made in accordance with their interests in the Company from time to time during such Fiscal Year in accordance with § 706 of the Code, using the closing-of-the-books method, except that Depreciation, amortization and similar items shall be deemed to accrue ratably on a daily basis over the entire Fiscal Year during which the corresponding asset is owned by the Company if such asset is placed in service prior to or during the Fiscal Year.

Section 12.4 Tax Allocations.

(a) In General. Except as set forth in this Section 12.4, allocations for tax purposes of items of income, gain, loss and deduction, and credits and basis therefor, shall be made in the same manner as allocations for book purposes as set forth in Sections 12.1, 12.2 and 12.3. Allocations pursuant to this Section 12.4 are solely for purposes of federal, state and local income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Profits, Net Losses, other items or Distributions pursuant to any provision of this Agreement.

(b) Special Rules.

(i) Elimination of Book/Tax Disparities. Any item of income, gain, loss, and deduction with respect to any property (other than cash) that has been contributed by a Member to the capital of the Company and which is required to be allocated for income tax purposes under Section 704(c) of the Code so as to take into account the variation between the tax basis of such property and its agreed upon fair market value at the time of its contribution shall be allocated to the Members solely for income tax purposes in any manner permitted by Section 704(c) selected by the Tax Matters Partner. Similarly, if any

property of the Company is reflected in the Capital Accounts of the Members and on the books of the Company at a Book Value that differs from the adjusted tax basis of such property, the Company's allocations of tax items shall be appropriately made pursuant to the Regulations using Section 704(c) principles so as to take account of the variation between the adjusted tax basis of the applicable property and its Book Value.

(ii) Allocation of Items Among Members. Except as otherwise provided in Section 12.3(a) and this Section 12.4(b), each item of income, gain, loss and deduction and all other items governed by Section 702(a) of the Code shall be allocated among the Members in proportion to the allocation of Net Profits and Net Losses set forth in Sections 12.1, 12.2 and 12.3, provided that any gain recognized from any disposition of a Company asset that is treated as ordinary income because it is attributable to the recapture of any Depreciation shall be allocated among the Members in the same ratio as the prior allocations of Net Profits, Net Losses or other items that included such Depreciation, but not in excess of the gain otherwise allocable to each Member.

(iii) Tax Credits. All tax credits shall be allocated among the Members in accordance with their respective Proportionate Shares and among the holders of Economic Interests in accordance with their respective Economic Percentage Interests, if applicable.

(c) Conformity of Reporting. The Members are aware of the income tax consequences of the allocations made by this Section 12.4 and hereby agree to be bound by the provisions of this Section 12.4 in reporting their respective shares of the Company's profits, gains, income, losses, deductions, credits and other items for income tax purposes.

ARTICLE XIII

DISTRIBUTIONS

Section 13.1 Distributions.

(a) Except as otherwise provided in this Agreement, the Members shall cause the Company to distribute Available Cash to the Members in accordance with this Section 13.1, quarterly as follows:

(i) First, to pay all interest due and owing on account of any Excess Cash Needs Loans, pro rata in accordance with the respective amounts thereof;

(ii) Second, to pay all principal due and owing on account of any Excess Cash Needs Loans, pro rata in accordance with the respective amounts thereof;

(iii) Third, to the Members who made Capital Contributions pursuant to a Cash Needs Capital Notice sent pursuant to Section 6.2(c)(i), pro rata in an amount equal to such Capital Contributions;

(iv) Fourth, to the Members, pro rata in accordance with their respective unreturned Capital Contributions; and

(v) Fifth, pari passu to the Members, pro rata, in accordance with their respective Proportionate Shares and to the holders of Economic Interests, pro rata in accordance with their respective Economic Percentage Interests, as applicable.

(b) Notwithstanding the provisions of Section 13.1(a), to the extent there is adequate cash and as permitted by any Person providing a Loan, the Company shall, if the Members so determine by Majority Consent, make distributions (each a "**Tax Distribution**") each Fiscal Year to each Member in an amount equal to (i) each such Member's aggregate Tax Distribution Amounts for all Fiscal Years or portions thereof, reduced (but not below zero) by (ii) the aggregate amount of all prior Distributions made to such Member pursuant to Article XIII (other than Section 13.1(a)(i) and Section 13.1(a)(ii)), and further reduced (but not below zero) by (iii) the amount of concurrent Distributions that would be made to such Member pursuant to Section 13.1(a) (other than Section 13.1(a)(i) and Section 13.1(a)(ii)) computed as if this Section 13.1(b) were not part of this Agreement. To the extent practicable, Distributions pursuant to this Section 13.1(b) shall be made throughout the year so as to allow each Member to make timely tax payments. Distributions pursuant to this Section 13.1(b) shall be treated as having been made pursuant to the applicable clause of Section 13.1(a) to which such Distributions relate and shall reduce dollar for dollar the amounts otherwise distributable pursuant to Section 13.1(a).

