LIMITED LIABILITY COMPANY AGREEMENT[1]

OF

BRUIN PURCHASER LLC
a Delaware Limited Liability Company

Dated as of August [31], 2020

THE MEMBERSHIP INTERESTS (THE "INTERESTS") OF BRUIN PURCHASER LLC (THE "COMPANY") ARE SUBJECT TO VARIOUS CONDITIONS INCLUDING CERTAIN RESTRICTIONS ON ANY OFFER, SALE, DISPOSITION, TRANSFER AND VOTING AS SET FORTH IN THE LIMITED LIABILITY COMPANY AGREEMENT, DATED AS OF AUGUST [31], 2020 (AS MAY BE AMENDED FROM TIME TO TIME, THE "LLC AGREEMENT") OF THE COMPANY. NO REGISTRATION OR TRANSFER OF SUCH SECURITIES WILL BE MADE ON THE BOOKS AND RECORDS OF THE COMPANY OR ITS TRANSFER AGENT UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH. THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH HOLDER OF RECORD OF SUCH SECURITIES A COPY OF THE LLC AGREEMENT CONTAINING THE ABOVE REFERENCED RESTRICTIONS ON TRANSFERS AND VOTING OF SECURITIES UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS.

[1] This agreement is subject to be amended, supplemented or modified.

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LIMITED LIABILITY COMPANY AGREEMENT

OF

BRUIN PURCHASER LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT (this **"Agreement"**), dated as of August [31], 2020 (the **"Effective Date"**), of Bruin Purchaser LLC, a Delaware limited liability company (together with its successors and assigns, the **"Company"**), is made and entered into by and among the Persons executing this Agreement on the signature pages hereto as members (each an **"Initial Member"** and, together with such other Persons that may hereafter become members as provided herein, referred to collectively as the **"Members"** or, individually, as a **"Member"**). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in Article II.

RECITALS:

WHEREAS, the restructuring transactions set forth in the *Joint Prepackaged Chapter 11 Plan of Reorganization of Bruin E&P Partners, LLC and Its Debtor Subsidiaries* [Docket No. 19], as debtors and debtors in possession, as filed in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, on July 17, 2020, as the same may be amended, supplemented, restated, or modified from time to time, pursuant to section 1127 of title 11 of the United States Code, as approved and confirmed by the United States Bankruptcy Court for the Southern District of Texas, Houston Division in that certain *Order Approving the Debtors' Disclosure Statement and Confirming the Amended Joint Prepackaged Chapter 11 Plan of Reorganization of Bruin E&P Partners, LLC and Its Debtor Subsidiaries* [Docket No. 19] (the **"Plan"**), contemplate the formation of the Company and the entry into this Agreement, as further described below;

WHEREAS, on August 6, 2020, the Company was formed by filing a certificate of formation (the **"Certificate"**) with the Secretary of State of the State of Delaware in accordance with the provisions of the Delaware Limited Liability Company Act (together with any successor statute, and as amended from time to time, the **"Act"**); and

WHEREAS, in accordance with the Plan, the Company has issued Units (as defined herein) (i) to the holders of allowed claims arising under that certain Amended and Restated Credit Agreement, dated as of September 7, 2017, as amended, restated, supplemented, or otherwise modified from time to time prior to July 17, 2020, by and among Bruin E&P Partners, LLC, as borrower, the Bank of Montreal, as administrative agent, JPMorgan Chase Bank, N.A., Capital One, National Association and Citibank, N.A., as co-syndication agents, Fifth Third Bank and BOKF NA DBA Bank of Texas, as co-documentation agents, and each of the lenders party thereto, (ii) to the holders of allowed claims arising under that certain Indenture, dated as of July 26, 2018, as amended, restated, supplemented, or otherwise modified from time to time prior to July 17, 2020, by and among Bruin E&P Partners, LLC, UMB Bank, N.A., in its capacity as trustee, and the subsidiary guarantors party thereto, (iii) to holders of allowed general unsecured claims against Bruin Williston Holdings LLC and (iv) to certain members of the Company's management.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual covenants and agreements contained herein, each of the Members do hereby agree as follows:

ARTICLE I - ORGANIZATIONAL MATTERS

Section 1.1. **Formation**. The Company has been formed as a Delaware limited liability company by filing of the Certificate in the office of the Secretary of State of the State of Delaware under and pursuant to the Act. The Members hereby agree that during the term of the Company's existence, the rights and obligations of the Members with respect to the Company will be determined in accordance with the terms and provisions of this Agreement and, except where the Act provides that such rights and obligations specified in the Act shall apply "unless otherwise provided in an operating agreement" or words of similar effect and such rights and obligations are set forth in this Agreement, the Act.

Section 1.2. **Name**. The name of the Company is "Bruin Purchaser LLC". The business of the Company shall be conducted in the name of the Company. If the applicable Law of a jurisdiction where the Company does business requires the Company to do business under a different name, the Board of Directors shall choose another name to do business in such jurisdiction. In such a case, the business of the Company in such jurisdiction may be conducted under such other name or names as the Board of Directors may select.

Section 1.3. **Purpose**. The purpose for which the Company is organized for the purpose of (i) engaging, directly or through its Subsidiaries, in the Company Business, (ii) acting as the non-economic managing member of Blocker, and (iii) engaging, directly or indirectly or through its Subsidiaries, in any and all other activities that may be lawfully conducted by a limited liability company under the Act that now or hereafter may be necessary, incidental, proper, advisable or convenient in furtherance of or otherwise relating to the foregoing purpose as determined by the Board of Directors, subject to Section 6.11. In carrying out the purpose and businesses of the Company, the Company may act directly or indirectly through one or more entities.

Section 1.4. **Registered Office; Registered Agent; Principal Place of Business; Other Offices**.

(a) The registered office of the Company required by the Certificate to be maintained in the State of Delaware shall be the registered office named in the Certificate or such other office (which need not be a place of business of the Company) as the Board of Directors may designate from time to time in the manner provided by applicable Law. The registered agent of the Company in the State of Delaware shall be the initial registered agent named in the Certificate or such other Person or Persons as the Board of Directors may designate from time to time in the manner provided by applicable Law.

(b) The principal place of business of the Company shall be located at 602 Sawyer Street, Suite 710, Houston, TX 77007, or such other location as may be changed and designated by the Board of Directors, which location need not be in the State of Delaware. The Company may have such other offices as the Board of Directors may deem appropriate.

Section 1.5. **Foreign Qualification**. Prior to the Company conducting business in any jurisdiction other than Delaware, the Company shall comply with all requirements necessary to

qualify the Company as a foreign limited liability company in such jurisdiction. Each Officer is authorized, on behalf of the Company, to execute, acknowledge, swear to and deliver all certificates and other instruments as may be necessary or appropriate in connection with such qualifications. At the request of the Board of Directors or an Officer of the Company, each Member agrees to execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

Section 1.6. **Term**. The Company commenced upon the filing of the Certificate in accordance with the Act and shall continue in existence until it is dissolved and terminated in accordance with the terms hereof.

Section 1.7. **No State Law Partnership**. Except to the extent provided in the next sentence, the Members intend that the Company shall not be a partnership (including a limited partnership) or a joint venture, and that no Member, Director or Officer shall be a partner or joint venturer of any other Member, Director or Officer, for any purposes, and that this Agreement shall not be construed to the contrary. Notwithstanding the foregoing, the Members intend that the Company shall be treated as a partnership for U.S. federal and, if applicable, state and local, income tax purposes. Except to the extent otherwise provided herein, each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment unless otherwise required by Law.

ARTICLE II - DEFINITIONS AND REFERENCES

Section 2.1. **Definitions**. When used in this Agreement, the following terms have the respective meanings assigned to them in this Section 2.1 or in the Sections or other subdivisions referred to below:

"Act" has the meaning set forth in the Recitals to this Agreement.

"Additional Capital Contribution" means, with respect to any Member, any Capital Contribution made by such Member from time to time in accordance with the terms of Article IV (other than such Member's initial Capital Contribution).

"Advance Amount" has the meaning set forth in Section 5.4(c).

"Affiliate" means, when used with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by or is under common Control with, the Person in question.

"Aggregate Steering Committee Threshold" means the ownership of at least twenty-five percent (25%) of the aggregate Units, including any Units held directly or indirectly through Blocker, outstanding at such time of determination by the Steering Committee Members (and their Permitted Transferees) on a collective basis.

"Agreement" has the meaning set forth in the preamble to this Agreement, as the same may be amended, supplemented, modified or restated from time to time.

"Audit Committee" has the meaning set forth in Section 6.6(c).

"Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101–1532, as amended from time to time.

"BHC Act" means the federal Bank Holding Company Act of 1956, as amended, and the rules and regulations thereunder.

"BHC Affiliate" of a Regulated Holder means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such Regulated Holder.

"Blocker" means Bruin Blocker LLC in its capacity as a Member of the Company.

"Blocker Shares" means units designated as Class A Units representing limited liability company interests of Blocker.

"Board of Directors" and **"Board"** have the respective meanings set forth in Section 6.1.

"Business Day" means a day, other than a Saturday or a Sunday or a day on which banks in New York, New York are authorized or required to close.

"Capital Account" means the capital account determined and maintained for each Member in accordance with Section D1.2 of Exhibit D.

"Capital Contribution" means, for any Member at the particular time in question, the aggregate of the dollar amounts of any cash contributed to the capital of the Company and the Fair Market Value as agreed to by the Members of any property contributed to the capital of the Company, or, if the context in which such term is used so indicates, the dollar amounts of cash and the Fair Market Value of any property contributed at any particular time or agreed to be contributed, or requested to be contributed, by such Member to the capital of the Company.

"Certificate" has the meaning set forth in the Recitals to this Agreement.

"Chairman of the Board" has the meaning set forth in Section 6.2(b).

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor statute or statutes.

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

"Company Business" means the ownership, operation, management, financing, acquisition or divestiture of any Oil and Gas Interests, exploration or development of Oil and Gas Interests, or production, marketing, gathering, transportation, sale or disposition of Oil and Gas Interests in the Williston Basin in North Dakota and such other areas as determined from time to time by the Company.

"Company Securities" means the Units and any other equity securities of the Company or its Subsidiaries.