(c) Distributions pursuant to this Section 13.1 shall be made only in cash.

Section 13.2 Withholding.

(a) If required by the Code, or by state or local law, the Company will withhold any required amount from Distributions to a Member for payment to the appropriate taxing authority. Any amount so withheld from a Member will be treated as a Distribution by the Company to such Member. Each Member agrees to timely file any document that is required by any taxing authority in order to avoid or reduce any withholding obligation that would otherwise be imposed on the Company.

(b) To the extent any amount required to be withheld and paid over to an appropriate taxing authority is in excess of the Distributions then distributable to such Member, the Company shall notify the Member in writing of its obligation to pay to the Company the amount of the withholding tax in excess of the Distributions to which such Member would otherwise then be entitled. Each Member shall pay the amount of such excess to the Company within five (5) business days after receipt of such written notice. If the Company is required to remit any such excess withholding tax for the account of any Member prior to the Company's receipt of such payment, the Company shall remit the full required amount of such withholding tax to the taxing authority (if and to the extent that Company funds are available for such purpose) and the amount of such excess shall be treated as a loan (a "**Withholding Advance**") from the Company to the Member, which shall accrue interest until paid at the Default Rate.

(c) Any Withholding Advance made to a Member and any interest accrued thereon shall be credited and offset against the amount of any later payment or Distributions to which the Member would otherwise be entitled, with credit for accrued and unpaid interest as of the date such payment or Distribution would otherwise have been made being applied before any credit for the amount of the Withholding Advance. Any Withholding Advance made to a Member and

any interest accrued thereon, to the extent it has not previously been paid by the Member in cash or fully credited against payments or Distributions to which the Member would otherwise be entitled, shall be paid by the Member to the Company upon the earliest of (i) the Dissolution of the Company, (ii) the date on which the Member ceases to be a Member of the Company, or (iii) demand for payment by the Members.

Section 13.3 Offset. The Company may offset all amounts owing to the Company by a holder of Membership Interests against any Distribution to be made to such holder.

Section 13.4 Limitation Upon Distributions. No Distribution shall be declared and paid to the extent that, at the time of the Distribution, after giving effect to the Distribution, all liabilities of the Company (other than liabilities to Members on account of their interest in the Company and liabilities for which recourse of creditors is limited to specified property of the Company) exceed the Fair Market Value of the assets of the Company (except that the Fair Market Value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the Company only to the extent that the Fair Market Value of such property exceeds such liability).

ARTICLE XIV

INDEMNIFICATION

Section 14.1 Indemnification. The Company shall indemnify and hold harmless each Member and each general or limited partner of any Member and such Member's Affiliates, shareholders, members or other holder of any equity interest in such Member or in its Affiliate, and any officer or director of any of the foregoing and each and every Member and any representative or officer of a Member (collectively and severally, the "**Indemnified Party**"), in accordance with this Article XIV and to the fullest extent allowed by the law, including the LLCL, from and against any and all losses, claims, damages, liabilities, expenses (including legal and other professional fees and disbursements), judgments, fines, settlements, demands, costs, causes of action and other amounts (each an "**Indemnification Obligation**") arising from any and all claims, demands, actions, suits or proceedings (civil, criminal, administrative or investigative), actual or threatened, in which such Indemnified Party may be involved, as a party or otherwise, by reason of such Indemnified Party's service to, or on behalf of, or management of the affairs of, the Company, or rendering of advice or consultation with respect thereto, or which relate to the Company, its properties, business or affairs, or any matter incidental to this Agreement, including the formation hereof, the making of the initial Capital Contributions and any matter for which such Indemnified Party is exculpated, whether or not the Indemnified Party continues to be a Member, representative or officer at the time any such Indemnification Obligation is paid or incurred, provided that such Indemnification Obligation (a) is not one which Section 57C-3-32 (b) of the LLCL prohibits from being indemnified against or (b) constitutes a distribution under Article XIII hereof which violates Section 57C-4-07 of the LLCL. Any indemnity under this Section shall be paid solely out of and to the extent of Company Assets and shall not be a personal obligation of any Member. The Company shall also indemnify and hold harmless any Indemnified Party from and against any Indemnification Obligation suffered or sustained by such Indemnified Party by reason of any action or inaction of any employee, broker or other agent of such Indemnified Party, provided, that such employee, broker or agent was selected, engaged or retained by such Indemnified Party with

reasonable care. Expenses (including legal and other professional fees and disbursements) incurred in any proceeding will be paid by the Company, as incurred, in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such Indemnified Party to repay such amount if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified by the Company as authorized hereunder.

Section 14.2 Indemnification Not Exclusive. The indemnification provided by this Article XIV shall not be deemed to be exclusive of any other rights to which each Indemnified Party may be entitled under any agreement, or as a matter of law, or otherwise, both as to action in such Indemnified Party's official capacity and to action in another capacity, and shall continue as to such Indemnified Party who has ceased to have an official capacity for acts or omissions during such official capacity or otherwise when acting at the request of a Member, or any Person granted authority thereby, and shall inure to the benefit of the heirs, successors and administrators of such Indemnified Party.

Section 14.3 Insurance on Behalf of Indemnified Party. The Members shall have the power, but not the obligation, to purchase and maintain insurance on behalf of each Indemnified Party, at the expense of the Company, against any liability which may be asserted against or incurred by it or him in any such capacity, whether or not the Company would have the power to indemnify the Indemnified Parties against such liability under the provisions of this Agreement.

Section 14.4 Indemnification Limited by Law. Notwithstanding any of the foregoing to the contrary, the provisions of this Article XIV shall not be construed so as to provide for the indemnification of an Indemnified Party for any liability to the extent (but only to the extent) that such indemnification would be in violation of applicable law or to the extent that such liability may not be waived, modified or limited under applicable law, but shall be construed so as to effectuate the provisions of this Article XIV to the fullest extent permitted by law.

ARTICLE XV

ACCOUNTING PROVISIONS

Section 15.1 Fiscal Year. For income tax and financial accounting purposes, the Fiscal Year of the Company will end on December 31 of each year (unless otherwise required by the Code).

Section 15.2 Accounting Method. For income tax and financial accounting purposes, the Company will use the cash method of accounting.

ARTICLE XVI

DISSOLUTION

Section 16.1 Dissolution. Dissolution of the Company will occur upon the happening of any of the following events: (i) decision by Majority Consent; (ii) the sale of all or substantially all of the Company Assets or (iii) the conversion of the Company into a corporation or other Person. The Company shall not dissolve, but shall continue upon the occurrence of a Terminating Event

with respect to any Member or Members. No vote or affirmative action of the other Members shall be required to effect such continuation.

ARTICLE XVII

LIQUIDATION

Section 17.1 Liquidation. Upon Dissolution of the Company, the Company will immediately proceed to wind up its affairs and liquidate. The Liquidation of the Company will be accomplished in a businesslike manner by such Person or Persons designated by the Members, which Person(s) shall be entitled to reasonable compensation therefor. Subject to Section 17.4, a reasonable time will be allowed for the orderly Liquidation of the Company and the discharge of liabilities to creditors so as to enable the Company to minimize any losses attendant upon Liquidation. Any Net Profits or Net Losses on disposition of any Company assets in Liquidation will be allocated among the Members and credited or charged to Capital Accounts in accordance with Section 12.1. Until the filing of the Articles of Dissolution under Section 17.6 and without affecting the liability of Members and without imposing liability on the liquidating trustee, the Person or Persons conducting the liquidation may settle and close the Company's business, prosecute and defend suits, dispose of its property, discharge or make provision for its liabilities, and make Distributions in accordance with the priorities set forth in Section 17.3.

Section 17.2 Tax Termination. In addition to termination of the Company following its Dissolution, a termination of the Company will occur for federal income tax purposes on the date the Company is terminated under Section 708(b)(1) of the Code. Under current law, events causing such a termination include the sale or exchange of fifty percent (50%) or more of the total interest in the capital and profits of the Company within a 12-month period. Upon the occurrence of a termination under Section 708(b)(1) of the Code, a constructive liquidation and constructive reformation of the Company as a tax partnership will be deemed to occur for federal income tax purposes. Any adjustments and computations required as a result of such termination will be made under this Agreement as if the constructive transactions had actually occurred, and the Capital Accounts of the Members in such new tax partnership will be determined and maintained in accordance with the Section 704(b) Regulations.

Section 17.3 Priority of Payment. The assets of the Company will be distributed in Liquidation in the following order:

(a) To creditors, including Members who are creditors, by the payment or provision for payment of the debts and liabilities of the Company and the expenses of Liquidation;

(b) To the setting up of any reserves that are reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company; and

(c) To the Members in accordance with Section 13.1; provided, however, that no Member shall receive distributions in excess of such Member's positive Capital Account balance after his or her Capital Account has been adjusted to reflect all allocations of income, gain, loss and deductions attributable to any event of Dissolution.

Section 17.4 Timing. Final Distributions in Liquidation (except in the case of a constructive Liquidation under Section 17.2) will be made by the end of the Company's Fiscal Year in which such actual Liquidation occurs (or, if later, within ninety (90) days after such event) in the manner required to comply with the Section 704(b) Regulations. Payments of Distributions in Liquidation may be made to a liquidating trust established by the Company for the benefit of those entitled to payments under Section 17.3 in any manner consistent with this Agreement and the Section 704(b) Regulations.

Section 17.5 Liquidating Reports. A report will be submitted with each liquidating Distribution to the Members, showing the collections, disbursements and Distributions during the period which is subsequent to any previous report. A final report, showing cumulative collections, disbursements and Distributions, will be submitted upon completion of the Liquidation process.