"Confidential Information" means any and all confidential and proprietary information and trade secrets of the Company and its Subsidiaries and Affiliates, including: (i) any financial, commercial, business, professional, technical or other technological information; (ii) any information pertaining to the business, affairs and strategies of the Company, the Members or their respective Affiliates; (iii) any information or knowledge pertaining to any existing projects or projects in development; (iv) the identity of and any information pertaining to any Person with which the Company, the Members or their respective Affiliates have a business relationship or prospective business relationship; (v) the terms, conditions and prices of any contract between the Company or any of its Subsidiaries and any other party; (vi) information pertaining to employees, contractors and the industry not generally known to the public; (vii) books, records, developments, operations, plans, concepts, products, formulae, specifications, designs, processes, inventions, discoveries, technologies, trademarks, patents and know-how; and (viii) the terms and provisions of this Agreement; provided, that **"Confidential Information"** does not include, and there shall be no obligation hereunder with respect to, information that (a) is or becomes available to any Member on a non-confidential basis from a source (other than the Company, its Subsidiaries and its Affiliates) not prohibited from disclosing such information to such Member, (b) was independently developed by any Member or an Affiliate of such Member without a breach of the confidentiality and use provisions of this Agreement, (c) was known by any Member prior to the disclosure thereof by the Company, its Subsidiaries or its Affiliates without any obligation of confidentiality or (d) is or becomes generally known or available to the public other than as a result of a disclosure by any Member or any of its Affiliates in breach of this Agreement.

"**Control**," including the correlative terms "**Controlled by**" and "**under Common Control with**," means the possession, directly or indirectly (through one or more intermediaries), of the power to direct or cause the direction of management or policies (whether through ownership of voting securities, by contract or otherwise) of a Person.

"Director" or **"Directors"** have the respective meanings set forth in Section 6.1.

"Drag-Along Party" has the meaning set forth in Section 9.6(a).

"Drag-Along Sale" has the meaning set forth in Section 9.6(a).

"Economic Interest" means a Person's right to share in the income, loss or similar items of, and to receive distributions from, the Company pursuant to this Agreement, but does not include any other rights of a Member including the right to vote, consent or otherwise participate in the management of the Company, the right to designate Directors to the Board of Directors, or, except as specifically provided in this Agreement or required under the Act, any right to information concerning the business and affairs of the Company.

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

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

"Excess Advance Amount" has the meaning set forth in Section 10.2(g).

"Exchange" has the meaning set forth in Section 4.7.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, of any asset as of any date, the purchase price on an arm's length basis between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge of the relevant facts, unless the context requires otherwise or anything stated herein to the contrary, as determined in good faith by the Board of Directors based on such factors as the Board of Directors, in the exercise of its reasonable business judgment, considers relevant.

"Family Group" means, with respect to any individual, such individual's spouse and descendants (whether natural or adopted) and any trust, partnership, limited liability company or similar vehicle established and maintained solely for the benefit of (or the sole members or partners of which are) such individual, such individual's spouse and/or such individual's descendants.

"FATCA" has the meaning set forth in Section 5.3(b).

"GAAP" means United States generally accepted accounting principles and practices, consistently applied, which are recognized from time to time as such by the Financial Accounting Standards Board (or any generally recognized successor).

"Governmental Authority" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States of America, the United States of America or a foreign entity or government. For the avoidance of doubt, "Governmental Authority" shall include any "Government Unit" as defined in section 101(27) of the Bankruptcy Code.

"Group" means, collectively, the Company and any of its direct or indirect Subsidiaries.

"Holding Threshold" has the meaning set forth in Section 6.3.

"Hydrocarbons" means crude oil, natural gas, casinghead gas, condensate, distillate, natural gas liquids and all other liquid or gaseous hydrocarbons, together with all products extracted, separated or processed therefrom, and all other minerals produced in association with these substances.

"Incapacity" means with respect to any Person, the bankruptcy, liquidation, death, dissolution or termination of such Person.

"Indemnitee" means (a) any Member, (b) any Person who is or was an Affiliate of a Member, (c) any Director, (d) any Officer, (e) the partnership representative, (f) any Person who is or was a manager, member, partner, stockholder, employee, director, officer, fiduciary, agent or trustee of (i) any Member or (ii) any Affiliate of any Member or Director, (g) any Person who is or was serving at the request of the Company or any Affiliate of the Company as a manager, member, partner, director, officer, employee, agent, representative, fiduciary or trustee of, or in any other comparable position of, any Other Enterprise; provided, however, that a Person shall not

be an Indemnitee by reason of providing, on a fee-for-services basis, trustee, fiduciary or custodial services, and (h) any Person the Board of Directors designates as an "Indemnitee" for purposes of this Agreement because such Person's status, service or relationship exposes such Person to potential claims, demands, suits or proceedings relating to the Company or any of its Affiliates' business and affairs. For purposes of this Agreement, the phrase "serving at the request of" includes any service requested by any of the aforementioned Persons, and specifically includes any service as a director, officer or in any other comparable position that imposes duties on, or involves services by, a Person with respect to an employee benefit plan, its participants, or beneficiaries.

"Initial Member" has the meaning set forth in the preamble to this Agreement.

"Initial Public Offering" means (a) the issuance by the Company (or any direct or indirect parent company) of at least $50 million of equity interests in an underwritten public offering pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act and (b) the listing of such equity interests on a National Securities Exchange.

"IPO Entity" has the meaning set forth in Section 11.20(a).

"Laws" means all federal, state and local statutes, laws (including common law and the Act), rules, regulations, codes, orders, ordinances, licenses, writs, injunctions, judgments, awards (including awards of any arbitrator) and decrees and other legally enforceable requirements enacted, adopted, issued or promulgated by any Governmental Authority.

"Listing Rules Member" has the meaning set forth in Section 5.5.

"Management Incentive Plan" has the meaning set forth in Section 4.2.

"Management Members" has the meaning set forth in Section 4.2.

"Maximum Voting Control Level" means ownership or control, or deemed ownership or control (including of any Units held indirectly through Blocker) for applicable bank regulatory purposes, by a Regulated Holder (together with its BHC Affiliates), of more than 4.99% of the total number of any class of Units entitled to vote or consent as a separate class on any matter which under the BHC Act would cause such Units to be deemed a separate class. For the avoidance of doubt, Non-Voting Units of other Regulated Holders and their Permitted Transferees shall not be considered in calculating the applicable Maximum Voting Control Level for the Regulated Holders in question.

"Member" and **"Members"** have the meanings set forth in the preamble to this Agreement.

"Member Majority Approval" means the written approval of, or the affirmative vote by, holders of greater than percent (50%) of the combined voting power exercisable by the Units then issued and outstanding and entitled to vote at such time, voting together as a single class.

"Member Supermajority Approval" means the written approval of, or the affirmative vote by, holders of at least seventy five percent (75%) of the combined voting power exercisable

by the Units then issued and outstanding and entitled to vote at such time, voting together as a single class.

"Members Schedule" has the meaning set forth in Section 3.1.

"Membership Interest" means the interest of a Member in the Company, including the right of such Member (based on the type and class of Unit or Units held by such Member), as applicable, to receive distributions (liquidating or otherwise), to be allocated income, gain, loss, deduction, credit, or similar items, to receive information, and to grant consents or approvals.

"National Securities Exchange" means an exchange registered with the SEC under Section 6(a) of the Exchange Act (or any successor to such section).

"Non-Voting Units" has the meaning set forth in Section 3.6(a).

"Observer" has the meaning set forth in Section 6.4.

"Offer Notice" has the meaning set forth in Section 9.4(a).

"Offer Price" has the meaning set forth in Section 9.4(a).

"Offered Units" has the meaning set forth in Section 9.4(a).

"Offering Member" has the meaning set forth in Section 9.4(a).

"Officers" has the meaning set forth in Section 6.8(a).

"Oil and Gas Interests" means Hydrocarbons, Hydrocarbon interests and gathering systems, including oil and gas leases (and all leasehold estates created thereby, including overriding royalties, production payments, net profits interests and carried interests in hydrocarbons in place), mineral interests, pipelines, flow lines, gathering lines, gathering systems, compressors, dehydration units, separators, meters, injection facilities, salt water disposal wells and facilities, plants, wells, downhole and surface equipment, fixtures, improvements, easements, rights-of-way, surface leases, licenses, permits and other surface rights, and other real or personal property appurtenant thereto or used in connection therewith.

"Organizational Documents" means, with respect to any Person, the documents by which such Person was organized (such as a certificate or articles of incorporation, certificate or articles of organization, certificate of limited partnership or certificate of articles of organization, and including any certificates of designation for preferred stock or other forms of preferred equity) and which relate to the internal governance of such Person (such as bylaws, a partnership agreement or an operating, limited liability, stockholders or members agreement) as the same may be amended from time to time.

"Other Enterprise" means any other Person associated with the Company or any Affiliate of the Company whereby the Company or any Affiliate of the Company nominates, designates or appoints one or more individuals to act in relationship with such Person (including any trust or employee benefit plan associated with the Company or any Affiliate of the Company, and

including any Person whereby the Company or any of Affiliate of the Company nominates, designates or appoints a director or similar officer or representative with respect to such Person).

"Other Indemnification Agreement" means one or more certificates or articles of incorporation, by-laws, limited liability company operating agreement, limited partnership agreement and any other organizational document, and insurance policies maintained by any Member or Director or Affiliate thereof providing for, among other things, indemnification and advancement of expenses for any Indemnitee for, among other things, the same matters that are subject to indemnification and advancement of expenses under this Agreement.

"partnership representative" has the meaning set forth in Section 7.6.

"Permitted Relative" means, with respect to a natural Person, any one or more of the following: such Person's spouse, lineal descendants (natural or adopted) of such Person or spouse of such Person, parents, siblings (natural or adopted) and their lineal descendants (natural or adopted), a spouse of a sibling and any of such spouse's lineal descendants (natural or adopted), and a sibling of a spouse and any of such sibling of a spouse's lineal descendants (natural or adopted).

"Permitted Tax/Estate Planning Transfer" means a Transfer by a natural Person of Membership Interests by inter vivos gift or testamentary transfer to a Permitted Relative of the Transferor or to a custodian or trust for the benefit of the Transferor or any Permitted Relative (including any charitable trust in which the Transferor and/or Permitted Relative has a beneficial income or remainder interest), or to a partnership, limited liability company, corporation, trust or other entity or association which is directly or indirectly, through one or more intermediaries, Controlled by, or under common Control with, the Transferor or a Permitted Relative.

"Permitted Transfer" means (i) any Transfer by a Member to a Permitted Transferee or (ii) any Transfer incidental to the exercise, conversion or exchange of such securities in accordance with their terms or any reclassification or combination of Membership Interest or any recapitalization, reorganization or reclassification of, or any merger or consolidation involving, the Company pursuant to which all Members are treated proportionally.

"Permitted Transferee" means:

(1) with respect to any Member who is not a Management Member, any of the following:

(a) an Affiliate of such Member;

(b) any Person that meets the qualifications of a Transferee pursuant to a Permitted Tax/Estate Planning Transfer;

(c) in the case of a trust, (i) the settlor of the trust and any Permitted Transferee of the settlor or (ii) any successor trustee of the trust that is replaced in accordance with the terms of the applicable trust documents; or

(d) in the case of a Member that is a fund or account managed, advised or sub-advised directly or indirectly by an investment advisor or sub-advisor, a fund or account that is

managed, advised or sub-advised directly or indirectly by the same investment advisor or sub-advisor or any Affiliate of such investment advisor or sub-advisor.