Section 17.6 Articles of Dissolution. Within ninety (90) days following the Dissolution of the Company and the commencement of winding up of its business, or at any other time there are no Members, the Company will file Articles of Dissolution (to cancel the Articles of Organization) with the Secretary of State of the State of New York pursuant to the LLCL. At such time, the Company will also file an application for withdrawal of its Certificate of Authority in any jurisdiction where it is then qualified to do business.

ARTICLE XVIII

TRANSFER RESTRICTIONS

Section 18.1 Restrictions on Transfer of Membership Interests.

(a) No Person shall effect a Transfer of any Membership Interest except as may be expressly permitted by this Agreement.

(b) Except as provided herein, no Member shall Transfer any or all of a Membership Interest without the approval of all of the other Members.

(c) No Membership Interest or portion of a Membership Interest may be transferred unless the transferee executes and delivers to the Company an instrument pursuant to which the transferee agrees to be bound by the terms of this Agreement. No Transfer of any or all of a Membership Interest shall be made if such Transfer would:

(i) result by itself, or in combination with any other previous Transfers, in the termination of the Company as a partnership for federal income tax purposes;

(ii) result in the violation of the Securities Act of 1933, as amended (the "**Securities Act**") or any other applicable federal or state laws or local laws or materially and adversely affect the Company's ability to secure or maintain licenses necessary or appropriate for the operation of the Project;

(iii) be a violation of or a default under (or an event that, with notice or the lapse of time or both, would constitute a default), or result in an acceleration of any indebtedness

under, any note, mortgage, loan agreement or similar instrument or document to which the Company is a party;

(iv) result in or create a "prohibited transaction" or cause the Company or a Member to be or become a "party in interest", as such terms are defined in §3(3) of ERISA, or a "disqualified person", as defined in §4975 of the Code, with respect to any "plan", as defined in §3(14) of ERISA and/or §4975 of the Code; or result in or cause the Company or any Member to be liable for tax under Chapter 42 of the Code;

(v) be a Transfer to an individual who is not legally competent or who has not achieved his or her majority under the law of the state (excluding trusts for the benefit of minors);

(vi) cause the Company or any Member (other than the transferee) to be subject to any excise tax pursuant to Chapter 42A of Subtitle D of the Code; or

(vii) be a Transfer to a "tax-exempt entity" or a "tax-exempt controlled entity" within the meaning of §§168(h)(2) and 168(h)(6)(F)(ii), respectively, of the Code.

(d) The Company shall not transfer on its books any Membership Interest or issue any certificate or other document representing a Membership Interest or any interest in the Company unless, in the opinion of counsel to the Company, there has been compliance with all of the material conditions hereof affecting the Membership Interests and any such attempted Transfer in violation of this Agreement shall be void and of no effect.

(e) If any Member receives an offer to purchase such Member's Membership Interest such offer must be rejected and the offeror advised that the Member may entertain only an Offer to which the requirements and the provisions of Section 18.7 shall apply.

Section 18.2 No Member Rights. No Member has the right or power to confer upon any transferee permitted under this Article XVIII all of the attributes of a substitute Member with a Membership Interest in the Company, and no transferee of Membership Interests shall be admitted as a substitute Member vested with all such rights attendant to the transferred interest except as provided in Section 18.5.

Section 18.3 Transferee Rights. Any transferee of Membership Interests who is not admitted as a substitute Member in accordance with Section 18.5 has no right to vote or agree on any matter affecting the Company or any Member. The only rights of a transferee of Membership Interests who is not admitted as a Member in accordance with this Agreement is to hold the Economic Interest and to receive the Distributions and allocations of Net Profits and Net Losses to which the transferor would otherwise be entitled (to the extent of the Membership Interests transferred) and to obtain such information concerning the Company's books and financial affairs as provided herein for holders of Economic Interests. Each transferee of Membership Interests, however, will be subject to all of the obligations, restrictions and other terms contained in this Agreement as if such transferee were a Member. The transferor Member shall not possess any right or power as a Member or under the terms of this Agreement to the extent of any Membership Interests transferred, and may not exercise any such right or power directly or indirectly on behalf of the transferee.

Section 18.4 Effect on Transferor. Any Member that makes a Transfer of all of the Membership Interests held of record by such Member will be treated as resigning from any and all positions with the Company and shall immediately cause any and all of its designees and representatives to resign immediately from any and all positions held with the Company on the effective date of such Transfer. Any Member that makes a Transfer of part (but not all) of its Membership Interests will continue as a Member (with respect to the interest retained).

Section 18.5 Substitutions. An assignee or transferee of a Member shall be admitted as a substituted Member when and if the assignee or transferee (a) is approved as a substituted Member by all of the other Members in their sole and absolute discretion, (b) pays all Company expenses incurred in connection with its substitution; (c) submits a duly executed instrument of assignment, in a form reasonably satisfactory to the Members, specifying the Economic Interest assigned to it and setting forth the assigning Member's intention that the assignee succeed to the assigning Member's Economic Interest; and (d) executes a copy of this Agreement or an amendment to this Agreement. The admission of a substituted Member shall be effective as of the close of the day on which all of the conditions specified in this Section 18.5 have been satisfied.

Section 18.6 Secured Party. The pledge or hypothecation of, or the granting of any security interest in, or other lien or encumbrance against, the Membership Interests by any Person shall be made only in accordance with this Agreement and in such event, only if it will not cause the occurrence of a Terminating Event of such Member from the Company. In no event will the Company have any liability or obligation to any Person by reason of the Company's payment of a Distribution to any secured party as long as the Company makes such payment in reliance upon written instructions from the holder of record on whose behalf such Distributions are payable. Any secured party will be entitled, with respect to the security interest granted, only to the Distributions to which the holder of record granting the security interest is entitled under this Agreement, and only if, as and when such Distribution is made by the Company. Upon any foreclosure or other Transfer in lieu of foreclosure of the Membership Interests to any secured party, the Transfer will be subject to the other provisions of this Agreement.

Section 18.7 Permitted Transfers.

(a) Direct or Indirect Interests. Except as otherwise provided herein, transfers of direct or indirect interests in the Members shall be deemed Transfers subject to the restrictions set forth in Section 18.1(b) (and the rights of reasonable approval set forth in subsections 18.1(b)(i)) unless the limitations set forth in Sections 18.1(c)(i) through (vii) are not violated.

(b) Affiliate Transfers. Notwithstanding the restrictions of Section 18.1(b) and so long as the limitations set forth in Sections 18.1(c)(i) through (vii) are not violated, each Member shall, on and after January 1, 2012, have the right to Transfer all or a portion of its interest in the Company (i) to an Affiliate or (ii) to a person in the Member's Immediate Family or to a Family Trust, provided that the existing principals of assignor retain the right to manage and control the Membership Interest so transferred, unless the same shall be in violation of any agreement to which the Company is bound, including without limitation the Fund Operating Agreement or shall have a negative impact on any other Member. Any transferee under this Section 18.7(b) shall maintain only an Economic Interest in the Company unless and until such transferee is admitted as a substituted Member pursuant to Section 18.5 of this Agreement.

ARTICLE XIX

GENERAL PROVISIONS

Section 19.1 Amendment.

(a) The terms and provisions of this Agreement may be modified or amended at any time and from time to time by Majority Consent, to (i) reflect changes permitted under this Agreement in the membership of the Company and the Capital Contributions of the Members and the Proportionate Shares of the Members, including, without limitation, those permitted under Section 6.2(d), (ii) make a change that is necessary or, in the opinion of such Members, advisable to qualify the Company as a limited liability company under the laws of any state or foreign jurisdiction, or to ensure that the Company will not be treated as an association taxable as a corporation for federal, state or local income tax purposes; (iii) make a change that is necessary or desirable to cure any ambiguity, to correct or supplement any provision in this Agreement that would be inconsistent with any other provision in this Agreement, or to make a change to any other provision with respect to matters or questions arising under this Agreement that will not be inconsistent with the provisions of this Agreement, in each case so long as such change does not increase the financial obligations of the Members and does not otherwise adversely affect the Members in any material respect; (iv) satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, statute, ruling or regulation of any federal, state, local or foreign governmental entity, so long as such change is made in a manner that minimizes any adverse effect on the Members; (v) comply with the requirements of any Loan to limit the authority of the Members as a group in order to make the Company a bankruptcy remote single purpose entity or comply with loan securitization requirements in connection with a Loan; (vi) comply with other requirements of any Loan; (vii) add to the duties or obligations of the Members or officers or surrender, for the benefit of the Members, any right or power granted to the Members; or (viii) to make such other changes as such Members determine, by Majority Consent, to be advisable and in the best interests of the Company.

(b) Notwithstanding the foregoing, none of the following amendments shall be made with respect to any Member if the effect on such Member is disproportionate to such Member as compared to the effect on all other Members without such Member's consent: (i) any amendment to this Agreement that requires such Member to make a Capital Contribution or loan to the Company not required as of the date hereof; (ii) any amendment to the provisions of Article XVIII that cause such provisions to be materially less favorable to such Member than prior to the amendment; (iii) any amendment to Section 6.8; (iv) except as otherwise provided in this Agreement, any amendment to Section 13.1 or this Section 19.1; (v) except as otherwise provided in clause (a) of this Section 19.1 or otherwise in this Agreement, any amendment to this Agreement which alters the allocation for tax purposes of income, Net Profits, Net Losses, deductions, or credits; or (vi) any amendment to this Agreement which alters the manner of computing the Distributions of any Member.

Section 19.2 Waiver of Dissolution Rights. The Members agree that irreparable damage would occur if any Member should bring an action for judicial Dissolution of the Company. Accordingly, each Member accepts the provisions under this Agreement as such Member's sole entitlement on Dissolution of the Company and waives and renounces such Member's right to seek

a court decree of dissolution or to seek the appointment by a court of a liquidator for the Company. Each Member further waives and renounces any alternative rights which might otherwise be provided by law upon the withdrawal or resignation of such Member and accepts the provisions under this Agreement as such Member's sole entitlement upon the happening of such event.