(2) with respect to any Member who is a Management Member, any Person that meets the qualifications of a transferee pursuant to a Permitted Tax/Estate Planning Transfer.

"Person" means an individual or a corporation, firm, limited liability company, partnership, joint venture, trust, estate, unincorporated organization, association, Governmental Authority or political subdivision thereof or other entity.

"Plan" has the meaning set forth in the Recitals to this Agreement.

"Pro Rata Interest" means, with respect to any Member as of a specified date, the fraction that results from dividing (i) the sum of the number of Units then held by such Member by (ii) the total amount of outstanding Units then held by all Members. The Pro Rata Interests of the Members on the date hereof are reflected on the Members' Schedule attached hereto.

"Regulated Holder" means any holder of Company Securities or Blocker Shares that is (or that is a subsidiary of a bank holding company that is) subject to the various provisions of the Bank Holding Company Act of 1956, 12 USC 1841 *et seq* as implemented by Regulation Y of the Board of Governors of the Federal Reserve Systems, 12 C.F.R., Part 225 (or any successor to Regulation Y).

"Related Party" means (i) a Director or Officer or any member of the Group (or the Family Group of any such Director or Officer); (ii) any Person (other than a member of the Group) of which any such Person described in clause (i) hereof is a partner, director, executive officer or Affiliate; (iii) any Person that beneficially owns, or otherwise Controls (or shares Control of), at least five percent (5%) of the outstanding shares or the voting power with respect to a Person described in clause (ii) hereof, or that is a Permitted Transferee of any such Person; or (iv) any director or executive officer of a Person described in clause (iii) hereof (or a member of the Family Group of any such director or executive officer).

"Related Party Transaction" means any transaction (or series of related transactions), agreement or arrangement between any member of the Group, on the one hand, and a Related Party, on the other hand, other than (i) expense reimbursement in accordance with the terms of this Agreement, (ii) routine transactions in the ordinary course of business of such member of the Group on terms at least as favorable as to the Group as would be obtained from an independent third party (including compensatory arrangements with Group officers), which Related Party Transactions are subject to the approval of the Board (or any duly authorized committee thereof) and approval in accordance with Section 6.9, (iii) any employment contract or agreement and (iv) any grant agreement issued under the Management Incentive Plan.

"Restricted Units" has the meaning set forth in Section 4.2.

"ROFO Notice Period" has the meaning set forth in Section 9.4(a).

"Sale Transaction" means (i) any transaction or series of related transactions (whether pursuant to an equity issuance, Transfer of equity, merger, business combination or otherwise) that

results in any Person or group (within the meaning of Section 13(d)(3) of the Exchange Act) acquiring (A) directly or indirectly (including through Blocker) more than fifty percent (50%) of the Units or (B) the ability to direct the election of a majority of the Directors serving on the Board as provided in Article VI or (ii) a sale, lease or other disposition (including by lease, exclusive license, exchange or other transfer) in one (1) transaction or a series of related transactions, of all or substantially all of the assets of the Company or the Company and the Company Subsidiaries taken as a whole.

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

"Securities Act" means the Securities Act of 1933, as amended.

"Side Letter" has the meaning set forth in Section 11.5(b).

"Steering Committee Majority" means the Steering Committee Members holding a majority of Units held by all Steering Committee Members.

"Steering Committee Members" means, initially, each of the following, together with any of their respective Permitted Transferees: Bank of America, NA, Barclays Bank PLC, BMO Harris Bank N.A., BOKF, N.A. DBA Bank of Texas, Capital One, National Association, Citibank, N.A., Fifth Third Bank, National Association, JPMorgan Chase Bank, N.A., Royal Bank of Canada and The Toronto-Dominion Bank, New York Branch, provided that the equity holdings of the aforementioned Persons (together with their respective Permitted Transferees) shall include any indirect interests in the Company held through the Blocker; provided further, that the identification of the Steering Committee Members is subject to adjustment in accordance with Section 6.3.

"Steering Committee Representative" means Bank of Montreal, together with its Permitted Transferees.

"Subsidiary" means, with respect to any Person, (a) a corporation of which more than 50% of the voting power of shares or other equity interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors or other governing body of such corporation is owned, directly or indirectly, at the date of determination, by such Person, by one or more Subsidiaries of such Person, or a combination thereof, (b) a partnership (whether general or limited) or limited liability company in which such Person or a Subsidiary of such Person is, at the date of determination, a general or limited partner of such partnership or member of such limited liability company, but only if more than 50% of the partnership or member interests of such partnership or limited liability company (considering all of the partnership or member interests of the partnership or limited liability company as a single class) is owned, directly or indirectly, at the date of determination, by such Person, by one or more Subsidiaries of such Person, or a combination thereof, or (c) any other Person (other than a corporation, partnership or limited liability company) in which such Person, one or more Subsidiaries of such Person, or a combination thereof, directly or indirectly, at the date of determination, has (i) at least a majority ownership interest or (ii) the power to elect or direct the election of a majority of the directors or other governing body of such Person.

"Substitute Member" means any Transferee that has been admitted as a Member of the Company pursuant to Section 9.9(c) by virtue of such Transferee receiving all or a portion of a Member's Membership Interests from a Member.

"Tag-Along Member" has the meaning set forth in Section 9.5(a).

"Tag-Along Notice" has the meaning set forth in Section 9.5(b).

"Tag-Along Sale" has the meaning set forth in Section 9.5(a).

"Tag Securities" has the meaning set forth in Section 9.5(a).

"Transfer" means, with respect to any Membership Interest, to sell or, in any other way directly or indirectly, to transfer, assign, distribute or otherwise dispose of all or any part of such Membership Interest, either voluntarily or involuntarily, by operation of Law or otherwise and shall include a pledge or encumbrance if such pledge or encumbrance is, in the Board's determination, a scheme or device to avoid restrictions on Transfer. For purposes of this definition, none of an Initial Public Offering, a Sale Transaction or an Exchange shall be deemed to be a **"Transfer**."

"Transferee" means a Person that acquires all or any portion of a Member's Membership Interest as a result of a Transfer.

"Transferor" means a Person that Transfers all or any portion of such Person's Membership Interests.

"Treasury Regulations" (or any abbreviation thereof used herein) means temporary or final regulations promulgated under the Code.

"Unit" has the meaning set forth in Section 4.1.

"Unpaid Indemnity Amount" means any amount that the Company fails to indemnify or advance to an Indemnitee as required by Article VIII.

Section 2.2. References and Construction.

(a) All references in this Agreement to articles, sections, subsections and other subdivisions refer to corresponding articles, sections, subsections and other subdivisions of this Agreement unless expressly provided otherwise.

(b) Titles appearing at the beginning of any of such subdivisions are for convenience only and shall not constitute part of such subdivisions and shall be disregarded in construing the language contained in such subdivisions.

(c) The words **"this Agreement"**, **"this instrument"**, **"herein"**, **"hereof"**, **"thereby"**, **"hereunder"** and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited.

(d) Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(e) Pronouns in masculine, feminine, or neuter gender shall be construed to state and include any other gender.

(f) Examples shall not be construed to limit, expressly or by implication, the matter they illustrate.

(g) The word **"or"** is not exclusive and the words **"include," "includes"** and **"including"** shall be deemed followed by the words **"without limitation**."

(h) No consideration shall be given to the fact or presumption that one party had a greater or lesser hand in drafting this Agreement.

(i) All references herein to **"$"** or **"dollars"** shall refer to U.S. Dollars.

(j) Unless the context otherwise requires or unless otherwise provided herein, the terms defined in this Agreement which refer to a particular agreement, instrument or document shall also refer to and include all renewals, extensions, modifications, amendments or restatements of such agreement, instrument or document; provided, however, that nothing contained in this subsection shall be construed to authorize such renewal, extension, modification, amendment or restatement.

(k) Exhibits A-1, A-2, A-3, B, C, D, E and F to this Agreement are attached hereto. Each such Exhibit is incorporated herein by reference and made a part hereof for all purposes, and references to this Agreement shall also include each such Exhibit, unless the context in which such reference is used shall otherwise require.

(l) Each Member acknowledges that it and its attorneys and advisers have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

ARTICLE III - MEMBERS

Section 3.1. Members. The names of the Members of the Company are set forth in Exhibit A-1 (the **"Members Schedule"**) and the addresses of such Members are set forth in Exhibit A-2.

Section 3.2. Additional Members. Additional Persons may be admitted to the Company as Members as provided more specifically herein.

Section 3.3. Action by Members.

(a) Subject to the limitations set forth in Section 3.6, the Members may vote, approve a matter or take any action by the vote of Members holding Units entitled to vote at a

meeting, in person or by proxy, or without a meeting by the written consent of Members pursuant to Section 3.3(c).

(b) Each Member shall be entitled to one (1) vote per each outstanding Unit held by such Member.

(c) Any action may be taken by Members without a meeting if authorized by the written consent of Members holding Units sufficient to approve such action pursuant to the terms of this Agreement. In no instance where action is authorized by written consent will a meeting of Members be required to be called or notice be required to be given.

Section 3.4. Liability to Third Parties. No Member or any officer, director, manager, member or partner of such Member, solely by reason of being a Member, shall be liable for the debts, obligations or liabilities of the Company, including under a judgment, decree or order of a court.

Section 3.5. Members Have No Agency Authority. Except as expressly provided in this Agreement, no Member (in its capacity as a Member of the Company) shall have any agency authority on behalf of the Company.

Section 3.6. Non-Voting Units of Regulated Holders.

(a) Each Member that is a Regulated Holder, shall have the option, exercisable by written notice to the Company at any time, to elect that if such Member, together with its BHC Affiliates, owns or controls a number of Units that exceeds the Maximum Voting Control Level, the number of Units by which such Member's and its BHC Affiliates' holdings of Units exceeds the Maximum Voting Control Level (such Units, the **"Non-Voting Units"**) shall not be entitled to be voted on any matter and shall not be considered to be outstanding when sending notices of a meeting of Members to vote on any matter (unless otherwise required by Law), calculating required votes, determining the presence of a quorum or for other similar purposes under this Agreement.

(b) If a Regulated Holder exercises its option as contemplated by Section 3.6(a), such Regulated Holder shall deliver written notice to the Company of such exercise at least ten (10) Business Days before the date such Regulated Holders desires such exercise to become effective, and such notice shall include the date of such Regulated Holder's exercise of such option (which shall be the date that the applicable Units subject to the exercise of the option shall be considered Non-Voting Units). The Company shall notify the Members and the holders of Blocker Shares of an exercise by any Regulated Holder as soon as reasonably practicable after the date that the Company receives written notice from such Regulated Holder (and in any event at least five (5) Business Days before the date that the election of such Regulated Holder is to become effective as stated in the notice of exercise). Upon the request of any Regulated Holder owning any Non-Voting Units, the Company shall issue to such Regulated Holder one or more certificates evidencing such Non-Voting Units with such restrictive legends, including legends regarding the voting restrictions of the Non-Voting Units, as the Board shall determine in its sole discretion.

(c) If a Regulated Holder exercises its option as contemplated by Section 3.6(a), in connection with an underwritten offering of securities registered pursuant to the Securities Act

of 1933, as amended, or a merger, sale, financing, or liquidation of the Company or other event, the Units exceeding the Maximum Voting Control Level, at the option of any such Regulated Holder, shall be conditioned upon the closing of such transaction or upon the occurrence of such event, in which case such Units shall not be deemed to be Non-Voting Units until immediately prior to the closing of such transaction or the occurrence of such event.

(d) A Non-Voting Unit shall cease to be a Non-Voting Unit and shall be entitled to the full voting and approval rights of Units in the event that such Non-Voting Unit is Transferred: (a) to the Company or an Affiliate of the Company or (b) a third party transferee of such Regulated Holder (i) in a "widespread public distribution"; (ii) in Transfers in which no transferee (or "group of associated transferees") would receive two percent (2%) or more of the relevant class of Units of the Company; or (iii) if such Transferee would control more than fifty percent (50%) of a class of Units of the Company without any Transfer of Non-Voting Units by such Regulated Holder, in each case as such terms are defined under the BHC Act and the Federal Reserve Board's regulations and interpretations thereunder.

(e) Except as provided in this Section 3.6 and elsewhere in this Agreement, a Membership Interest evidenced by a Non-Voting Unit shall be identical in all regards to a Membership Interest evidenced by Units.

ARTICLE IV - UNITS AND CAPITALIZATION

Section 4.1. Membership Interests. The Membership Interests in the Company shall be expressed as units (each such unit, a **"Unit"**) comprising a Member's Membership Interest in the Company. There is currently one class of Units, with such class referred to herein as **"Units**,**"** and no other class or series of Membership Interests. After the Effective Date and subject to the terms of this Agreement (including Section 6.11), the Board or a duly authorized committee thereof is expressly authorized, by resolution or resolutions, to create and to issue, different classes, groups or series of Units and, in any such case, to fix for each such class, group or series such voting powers, full or limited or no voting powers, and such distinctive designations, preferences and relative participating, optional or other special rights and qualifications, limitations or restrictions as determined by the Board or a duly authorized committee thereof. Each type, class or series of Units shall have the privileges, preference, duties, liabilities, obligations, and rights, including voting rights, if any, set forth in this Agreement or an amendment hereto with respect to such type, class, or series. The Board of Directors shall maintain (i) the Members Schedule including the names of the Members of the Company and the amount and series of Units held by them (including Restricted Units, if any) and (ii) Exhibit A-2 including the addresses of the Members of the Company, and shall update the Members Schedule and Exhibit A-2 upon the issuance or Transfer of any Units to any new or existing Member in accordance with the terms hereof.

Section 4.2. Management Incentive Plan; Restricted Units. Pursuant to the Plan, the Company has adopted a written plan pursuant to which the Company may grant up to [●][2] Units

[2] **Note to Draft**: Insert number of Units representing 10% (on a fully diluted and distributed basis) of the total equity value of the Company as set forth in the Plan Supplement.

to employees (collectively, "**Management Members**") of the Company or its Subsidiaries in compliance with Rule 701 of the Securities Act or another applicable exemption (such plan as in effect from time to time, the **"Management Incentive Plan"**), of which fifty percent (50%) will be issued concurrently herewith. As used in this Agreement, any Units issued but that have not vested pursuant to the terms of the Management Incentive Plan and any associated award agreement are referred to as **"Restricted Units"** and shall be subject to the applicable provisions of this Agreement.

Section 4.3. **Non-Voting Equity Securities**. Notwithstanding anything to the contrary herein, the Company shall not issue any non-voting Company Securities to the extent prohibited by Section 1123(a)(6) of the Bankruptcy Code as in effect on the Effective Date; provided, however, that the foregoing restriction (i) shall have such force and effect only for so long as Section 1123(a)(6) of the Bankruptcy Code is in effect and applicable to the Company, (ii) shall not have any further force or effect beyond that required under Section 1123(a)(6) and (iii) may be amended or eliminated in accordance with applicable Law as from time to time may be in effect. The prohibition on the issuance of non-voting Company Securities is included in this Agreement in compliance with Section 1123(a)(6) of the Bankruptcy Code (11 U.S.C. § 1123(a)(6)).

Section 4.4. **Capital Contributions**.

(a) Exhibit A-1 sets forth (i) each Member's name and (ii) the number of Units held by such Member on the date hereof taking into account all Capital Contributions made, or deemed to have been made, by such Member as of the date hereof.

(b) As of the date hereof and pursuant to the transactions contemplated by the Plan, each Member owning Units is deemed to have made the initial Capital Contribution in exchange for such Member's Units as set forth opposite such Member's name on the Members Schedule as in effect on the date hereof. Subject to the terms of this Agreement, the Members Schedule shall be amended from time to time by the Board of Directors to reflect Additional Capital Contributions or other changes to any of the foregoing. Unless otherwise specified, any reference to the Members Schedule shall be deemed to refer to the Members Schedule as may be amended and in effect from time to time. Except as provided by the terms herein, upon the request of any Member at any time from time to time, the Company shall make available to such Member a copy of any amended or restated Members Schedule.

Section 4.5. **No Additional Capital Contributions**. Except as otherwise agreed to in writing by a Member in connection with the issuance of Units (or options, warrants or other securities or rights to purchase or otherwise acquire Units) to such Member after the date of this Agreement, no Member shall be required to make any Additional Capital Contributions or otherwise advance funds to the Company after the date of this Agreement.

Section 4.6. **No Interest or Withdrawal of Capital Contributions**.

(a) No interest shall be paid by the Company in respect of any Member's Capital Contributions or Capital Account.

(b) Except upon a dissolution and liquidation of the Company effected in accordance with Article X, no Member shall have the right to withdraw its Capital Contributions from the Company.

Section 4.7. Exchange of Units for Blocker Shares. Each Member shall be entitled at any time and from time to time, upon the terms and subject to the conditions hereof, to surrender Units to Blocker in exchange for the delivery to such Member of a number of Blocker Shares that is equal to the number of Units surrendered (such exchange, an **"Exchange"**); provided, that any such Blocker Exchange is for all of the Units held by such Member, or such lesser amount as the Company determines in its sole discretion. A Member shall exercise its right to Exchange Units by delivering to the Company a written election of exchange in respect of the Units to be Exchanged, duly executed by such holder or such holder's duly authorized attorney. As promptly as practicable following the delivery of such notice, the Company shall deliver to the Blocker (by notation in the books of the Company or its transfer agent or otherwise) the Units deliverable upon such Exchange in exchange for an equivalent number of Blocker Shares registered in the name of the relevant Member (by notation in the books of the Blocker or its transfer agent or otherwise). The Company shall take such actions as may be required to ensure the performance by the Blocker of its obligations under this Section 4.7, including the issuance and sale of shares of Blocker Shares to or for the account of the Member making the Exchange in exchange for the delivery to Blocker of a number of Units that is equal to the number of Units surrendered by an Exchanging Member. Each Member shall bear its own expenses in connection with the consummation of any Exchange, whether or not any such Exchange is ultimately consummated, except that the Company shall bear any transfer taxes, or other similar taxes in connection with, or arising by reason of, any Exchange; provided, however, that if any Blocker Shares are to be delivered in a name other than that of the Member that requested the Exchange, then such Member and/or the person in whose name such Blocker Shares are to be delivered shall pay to the Company the amount of any transfer taxes or other similar taxes in connection with, or arising by reason of, such Exchange or shall establish to the reasonable satisfaction of the Company that such tax has been paid or is not payable. Notwithstanding anything to the contrary herein, no Exchange shall be permitted (and, if attempted, shall be *void ab initio*) if, in the good faith determination of the Company, such an Exchange would pose a material risk that Company would be a "publicly traded partnership" under Section 7704 of the Code. For the avoidance of doubt, and notwithstanding anything to the contrary herein, a Member shall not be entitled to Exchange Units to the extent the Company determines that such Exchange would be prohibited by Law or regulation.

ARTICLE V - ALLOCATIONS AND DISTRIBUTIONS

Section 5.1. Capital Accounts. Capital Accounts shall be maintained as provided in Exhibit D.

Section 5.2. Allocations. All items of income, gain, deduction, loss or credit shall be allocated among the Members as provided in Exhibit D.

Section 5.3. Distributions.

(a) Distributions shall be paid to the Members, when, as and if declared by the Board out of funds legally available for such purpose, and once declared by the Board of Directors,

shall be made to the holders, as of the date of the distribution, of the Units that are entitled to such distribution in accordance with the priorities set forth in this Section 5.3 and Section 5.4. Any distributions paid by the Company shall be paid to the Members in proportion to their respective Pro Rata Interests or as set forth in a schedule to this Agreement that may be added after the date hereof to reflect the priorities set forth in any resolutions of the Board adopted from time to time authorizing new classes, series or tranches of Units in accordance with Section 4.1. Notwithstanding anything herein to the contrary, any distribution (other than distributions pursuant to Section 5.4) on account of a Member's Restricted Units shall be held by the Company and paid to the Member within 10 days following the date upon which its Restricted Units become vested.

(b) To the extent that the Company is required by the Code or other applicable Law (including, but not limited to, Sections 1441, 1442, 1445, 1446, 1471 and 1472 of the Code) to withhold or to make tax payments on behalf of or with respect to any Member, the Company may withhold such amounts and make such tax payments as so required. All tax payments made on behalf of a Member shall, at the Company's option, (i) be promptly paid to the Company by the Member on whose behalf such payments were made, or (ii) be repaid by reducing the amount of current or future distributions which would otherwise have been made to such Member, or if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Member. Whenever the Company selects option (ii) pursuant to the preceding sentence for repayment of a tax payment by the Company, for all other purposes of this Agreement, such Member shall be treated as having received all distributions unreduced by the amount of such tax payment. Each Member shall furnish to the Company from time to time all such information as is required by applicable Law or otherwise reasonably requested by the Company (including certificates in the form prescribed by the Code and applicable regulations or applicable state, local or foreign Law), and any such additional documentation certifying that a Member has complied with its reporting obligations under the Foreign Account Tax Compliance Act (**"FATCA"**) to permit the Company to ascertain whether and in what amount withholding is required of such Member. Notwithstanding the foregoing, (A) the Company shall have no liability to any Member for failure to request or obtain such information from a Member or for withholding or failing to withhold in respect of any Member who has not furnished such information to the Company and (B) no Member shall be required to disclose its tax returns or any other information (other than a completed Internal Revenue Service Form W-9 or an applicable Internal Revenue Service Form W-8) that such Member has determined in its sole discretion is confidential. The Company shall notify each Member of any taxes paid or withheld by the Company from amounts otherwise distributable to such Member as soon as reasonably practicable after such taxes are paid or withheld.