Section 19.3 Waiver of Partition Right. Each Member waives and renounces any right that it may have prior to Dissolution and Liquidation to institute or maintain any action for partition with respect to any property of the Company.

Section 19.4 Waivers Generally. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Agreement or impair or otherwise affect any Member's obligations pursuant to this Agreement or any rights and remedies of a Member pursuant to this Agreement. No delay in the exercise of any right will operate as a waiver of such right. No single or partial exercise of any right will preclude its further exercise. A waiver of any right on any one occasion will not be construed as a bar to, or waiver of, any such right on any other occasion.

Section 19.5 Equitable Relief. If any Member proposes a Transfer in violation of the terms of this Agreement, the Company or any Member may apply to any court of competent jurisdiction for an injunctive order prohibiting such proposed Transfer except upon compliance with the terms of this Agreement, and the Company or any Member may institute and maintain any action or proceeding against the Person proposing to make such Transfer to compel the specific performance of this Agreement. Any attempted Transfer in violation of this Agreement is null and void, and of no force and effect. The Person against whom such action or proceeding is brought waives the claim or defense that an adequate remedy at law exists, and such Person will not urge in any such action or proceeding the claim or defense that such remedy at law exists.

Section 19.6 Remedies of Breach. The rights and remedies of the Members set forth in this Agreement are neither mutually exclusive nor exclusive of any right or remedy provided by law, in equity or otherwise. The Members agree that all legal remedies (such as monetary damages) as well as all equitable remedies (such as specific performance) will be available for any breach or threatened breach of any provision of this Agreement.

Section 19.7 Costs. If the Company or any holder of Membership Interests retains counsel for the purpose of enforcing or preventing the breach or any threatened breach of any provision of this Agreement or for any other remedy relating to it, then the prevailing party will be entitled to be reimbursed by the nonprevailing party for all costs and expenses so incurred (including reasonable attorneys' fees, costs of bonds, and fees and expenses for expert witnesses).

Section 19.8 Counterparts. This Agreement may be signed in multiple counterparts. Each counterpart will be considered an original, but all of them in the aggregate will constitute one instrument.

Section 19.9 Notice. Notices to the Company shall be sent to the principal executive office of the Company specified in this Agreement and shall be personally delivered or shall be sent by overnight courier that provides a return receipt, or by registered or certified mail, return

receipt requested. Notices to the Members shall be sent to their respective addresses set forth on Exhibit A. Any Member may require future notices to be sent to a different address by giving at least ten (10) days' notice to the Company in accordance with this Section. Any notice required or permitted by this Agreement shall be in writing and shall be deemed given and received when delivered to the address of the addressee set forth on Exhibit A (subject to revision pursuant to this Section).

Section 19.10 Date of Performance. Whenever this Agreement provides for any action to be taken on a day which is not a Business Day, such action shall be taken on the next following Business Day.

Section 19.11 Intentionally deleted.

Section 19.12 Partial Invalidity. Wherever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. However, if for any reason any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable in any respect, such action will not affect any other provision of this Agreement. In such event this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in it.

Section 19.13 Entire Agreement. This Agreement contains the entire agreement among the Members with respect to the subject matter of this Agreement, and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made by the Members with respect thereto, whether or not relied or acted upon.

Section 19.14 Binding Effect. This Agreement is binding upon, and inures to the benefit of, the Members and their transferees, successors and assigns, provided that any transferee will have only the rights specified in Section 18.3 unless admitted as an additional Member in accordance with this Agreement.

Section 19.15 Further Assurances. Each Member agrees, without further consideration, to sign and deliver such other documents of further assurance as may reasonably be necessary to effectuate the provisions of this Agreement.

Section 19.16 Headings. Article and Section titles have been inserted for convenience of reference only. They are not intended to affect the meaning or interpretation of this Agreement.

Section 19.17 Terms. Terms used with initial capital letters will have the meanings specified, applicable to both singular and plural forms, for all purposes of this Agreement. All pronouns (and any variation) will be deemed to refer to the masculine, feminine or neuter, as the identity of the Person may require. The singular or plural includes the other, as the context requires or permits. The word include (and any variation) is used in an illustrative sense rather than in a limiting sense. The word day means a calendar day, unless otherwise specified. Words such as "herein", "hereafter", "hereof", "hereto", and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.

Section 19.18 Governing Law; Consent to Jurisdiction. This Agreement will be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to

New York choice of law provisions). Any conflict or apparent conflict between this Agreement and the LLCL will be resolved in favor of this Agreement except as otherwise required by the LLCL. In any action or proceeding arising out of, related to, or in connection with this Agreement, the parties consent to be subject to the jurisdiction and venue of (a) the Supreme Court of the State of New York in and for the County of New York, and (b) the United States District Court for the Southern District of New York which jurisdiction and venue shall be the exclusive jurisdictions and venues for any and every such action or proceeding. Each of the parties consents to the service of process in any such action commenced hereunder by certified or registered mail, return receipt requested, or by any other method or service acceptable under federal law or the laws of the State of New York.