Section 5.4. Tax Distributions.

(a) Notwithstanding Section 5.3, at least 10 days prior to the due date for the quarterly payment of estimated U.S. federal income taxes by individuals for any taxable year of the Company, and (i) assuming (A) the Company has taxable income for such portion of the taxable year ending on the last day of the month preceding the applicable payment date and (B) the Company has sufficient working capital (as determined by the Board of Directors) to make the distributions contemplated hereby and (ii) subject to limitations on such distributions contained in any credit facility or other agreement to which the Company is a party, the Company shall make cash distributions to each Member who requests such distribution in the positive amount equal to

the difference between X minus Y, where "X" is the sum of (I) such Member's tax liability arising solely in respect of its ownership of a Membership Interest for such portion of the taxable year ending on the last day of the month preceding the applicable payment date (which tax liability, for the purposes of this Section 5.4, shall be calculated to equal the product of (1) such Member's share of the Company's taxable income for such portion of the taxable year ending on the last day of the month preceding the applicable payment date, calculated as if such portion of the taxable year were a separate taxable year, multiplied by (2) the combined maximum federal (including any applicable Medicare contribution tax on certain investment income under section 1411 of the Code) and applicable state and local income tax rates applicable to individual taxpayers in the State of New York for such taxable year, taking into account, if applicable, the deduction of state and local income taxes for federal income tax purposes and whether any portion of such taxable income qualifies for the reduced rates applicable to long term capital gains), plus (II) the sum of all tax liabilities of such Member (calculated as provided in (I)) for all prior taxable periods since the formation of the Company; and "Y" is the sum of all distributions made by the Company to such Member pursuant to Section 5.3 and this Section 5.4 as of the end of the month preceding the applicable payment date for which the calculation in "X"(I) is being made for all taxable periods since the formation of the Company.

(b) Notwithstanding Section 5.4(a), if a Member is allocated net taxable loss pursuant to Section 5.2 (including for such purpose such Member's share of any separately stated items), during any taxable period, such net loss shall be carried forward and, subject to any applicable limitations, shall reduce the taxable income (as calculated in Section 5.4(a)) of such Member in succeeding taxable periods, until such allocated losses have been reduced to zero.

(c) The aggregate amount of distributions made by the Company to a Member pursuant to Section 5.4(a) shall be deemed the **"Advance Amount."** If, at any time that the Board of Directors authorizes a distribution to the Members pursuant to Section 5.3 and at such time a Member's Advance Amount is positive, (i) the Company shall withhold such Member's distribution up to an amount equal to the Advance Amount (with such Advance Amount being reduced by the amount so withheld) and (ii) the Company shall distribute such withheld amount to the Members (after also applying clause (i) to those Members having positive Advance Amounts) so that, to the maximum extent possible, each Member shall have received the amount of distributions that such Member would have received since formation of the Company if distributions had been made solely in accordance with Section 5.3.

Section 5.5. UK Listing Rules. If any Member's Units are redeemed or otherwise sold in a transaction and such Member did not have sole discretion as to whether to enter into and consummate such redemption or transaction (including a Drag-Along Sale), such Member may elect to be a **"Listing Rules Member"** by written notice to the Company. The maximum amount of consideration payable to any Listing Rules Member in respect of such transaction shall be either (a) the minimum amount that would result in such sale constituting a U.K. Class 2 Transaction minus one pound Sterling (£1.00) or (b) such other amount as determined by such Listing Rules Member and notified to the Company in writing from time to time; provided, that Barclays Bank PLC is hereby deemed to be a Listing Rules Member for purposes of this Section 5.5 and is not required to provide notification to the Company of its election as such. Any consideration which

a Listing Rules Member elects to not receive pursuant to this Section 5.5 shall be distributed *pro rata* to the other Members of the same class or series for which such consideration was granted.

ARTICLE VI - MANAGEMENT AND GOVERNANCE PROVISIONS

Section 6.1. Management by Board of Directors. Except for situations in which the approval of the Members is required by the terms of this Agreement (including Member Majority Approval and Member Supermajority Approval) or by applicable Law, the right to manage, control and conduct the business and affairs of the Company and to take any and all actions on behalf of the Company will be vested completely and exclusively in the board of directors of the Company (the **"Board of Directors"** or the **"Board"**), which shall be responsible for policy setting, approving the overall direction of the Company, and making all decisions affecting the business and affairs of the Company. It is the intent of the parties hereto that each director (a **"Director"**) of the Company shall be deemed to be a "manager" of the Company (as defined in Section 18-101(10) of the Act) for all purposes under the Act; provided, however, that no Director shall have any authority to bind the Company to any third party with respect to any matter except pursuant to a resolution expressly authorizing such action which resolution is duly adopted by the Board of Directors by the affirmative vote required for such matter pursuant to this Agreement.

Section 6.2. Composition of Board of Directors; Voting; No Liability for Appointing Directors.

(a) The Board of Directors shall initially be composed of five (5) individuals. The initial Board of Directors shall be the individuals set forth on Exhibit B. Each Director shall hold office until such Director's successor shall have been duly appointed, or until such Director's earlier death, resignation or removal.

(b) All meetings of the Board of Directors shall be presided over by the chairman of the Board of Directors (the **"Chairman of the Board"**), who shall be selected by the Board. The Chairman of the Board shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as determined by him or her to be in order. The Chairman of the Board shall serve until such Person is no longer a Director, at which time a successor Chairman of the Board shall be designated by the Board of Directors.

(c) With respect to any matter for which a vote by the Board or any committee is required, each vote by a Director shall count as one (1) vote. All matters to be decided on by the Board will be decided by the affirmative vote or consent of a majority of the Directors present or represented and voting at any duly called meeting of the Board at which a quorum is present. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting with the unanimous consent of the Board of Directors in writing.

(d) Subject to Section 6.11(d), the number of Directors serving on the Board of Directors, from time to time, may be increased or decreased by the Members.

(e) No Member shall have any liability as a result of appointing a Person for election as a Director, or for any act or omission by such appointed Person in his or her capacity as a Director of the Company.

Section 6.3. **Steering Committee Matters**. To the extent a Steering Committee Member (together with its Permitted Transferees) ceases to hold at least the number of Units it receives on the Effective Date, including any Units held directly or indirectly through Blocker (the **"Holding Threshold"**), such Steering Committee Member will cease to be considered a Steering Committee Member for purposes of this Agreement; provided, however, that any Transfer of Units by a Steering Committee Member in connection with the exercise of rights under Section 3.6 shall not affect such Steering Committee Member's holdings for purposes of this Section 6.3. For purposes of the foregoing, a transaction that results in such Steering Committee Member (together with its Permitted Transferees) ceasing to hold all voting and economic rights with respect to such Units shall be treated as a full disposition of such Units.

Section 6.4. **Board Observer**. For so long as it continues to satisfy the Holding Threshold, the Steering Committee Representative shall be entitled to appoint one (1) observer (each such Person, an **"Observer"**) to attend, but not participate in, all meetings of the Board and committees thereof (either in person or by telephone). Each Observer will (i) have the right to receive the agenda and all papers sent to the Board or such committees, as applicable, for the Board meetings or committee meetings, as applicable at the same time as Directors and (ii) be required to execute a customary confidentiality agreement in favor of the Company, which, among other things, will govern the sharing of information with (and the use of information by) the Steering Committee Representative; provided, that the Company shall be entitled to withhold Board or committee materials (and attendance of portions of the Board or committee meetings) from any applicable Observer for conflict and privilege reasons. No Observer shall have any voting rights.

Section 6.5. **Removal and Vacancies of Directors**.

(a) For so long as the Steering Committee Members satisfy the Aggregate Steering Committee Threshold:

(i) A Director may be removed at any time, with or without cause, by a Steering Committee Majority. If there is any vacancy created on the Board, whether such vacancy results from the removal of a Director, from the death or resignation of a Director, or otherwise, (i) in the event that there are two (2) or fewer vacancies on the Board at any given time, the remaining Directors shall have the ability to appoint person(s) to fill such vacant seats on the Board and (ii) in the event that there are three (3) or more vacancies on the Board at any given time, such vacant seats shall be filled by a Steering Committee Majority.

(b) After the Steering Committee Members no longer satisfy the Aggregate Steering Committee Threshold:

(i) A Director may be removed at any time, with or without cause, by Member Majority Approval. If there is any vacancy created on the Board, whether such vacancy results from the removal of a Director, from the death or resignation of a Director, or otherwise, (i) in the event that there are two (2) or fewer vacancies on the Board at any given time, the remaining Directors shall have the ability to appoint person(s) to fill such vacant seats on the Board and (ii) in the event that

there are three (3) or more vacancies on the Board at any given time, such vacant seats shall be filled by Member Majority Approval.

(c) Each Director may resign at any time by giving written notice to the Board of Directors. Such resignation will take effect at the time specified therein or, if no time is specified, upon receipt of by the Board of Directors of such resignation and, unless otherwise specified therein, acceptance of such resignation will not be necessary to make it effective. The resignation of a Director who is also a Member will not affect the Director's rights as a Member.

Section 6.6. Meetings; Quorum; Committees.

(a) Any meeting of the Board of Directors may be held in person or by telephonic conference call, but if held in person, a telephonic conference call will be made available for any participants (and any Observer) who do not attend in person. A quorum at any meeting of the Board of Directors will be established by the presence of a majority of Directors then in office; provided, that if a quorum fails to be established at any duly noticed meeting of the Board, such meeting may be reconvened no earlier than twenty-four (24) hours later, at which reconvened meeting a quorum will exist if any majority of the Directors are then present. The Chairman of the Board or any two (2) Directors acting together may call a special meeting of the Board at any time with at least twenty four (24) hours' prior written notice.

(b) The Board of Directors, by majority resolution of all Directors present and voting at a duly constituted meeting of the Board or by unanimous written consent, may designate one or more committees, with each such committee to consist of one or more of the Directors. In the event of the death, resignation or removal of a committee member, the Board of Directors may appoint another member of the Board of Directors to fill such vacancy. Any such committee, shall have and exercise all power and authority of the Board of Directors in the management of the Company's business and affairs to the extent provided in the Board of Directors' resolution establishing such committee; provided, however, that (i) no such committee shall have the power or authority of the Board of Directors with regard to amending the Certificate or this Agreement, (ii) such committee shall be subject to the other restrictions on the authority of the Board in this Agreement and (iii) any action of such committee shall require the affirmative vote of a majority of Directors of such committee. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when requested or required, shall fix its own rules or procedures, and shall meet at such times and at such place or places as may be provided by such rules or procedures, or by resolution of such committee or the Board. At every meeting of any committee, the presence of a majority of all the Directors thereof shall constitute a quorum. Any action required or permitted to be taken at any meeting of any committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all Directors constituting such committee.

(c) The Board shall establish an audit committee (the **"Audit Committee"**) comprised solely of independent Directors in accordance with the provisions of Section 6.6(b). The Audit Committee shall assist in the Board's oversight of the integrity of the Company's financial statements, the independent auditor's qualifications and independence and performance of the independence auditor.

Section 6.7. Compensation of Directors. The Board shall determine the compensation of the Directors, subject to the approval of (a) a Steering Committee Majority for so long as the Steering Committee Members satisfy the Aggregate Steering Committee Threshold (which may take the form of incentive equity compensation) or (b) Member Majority Approval, following the time that the Steering Committee Members fail to satisfy the Aggregate Steering Committee Threshold. The Company shall reimburse each of the Directors for all reasonable, documented, out-of-pocket expenses borne by such Directors in connection with the performance of his or her duties as a Director.

Section 6.8. Officers.

(a) The Board of Directors may, from time to time, designate one or more Persons to be officers of the Company (the **"Officers"**). No Officer need be a resident of the State of Delaware, a Member or a Director. A Member or a Person serving as a Director may be an Officer. Any such Officers so designated shall have such authority and perform such duties as the Board of Directors may, from time to time, delegate to them. The Board of Directors may assign titles to particular Officers. Unless the Board of Directors decides otherwise, if the title is one commonly used for officers of a business corporation formed under the Act (or any successor statute), the assignment of such title shall constitute the delegation to such Officer of the authority and duties that are normally associated with that office, subject to any specific delegation of authority and duties made to such Officer by the Board of Directors pursuant to this Section 6.8 and the other terms and provisions hereof. Each Officer shall hold office until his or her successor shall be duly designated or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same Person. The salaries or other compensation (including any cash or incentive bonuses subject to any other approvals that may be required by this Agreement in the case of equity compensation), if any, of the Officers of the Company shall be fixed from time to time by the Board of Directors. Further, the Board of Directors shall have full power and authority without the consent of any Member to enter into employment agreements with any Officer or employee of the Company or its Subsidiaries. The initial Officers of the Company and the title of such Officers are set forth on Exhibit C.

(b) Any Officer may resign as such at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Board of Directors. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any Officer may be removed as such, either with or without cause, by the Board of Directors; provided, however, that such removal shall be without prejudice to the contract rights, if any, of the Person so removed. Designation of an Officer shall not of itself create contract rights. Any vacancy occurring in any office of the Company may be filled by the Board of Directors subject to this Article VI.

Section 6.9. Related Party Transactions. Any Related Party Transaction shall require approval from a majority of the disinterested Directors then in office and must be on an arm's length basis.

Section 6.10. Member Majority Approval. Notwithstanding any provisions of this Agreement to the contrary, and subject to any additional requirements provided hereunder, neither

the Company nor any Company Subsidiary will, directly or indirectly, by amendment, merger, consolidation or otherwise, take any of the following actions, or agree to take any of the following actions, without first obtaining Member Majority Approval, and any such act or transaction entered into without Member Majority Approval will be null and void ab initio and of no force or effect:

(a) any merger, consolidation of amalgamation of the Company with any other Person and any Sale Transaction, in each case, other than a Drag-Along Sale, and any Initial Public Offering; or

(b) take any action for the liquidation, dissolution or winding up of the Company or any of the Company Subsidiaries.

Section 6.11. Member Supermajority Approval. Notwithstanding any provisions of this Agreement to the contrary, and subject to any additional requirements provided hereunder, neither the Company nor any Company Subsidiary will, directly or indirectly, by amendment, merger, consolidation or otherwise, take any of the following actions, or agree to take any of the following actions, without first obtaining Member Supermajority Approval, and any such act or transaction entered into without Member Supermajority Approval will be null and void ab initio and of no force or effect:

(a) make any distribution except for (A) any distribution pursuant to Section 5.3 and Section 5.4 and (B) such transactions as between the Company and (or as between) its wholly-owned Subsidiaries;

(b) authorize, create (by reclassification or otherwise), sell or issue, or obligate the Company or any Company Subsidiary to authorize, create, sell or issue, any equity interests of the Company or any Company Subsidiary, including any security convertible into or exercisable for equity interests in the Company or any Company Subsidiary, which dilutes the relative percentage ownership or voting power of the Members; provided, however, that equity issuances by any Company Subsidiary to the Company, the reservation and issuance of Units under the Management Incentive Plan, and the reservation and issuance of Units under any incentive plan for Directors approved by a Steering Committee Majority, each shall not require Member Supermajority Approval;

(c) adopt any management incentive plan for Officers, Directors, employees or consultants (other than the Management Incentive Plan, any annual cash bonus program for management and any incentive plan for Directors approved by a Steering Committee Majority or Member Majority Approval, as applicable) or increase the Unit reserve pursuant to the Management Incentive Plan (excluding equitable adjustments made in accordance with the terms of the Management Incentive Plan), but excluding any grants, awards, allocations, transfers or issuances in accordance with the Management Incentive Plan, any other requisitely approved management incentive plan which shall be made at the discretion of the Board (or any duly authorized committee thereof), or annual cash bonus program established by the Board in its sole discretion;

(d) change the number of Directors on the Board of Directors;

(e) make any material tax election, including, without limitation, treating the Company other than as a partnership for U.S. federal income tax purposes;

(f) distribute in kind any portion of the Company's assets to the Members;

(g) cause the Company or its Subsidiaries to pursue any business or activities other than the Company Business; and

(h) agree or commit to do any of the foregoing.

ARTICLE VII - ACCOUNTING AND BANKING MATTERS; TAX MATTERS

Section 7.1. Books and Records; Reports.

(a) The Company shall keep and maintain full and accurate books of account for the Company in accordance with GAAP consistently applied and in accordance with the terms of this Agreement. Such books shall be maintained at the principal office of the Company.

(b) Except as would be, upon the advice of outside counsel to the Company, necessary or appropriate to preserve attorney-client, work product or similar legal privileges to the Company or to comply with confidentiality obligations to which the Company is subject, each Member shall have the right, upon reasonable advance notice and at all reasonable times during normal business hours, for any purpose reasonably related to such Member's Membership Interest, to inspect the properties of the Company and to audit, examine and make copies of the books of account and other records of the Company. Such right may be exercised through any agent or employee of such Member designated in writing by it or by an independent public accountant, engineer, attorney or other consultant so designated. All costs and expenses incurred in any inspection, examination or audit made on such Member's behalf shall be borne by such Member.

(c) The Company shall provide to the Members the reports identified below at the times indicated below, each of which shall be considered Confidential Information:

(i) within one hundred twenty (120) days after the end of each fiscal year of the Company, audited consolidated financial statements of the Company, together with the notes thereto, as of the end of and for such fiscal year, including a balance sheet and statements of earnings, of cash flows and of changes in Members' capital, in each case prepared in accordance with GAAP, and accompanied by a report of the Company's independent certified public accounting firm stating that its examination was made in accordance with generally accepted auditing standards and that in its opinion, such financial statements fairly present the Company's financial position, results of operations and cash flow in accordance with GAAP;

(ii) within sixty (60) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Company, a consolidated unaudited balance sheet as of the end of such fiscal quarter and consolidated statements of earnings and cash flows for the period from the beginning of the then current fiscal year to the end of

such fiscal quarter, in each case prepared in accordance with GAAP and subject to changes resulting from normal year-end adjustments and the absence of notes; and

(iii) within thirty (30) days after the end of each month, a management report of the consolidated balance sheet as of the end of such month and consolidated statements of earnings and cash flows for the period from the beginning of the then current fiscal year to the end of such month.

(d) The Company shall also provide such other information as a Member requests in connection with inquiries, investigations, actions and/or proceedings related to such Member (or its Affiliates) or otherwise in order for such Member (or its Affiliates) to comply with any applicable Law, provided, that:

(i) the copies of the books and records of the Group provided to the requesting Member in accordance with this Section 7.1(d) may be provided to other Members if such information is determined by the Board (in the exercise of its reasonable discretion) to be of general application to all Members; and

(ii) the requesting Member shall, upon request by the Company, reimburse any relevant Group entity for the costs incurred by it in making any copies of the books and records of the Group pursuant to this Section 7.1(d).

(e) The Company will hold and participate in conference calls with the Members to discuss the financial information required to be furnished pursuant to Section 7.1(c) within ten (10) days after the end of each fiscal quarter of the Company, unless the Company reasonably determines that to do so would conflict with applicable securities laws, including in connection with any pending offering of securities, in which case such conference call(s) will be held as soon as practicable following the conclusion of such conflict. The Company shall, no later than three (3) Business Days prior to the date of the conference calls required to be held in accordance with this paragraph, announce the date and time of such conference calls and all information necessary to enable the Members obtain access to such calls.

Section 7.2. Fiscal Year. The fiscal year of the Company shall be the calendar year, unless otherwise determined by the Board of Directors. The books of account of the Company shall be maintained on an accrual basis.

Section 7.3. Bank Accounts. At the direction of the Board of Directors, the President or other Officer shall cause one or more bank accounts to be maintained in the name of the Company in such bank or banks as may be determined by the Board of Directors, which accounts shall be used for the payment of expenditures incurred by the Company and in which shall be deposited any and all receipts of the Company. All such receipts shall be and remain the property of the Company, shall be received, held and disbursed by the Board of Directors for the purposes specified in this Agreement and shall not be commingled with the funds of any other Person.

Section 7.4. Tax Partnership. The Members agree to classify the Company as a partnership for all applicable income tax purposes. Neither the Company, any Member nor any Officer or other representative of any of the foregoing shall file an election to classify the Company as an association taxable as a corporation for U.S. federal tax purposes.

Section 7.5. **Tax Elections**. The Company will make the following elections:

(a) To elect the calendar year as the Company's fiscal year if permitted by applicable Law;

(b) To elect the accrual method of accounting;

(c) If requested by a Member, to elect, in accordance with sections 734, 743 and 754 of the Code and applicable regulations and comparable state Law provisions, to adjust basis in the event any Membership Interest is transferred in accordance with this Agreement or any Company property that is distributed to any Member;

(d) To elect to deduct and amortize start-up expenditures and organization fees in accordance with Sections 195 and 709 of the Code; and

(e) To make any other tax elections the Board of Directors deems appropriate and in the best interest of the Members, except as provided in Section 7.4.