Section 19.19 Representations and Warranties. Each Member represents, warrants and covenants to each other Member and to the Company as of the date hereof that with respect only to such Member and all holders of equity interests in such Member:

(a) this Agreement has been duly executed and delivered by such Member and constitutes the valid and legally binding agreement of such Member enforceable in accordance with its terms against such Member except as enforceability hereof may be limited by bankruptcy, insolvency, moratorium and other similar laws relating to creditors' rights generally and by general equitable principles;

(b) the execution and delivery of this Agreement by such Member does not, and the performance of its duties and obligations hereunder will not, result in a breach of any of the terms, conditions or provisions of, or constitute a default under, or give rise to a right to terminate, cancel or accelerate under, or the creation of a lien, pledge or other encumbrance pursuant to, any indenture, mortgage, deed of trust, credit agreement, note or other evidence of indebtedness, or any material lease or other agreement, or any material license, permit, franchise or certificate, to which such Member is a party or by which it is bound or to which its properties are subject, or require any authorization or approval under or pursuant to any of the foregoing, or violate any statute, regulation, law, order, writ, injunction, judgment or decree to which such Member or its property is subject;

(c) such Member is not in default (nor has any event occurred which with notice, lapse of time, or both, would constitute a default) in the performance of any material obligation, agreement or condition contained in any indenture, mortgage, deed of trust, credit agreement, note or other evidence of indebtedness or any lease or other agreement, or any license, permit, franchise or certificate, to which it is a party or by which it is bound or to which the properties of it are subject, nor is it in violation of any statute, regulation, law, order, writ, injunction, judgment or decree to which it or its property is subject, which default or violation would adversely affect such Member's ability to carry out its obligations under this Agreement;

(d) there is no litigation, investigation or other proceeding pending or, to the knowledge of such Member, threatened against such Member or any of its Affiliates or their property which, if adversely determined, would materially adversely affect such Member's ability to carry out its obligations under this Agreement;

(e) no consent, approval or authorization of, or filing, registration or qualification with, any court or governmental authority on the part of such Member is required for the execution and delivery of this Agreement by such Member and the performance of its obligations and duties hereunder;

(f) it has acquired its Membership Interest hereunder for its own account for investment purposes and not with a view to the resale or distribution thereof, and that it has had access to any and all information necessary to arrive at its decision to acquire its Membership Interest. This Agreement, and any other document evidencing a Membership Interest in the Company shall bear the following legend:

THE MEMBERSHIP INTERESTS EVIDENCED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED ("1933 ACT") OR THE LAWS OF ANY STATE AND THE TRANSFERABILITY OF SUCH INTERESTS IS RESTRICTED. THE MEMBERSHIP INTERESTS MAY NOT BE SOLD, ASSIGNED OR TRANSFERRED, OR OFFERED FOR SALE, ASSIGNMENT OR TRANSFER, NOR WILL ANY ASSIGNEE, VENDEE, TRANSFEREE OR ENDORSEE THEREOF BE RECORDED AS HAVING ACQUIRED ANY SUCH INTERESTS BY THE ISSUER FOR ANY PURPOSE (1) IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE 1933 ACT OR ANY APPLICABLE EXEMPTION THEREFROM AND SUCH STATE LAWS AS MAY BE APPLICABLE, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED AND (2) EXCEPT IN ACCORDANCE WITH THE OPERATING AGREEMENT OF THE COMPANY.

(g) each such Member and each such holder, is over the age of 21 years and a resident or citizen of the United States and has no present intention of becoming a resident of any other jurisdiction and whose residence address is set forth on Exhibit A annexed hereto;

(h) neither any such Member nor any such holder has authorized any Person to act as his or her purchaser representative in connection with this transaction; each such Member and each such holder is experienced in investment and business matters and is familiar with limited liability companies and, with the assistance of such independent legal counsel or other advisors considered by such Member or holder appropriate to assist in evaluating a proposed investment in the Company (herein "**Investor Advisor**"), have such knowledge and experience in financial and business matters that such Member and each such holder is capable of evaluating the merits and risks of the prospective investment in the Company on the terms and conditions set forth in the Agreement, which such Member and each such holder has read and understood; in connection with the review of this Agreement, each such Member and each such holder has been provided with such other information or documentation such Member or each such holder or the Investor Advisor thereto may have requested and received; and such Member and each such holder has consulted with such independent legal counsel or other advisors to the extent considered appropriate by such Member and each such holder in order to assist such Member and each such holder in evaluating the proposed investment in the Company;