Section 7.6. **Partnership Representative**. Tyler Crabtree shall initially act as the **"partnership representative"** under section 6223 of the Code, subject to replacement by the Board. The partnership representative shall promptly notify the Members if any tax return or report of the Company is audited or if any adjustments are proposed by any governmental body. In addition, the partnership representative shall promptly furnish to the Members all notices concerning administrative or judicial proceedings relating to federal income tax matters as required under the Code. During the pendency of any such administrative or judicial proceeding, the partnership representative shall furnish to the Members periodic reports, not less often than monthly, concerning the status of any such proceeding. Without the consent of at least seventy-five percent (75%) of the Directors on the Board of Directors, the partnership representative shall not extend the statute of limitations, file a request for administrative adjustment, file suit concerning any tax refund or deficiency relating to any Company administrative adjustment or enter into any settlement agreement relating to any Company item of income, gain, loss, deduction or credit for any fiscal year of the Company.

Section 7.7. **Tax Returns**. The Company shall prepare, or cause to be prepared, and file all federal, state, local and other tax returns that the Company is required to file. The Company shall deliver to each of the Members the following schedules and tax returns: (i) at least five (5) Business Days prior to the due date of an individual's quarterly estimated tax payments, a statement of the estimated taxable income, if any, of the Company for the previous quarter; (ii) within one hundred and twenty days (120) days after the Company's year-end, an estimated Schedule K-l; and (iii) at least 15 days prior to the due date (with extensions) for the IRS Form 1065 of the Company, a final Schedule K-l, along with any other tax information as shall be reasonably required for the preparation by such Member of its annual federal income tax return and any state or other tax returns. In providing the statement of estimated taxable income of the Company for the previous quarter required under clause (i) of this Section 7.7, the Company shall use its commercially reasonable efforts to provide a breakdown of the allocation of taxable income by state and what portion of such income constitutes "unrelated business taxable income" within the meaning of Section 512(a)(1) of the Code.

ARTICLE VIII - LIABILITY AND INDEMNIFICATION

Section 8.1. Fiduciary Duties; Limitation on Liability of Members, Directors and Officers. Subject to, and as limited by the provisions of this Agreement, the Members, the Directors, and the Officers, in the performance of their duties as Directors and Officers, respectively, shall not, to the maximum extent permitted by the Act and other applicable Law, owe any duties (including fiduciary duties) as a Member, Director or Officer of the Company to the Company or the other Members, notwithstanding anything to the contrary existing at Law, in equity or otherwise; provided, however, that each Member, Director and Officer shall act in accordance with the obligation of good faith and fair dealing provided under Section 18-1101 of the Act. No Member, Director or Officer shall have any liability to the Company or the Members for any losses sustained or liabilities incurred as a result of any act or omission of such Member, Director or Officer in connection with the conduct of the business of the Company if either (a) in the case of an Officer, the Officer acted in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company or applicable Law or (b) in the case of a Member (when not acting in violation of this Agreement or applicable Law), Director or Officer, the conduct did not constitute bad faith, fraud, gross negligence or willful misconduct on the part of such Member, Director or Officer, as determined by a final and non-appealable judgment entered by a court of competent jurisdiction. To the fullest extent permitted by Section 18-1101 of the Act, a Director, in performing his or her obligations under this Agreement, shall be entitled to act or omit to act at the direction of the Member who appointed such Director, considering only such factors, including the separate interests of the appointing Member (and solely such interests), as such Director or the appointing Member chooses to consider, and any action of a Director or failure to act, taken or omitted in good faith reliance on the provisions of this Section 8.1 shall not constitute a breach of any duty (if any), whether express or implied by Law, on the part of the Director or appointing Member to the Company or any other Member or Director. Except as required by the Act, the Company's debts, obligations, and liabilities, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Officer, Member or Director shall be personally responsible for any such debt, obligation or liability of the Company, except to the extent that any such debts, obligations and liabilities are expressly assumed in writing by such Officer, Member or Director. No Member shall be responsible for any debts, obligations or liabilities, whether arising in contract, tort or otherwise, of any other Member. The provisions of this Agreement, to the extent that they restrict, eliminate or otherwise modify the duties (including fiduciary duties) and liabilities of a Member, Director or Officer otherwise existing at Law, in equity or by operation of the preceding sentences, are agreed by the Company and the Members to replace such duties and liabilities of such Member or Director.

Section 8.2. Right to Indemnification. To the fullest extent permitted by Law but subject to the limitations expressly provided in this Agreement, the Company shall indemnify and hold harmless the Indemnitees from and against any and all losses, claims, demands, costs, damages, liabilities, joint and several, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, penalties, interest, settlements and other amounts arising from any and all threatened, pending or completed claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, and whether formal or informal and including appeals, in which an Indemnitee may be involved, or threatened to be involved, as a party or otherwise, by reason of his, her or its status as an Indemnitee, regardless of whether an

Indemnitee continues to be an Indemnitee at the time any such liability or expense is paid or incurred, unless it is determined in a final and non-appealable judgment by a court of competent jurisdiction that such Indemnitee, with respect to the matter for which the Indemnitee is seeking indemnification pursuant to this Agreement, acted in bad faith or engaged in fraud or willful misconduct, or, with respect to any criminal proceeding, that such Indemnitee had knowledge that his, her or its conduct was unlawful.

Section 8.3. Expenses Payable in Advance. To the fullest extent permitted by Law, expenses (including legal fees and expenses) incurred by an Indemnitee in defending any claim, demand, action, suit or proceeding subject to Section 8.2 shall, from time to time and without any determination as to the Indemnitee's ultimate entitlement to indemnification, be advanced by the Company prior to the final and non-appealable disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Indemnitee to repay such amounts if it is ultimately determined that the Indemnitee is not entitled to be indemnified as provided in this Article VIII.

Section 8.4. Nonexclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by or granted pursuant to this Article VIII shall not be deemed exclusive of any other rights to which an Indemnitee may be entitled under any agreement, contract, vote of the Members, vote of the Board of Directors or pursuant to the direction (howsoever embodied) of any court of competent jurisdiction or otherwise, it being the policy of the Company that the indemnification provided to Indemnitees pursuant to this Article VIII shall be made to the fullest extent permitted by Law.

Section 8.5. Insurance. The Company shall purchase and maintain directors' and officers' insurance or similar coverage for its Directors, Officers or such other Persons as the Board of Directors shall determine, against any liability that may be asserted against, or expense that may be incurred by, such Person in connection with the Company's activities or such Person's activities on behalf of the Company, regardless of whether the Company would have the power to indemnify such Person against such liability under the provisions of this Article VIII, in such amounts and with such deductibles or self-insured retentions as determined in the sole discretion of the Board of Directors; provided, that for the 18 (eighteen) month period following the date of this Agreement, such insurance shall be on terms no less favorable to such covered Persons than under the coverage provided by Bruin E&P Partners, LLC immediately prior to the consummation of the Plan.

Section 8.6. Certain Definitions. For the purposes of this Article VIII, references to the **"Company"** include all constituent entities, whether corporations or otherwise, absorbed in a consolidation or merger as well as the resulting or surviving entity. Thus, any Person entitled to be indemnified or receive advances under this Article VIII shall stand in the same position under the provisions of this Article VIII with respect to the resulting or surviving entity as such Person would have if such merger, consolidation, or other reorganization never occurred.

Section 8.7. Survival of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall, unless otherwise provided when authorized or ratified, continue as to a Person who has

ceased to be an Indemnitee and shall inure to the benefit of such Person's heirs, successors, assigns, executors and administrators.

Section 8.8. Limitation on Indemnification. Notwithstanding anything contained in this Article VIII to the contrary, except for proceedings to enforce rights to indemnification, the Company shall not be obligated to indemnify any Indemnitee in connection with a proceeding (or part thereof) initiated by such Person unless such proceeding (or part thereof) was authorized by Member Majority Approval.

Section 8.9. Limitation on Indemnification of Employees and Agents. The Company may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and the advancement of expenses to employees and agents of the Company similar to those conferred in this Article VIII to Indemnitees.

Section 8.10. Severability. The provisions of this Article VIII are intended to comply with the Act. To the extent that any provision of this Article VIII authorizes or requires indemnification or the advancement of expenses contrary to the Act, the Company's power to indemnify or advance expenses under such provision shall be limited to that permitted by the Act and any limitation required by the Act shall not affect the validity of any other provision of this Article VIII.

Section 8.11. No Contribution. Any indemnification hereunder shall be satisfied only out of the assets of the Company, and the Members shall not be personally liable for indemnification under this Article VIII and shall have no obligation to contribute or loan any monies or property to the Company to enable it to effectuate such indemnification.

Section 8.12. Other Indemnities.

(a) The Company acknowledges and agrees that the obligation of the Company under this Agreement to indemnify or advance expenses to any Indemnitee for the matters covered thereby shall be the primary source of indemnification and advancement of such Indemnitee in connection therewith and any obligation on the part of any Person under any Other Indemnification Agreement to indemnify or advance expenses to such Indemnitee shall be secondary to the Company's obligation and shall be reduced by any amount that the Indemnitee may collect as indemnification or advancement from the Company. If the Company fails to indemnify or advance expenses to an Indemnitee as required or contemplated by this Agreement, and any Person makes any payment to such Indemnitee in respect of indemnification or advancement of expenses under any Other Indemnification Agreement on account of such Unpaid Indemnity Amounts, such other Person shall be subrogated to the rights of such Indemnitee under this Agreement in respect of such Unpaid Indemnity Amounts.

(b) The Company, as an indemnifying party from time to time, agrees that, to the fullest extent permitted by applicable Law, its obligation to indemnify Indemnitees under this Agreement shall include any amounts expended by any other Person under any Other Indemnification Agreement in respect of indemnification or advancement of expenses to any Indemnitee in connection with any proceedings to the extent such amounts expended by such other Person are on account of any Unpaid Indemnity Amounts.

ARTICLE IX - UNITS; TRANSFERS; ADMISSIONS OF ADDITIONAL MEMBERS

Section 9.1. Record Holders. The Company shall, or cause its transfer agent to, keep a register or other records that reflect the outstanding Units and certificates representing the Units, if any. Except as otherwise required by Law, the Company shall be entitled to, and shall only, recognize the exclusive right of a Person registered on its books as the record holder of a Unit, whether or not represented by a certificate, to receive distributions in respect of such Unit, to vote as the owner of such Unit and to be entitled to the benefits, and subject to the obligations, of this Agreement with respect to such Unit.

Section 9.2. Restrictions on Transfers of Units.