(i) each such Member and each such holder is an "accredited investor" as that term is defined in Regulation D under the Securities Act; that the Membership Interests are speculative

investments, which involve a high degree of risk of loss of the entire investment; that there are substantial restrictions on the transferability of the Membership Interests held by Members and that they will not be, and such Member has no rights to require that the Membership Interests be registered under the Securities Act; that there will be no public market for the Membership Interests and, accordingly, each such Member and holder may have to hold Membership Interests indefinitely; and that it may not be possible to liquidate at any time the investment in the Company;

(j) each such Member and each such holder has adequate means of providing for his or her or its current needs and possible personal contingencies, and have no need for liquidity of the proposed investment in the Company; and (a) can afford to (x) hold unregistered securities for an indefinite period of time; and (y) sustain a complete loss of the entire amount of my proposed investment in the Company and, at the same time, bear any tax liability which may result if such investment in the Company is lost;

(k) each such Member and each such holder has been (i) furnished with a copy of this Agreement, and such other information and documentation in connection with the offering as has been requested; and (ii) afforded the opportunity to ask questions of, and receive answers from, the Company and those persons acting on its behalf concerning the terms and conditions of the offering and to obtain any additional information, to the extent such persons possess such information or can acquire it without unreasonable effort or expense, necessary to verify the information furnished; and each such Member and each such holder has availed his or herself of such opportunity to the extent considered appropriate in order to evaluate the merits and risks of the proposed investment;

(l) each such Member and each such holder understands that the Company has no obligation or present intention to register under the Securities Act, the Membership Interests or to make available public information (in the form of reports pursuant to Sections 13 or 15 of the Securities Exchange Act of 1934, as amended, or otherwise) without which information resale without registration, pursuant to Rule 144 under the Securities Act, will not be available and no representations to the contrary have been made in connection with this proposed investment; and

(m) the funds which will be used to purchase the Membership Interest DO NOT include assets of (i) an employee benefit plan (as defined in 3(3) of ERISA), whether or not such plan is subject to Title I of ERISA, (ii) a plan (as defined in 4975(e)(1) of the Code), or (iii) an entity whose underlying assets include plan assets by reason of an employee benefit plan's or plan's, (as defined above in clause (m)(i) or clause (m)(ii) respectively), investment in the entity.

Section 19.20 Separate Counsel. Each Member acknowledges that such Member has retained separate counsel with whom to discuss the terms and provisions of the Agreement and their effect on such Member before execution of this Agreement.

ARTICLE XX

POWER OF ATTORNEY

Section 20.1 Attorney in Fact. Each Member irrevocably grants the Company, a power of attorney making, constituting, and appointing the Company, as the Member's attorney in fact, with all power and authority to act in the Member's name and on the Member's behalf to execute, acknowledge and deliver and swear to in the execution, acknowledgement, delivery and filing of the following documents:

(a) any document in connection with any Loan in connection with the Project;

(b) any agreement to create or document an Affiliate;

(c) any instrument or agreement reasonably believed to be required by the Company in connection with the Project;

(d) any and all instruments, certificates, and other documents that may be deemed necessary or desirable to effect the Dissolution or Liquidation of the Company in accordance herewith;

(e) any business certificate, fictitious name certificate, amendment thereto, or other instrument or document of a similar nature necessary or desirable to accomplish the business, purpose and objectives of the Company, or required by any applicable federal, state or local law;

(f) all amendments or modifications to this Agreement, provided that such amendment or modification has been approved in accordance with or complies with Section 19.1; and

(g) any other instrument or document that may be reasonably required by the Company in connection with any of the foregoing.

Section 20.2 Irrevocable Power. The special power granted in Section 20.1 (a) is irrevocable, (b) is coupled with an interest and (c) shall survive a Member's death, incapacity, incompetency, termination, Bankruptcy or insolvency of such Member or dissolution of the Company.

Section 20.3 Signatures. The Company may exercise the power of attorney granted in Section 20.1 by a facsimile signature of the Company or one of its officers or authorized persons or by signature of the Company or one of its officers or authorized persons.

[Balance of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this operating agreement for WORKFORCE HOUSING ADVISORS MM II LLC as of the date first above written.

Name: John Crotty

Name: John Warren

Name: Kevin Gallagher

Name: John Fitzgerald

EXHIBIT A

MEMBERS, CAPITAL CONTRIBUTIONS, AND PROPORTIONATE SHARES

Name	Address	Capital Contribution-Cash	Proportionate Share
John Crotty	c/o Workforce Housing Advisors, LLC 271 Madison Ave, Suite 1007 New York, New York 10016	$25.00	25.00
John Warren	c/o Workforce Housing Advisors, LLC 271 Madison Ave, Suite 1007 New York, New York 10016	$25.00	25.00
Kevin Gallagher	c/o Workforce Housing Advisors, LLC 271 Madison Ave, Suite 1007 New York, New York 10016	$25.00	25.00
John Fitzgerald	c/o Workforce Housing Advisors, LLC 271 Madison Avenue Suite 1007 New York, New York 10016	$25.00	25.00