(a) Unless approved by the Board, no Member shall, directly or indirectly, Transfer any Membership Interest unless in compliance with this Article IX.

(b) Unless approved or waived by the Board of Directors in its sole discretion and in addition to conditions in Section 9.9(a), any Transfer of Units, including pursuant to a Permitted Transfer, shall be subject to the satisfaction of the following conditions:

(i) (x) such Transfer would not cause the Company to become a "publicly traded partnership," as such term is defined in Code Section 469(k)(2) or Code Section 7704(b) or (y) the Board determines in good faith that such Transfer would otherwise not adversely affect any of the Members of the Company or reasonably be expected to do so in a future period as a result of the classification of the income of the Company for purposes of such Sections of the Code;

(ii) such Transfer does not require the registration or qualification of such Units pursuant to any applicable federal or state securities Laws;

(iii) such Transfer does not result in a violation of applicable Laws;

(iv) such Transfer would not cause the Company to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in ERISA Section 3(14)) or a "disqualified person" (as defined in Code Section 4975(c));

(v) such Transfer would not, in the opinion of legal counsel to the Company, cause any portion of the assets of the Company to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.2-101;

(vi) such Transfer is not made to any Person who lacks the legal right, power or capacity to own Units;

(vii) such Transfer does not cause the Company to become a reporting company under the Exchange Act; and

(viii) such Transfer does not subject the Company to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or ERISA, each as amended.

(c) No Member may Transfer its Membership Interest or any other Company Securities to any business competitor of the Group (or any party that beneficially owns (directly or indirectly, whether alone or in concert with other parties) greater than five percent (5%) of the voting shares (or equivalent) of such a competitor, or any Affiliate of such a party) without approval of the Board of Directors, unless pursuant to the exercise of a Tag-Along Sale or Drag-Along Sale.

(d) No Member shall Transfer all or any portion of its Units unless the proposed transferee executes a Joinder Agreement substantially in the form attached as Exhibit E hereto.

(e) All Units issued to any Person shall bear a legend, or be evidenced by notations in a book entry system including a legend, in substantially the following form:

"THE SECURITIES EVIDENCED HEREBY ARE SUBJECT TO VARIOUS CONDITIONS INCLUDING CERTAIN RESTRICTIONS ON ANY OFFER, SALE, DISPOSITION, TRANSFER AND VOTING AS SET FORTH IN THE LIMITED LIABILITY COMPANY AGREEMENT, DATED AS OF AUGUST [31], 2020 (AS MAY BE AMENDED FROM TIME TO TIME, THE "**LLC AGREEMENT**") OF BRUIN PURCHASER LLC (THE "**COMPANY**"). NO REGISTRATION OR TRANSFER OF SUCH SECURITIES WILL BE MADE ON THE BOOKS AND RECORDS OF THE COMPANY OR ITS TRANSFER AGENT UNLESS AND UNTIL SUCH RESTRICTIONS SHALL HAVE BEEN COMPLIED WITH. THE COMPANY WILL FURNISH WITHOUT CHARGE TO EACH HOLDER OF RECORD OF SUCH SECURITIES A COPY OF THE LLC AGREEMENT CONTAINING THE ABOVE REFERENCED RESTRICTIONS ON TRANSFERS AND VOTING OF SECURITIES UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

(f) The Company acting in good faith may make any necessary modifications to the legends set forth in this Section 9.2 for such legends to comply with applicable Law and to achieve the purpose and intent of the transfer restrictions set forth herein. If any Units cease to be subject to any and all restrictions on Transfer set forth in this Agreement, the Company, upon the written request of the holder thereof, shall amend the notations in the book entry system (or, if certificated, issue to such holder a new certificate) evidencing such Units accordingly.

Section 9.3. Permitted Transfers.

(a) The provisions of Section 9.4, Section 9.5, and Section 9.6 (with respect to the Drag-Along Party only) shall not apply to Permitted Transfers.

(b) Notwithstanding anything to the contrary in this Article IX, a Member may not Transfer Units or Blocker Shares to a Permitted Transferee if such Transfer has as a purpose the avoidance of or is otherwise undertaken in contemplation of avoiding the restrictions on Transfers in this Agreement (it being understood that the purpose of this Section 9.3(b) is to prohibit the Transfer of Units or Blocker Shares to a Permitted Transferee followed by a change

of Control of such Permitted Transferee after the Transfer, which change of Control was contemplated to occur at the time of such Transfer, with the effect that the transferor has indirectly made a Transfer of Units or Blocker Shares by using a Permitted Transferee, which Transfer would not have been directly permitted under this Article IX had such change of Control occurred prior to such Transfer).

Section 9.4. Right of First Offer.

(a) Until the earlier of (i) the eighteen (18) months after the Effective Date or (ii) the earliest date on which the Aggregate Steering Committee Threshold is not met, in each case prior to the consummation of an Initial Public Offering, before any Member reflected on Exhibit A-3 (or any of its respective Permitted Transferees) proposes to directly or indirectly Transfer, or actually does Transfer, Units (including any Units held indirectly through Blocker) to a Person (or Persons acting as a group) other than in a Permitted Transfer, then such Member intending to make such Transfer (**"Offering Member"**) shall provide written notice (**"Offer Notice"**) to the Company and each Steering Committee Member, which shall state the number of Units the Offering Member wishes to Transfer (**"Offered Units"**), its asking price per Unit (**"Offer Price"**), which must be payable in cash, and any other terms or conditions required by the Offering Member. The offer made in the Offer Notice shall be irrevocable for a period of ten (10) Business Days from the date of the Offer Notice (the **"ROFO Notice Period"**).

(b) By delivering an Offer Notice, the Offering Member represents and warrants to the Company and each other Member that: (i) the Offering Member has full right, title and interest in and to the Offered Units and (ii) the Offered Units are free and clear of any and all liens and encumbrances other than those arising as a result of or under the terms of this Agreement.

(c) Each Steering Committee Member shall have until the end of the ROFO Notice Period to accept in writing the offer to purchase from the Offering Member, up to the number of Units equal to the product of (i) its Pro Rata Interest, as of the date of the Offer Notice, including any Units held indirectly through Blocker; provided, that any Restricted Units shall not be considered outstanding for the purpose of calculating the Pro Rata Interest of a Member for purposes of this clause (i) and (ii) the Offered Units; provided, however, that a Steering Committee Member may offer to buy any or a specified number of the Offered Units that are not accepted by the other Steering Committee Members.

(d) If, by the end of the ROFO Notice Period, the Offering Member does not receive offers from the other Steering Committee Members for one hundred percent (100%) of the Offered Units, the Offering Member may, during the ninety (90) day period following the end of the ROFO Notice Period, Transfer all of the Offered Units to a Member that is not a Steering Committee Member or a third party purchaser on terms and conditions no more favorable to such non-Steering Committee Member or third party purchaser than those specified in the Offer Notice, subject to the procedures, restrictions and conditions set forth in this Article IX. If such a Transfer is not consummated within such ninety (90) day period, the Offering Member shall be required to comply with the provisions of this Section 9.4 before Transferring any portion of its Units to a Person (or Persons acting as a group) other than to a Permitted Transferee.

(e) Notwithstanding anything to the contrary set forth in Section 9.4(d) above, if the Offering Member receives an offer and desires to consummate a Transfer of the Offered Units with a non-Steering Committee Member or third party purchaser at a price that is less than the Offer Price or on terms that are otherwise more favorable than the terms set forth in the Offer Notice, the Offering Member must reoffer the Offered Units to each Steering Committee Member at such lesser price or such more favorable terms, as applicable, and comply with the other provisions of this Section 9.4 before Transferring any portion of its Units to a Person (or Persons acting as a group) other than to a Permitted Transferee.

Section 9.5. Tag-Along Rights.

(a) Prior to the consummation of an Initial Public Offering and provided that the Steering Committee Members have not exercised their rights in full under Section 9.4 to purchase all of the Offered Units (if applicable), if any Member (a **"Tag-Along Member"**) intends to Transfer more than twenty five percent (25%) of the then outstanding Units (**"Tag Securities"**) in any single transaction or series of related transactions (other than in a Permitted Transfer), the Tag-Along Member has the obligation, and each other Member has the right, to cause the intended buyer to purchase from such other Members, on the same terms that apply to such proposed sale by the Tag-Along Member (except as set forth in Section 9.5(c)), a number of Tag Securities in the aggregate up to the product (rounded to the nearest whole number) of (i) the aggregate number of Tag Securities held by such Member multiplied by a fraction (x) the numerator of which is the number of Tag Securities proposed to be sold to the buyer in the contemplated transaction by the Tag-Along Member, and (y) the denominator of which is the aggregate number of Tag Securities held by the Tag-Along Member (the **"Tag-Along Sale"**).

(b) The Tag-Along Member will give the Company and each other Member (including Members holding Restricted Units) at least fifteen (15) Business Days prior written notice of each such proposed sale (the **"Tag-Along Notice"**). Such Tag-Along Notice must specify the number of Units to be sold, the name of the proposed buyer, the proposed amount and form of consideration and the other material terms and conditions of the transaction, including, if available, a copy of the relevant definitive purchase and sale agreement, and all information reasonably available to the Tag-Along Member regarding proposed buyer; provided, that terms and conditions of the proposed sale must provide that: (i) the proposed amount and form of consideration to be received by the Tag-Along Member pursuant to the Tag-Along Sale and (ii) if the Tag-Along Member is given an option as to the form and amount of consideration to be received, the same option shall be given to the other Members. In order to exercise its tag-along rights, no later than ten (10) Business Days following receipt of such Tag-Along Notice, any other Member must deliver written notice to the Tag-Along Member indicating the desire of such other Member to exercise its tag-along rights and specifying the number of Units it desires to sell in the Tag-Along Sale (up to the limit described in Section 9.5(a)).

(c) Each other Member that has elected to exercise its tag-along rights pursuant to this Section 9.5, shall make or provide the same representations, warranties, covenants, agreements and indemnities as the Tag-Along Member has made or provided in connection with such Tag-Along Sale so long as (i) such representations, warranties, covenants, agreements and indemnities are made severally and not jointly (other than to the extent of any shared escrow), (ii) no Member will be required to make any representations and warranties regarding the Company

or its Subsidiaries or their assets, liabilities and businesses and this clause (ii) will not limit any Tag-Along Member or any other Member exercising its tag-along rights from being subject to indemnification obligations with respect to representations and warranties with respect to the Company and its Subsidiaries or any escrow obligations; provided, that no other Member shall be required to agree to non-competition, non-solicitation, or other similar restrictive covenants that are more restrictive than those agreed to in writing by such other Member with the Company; provided further that the aggregate liability of each other Member with respect to any indemnification obligations in connection with such sale shall be limited to the net proceeds received by such other Member in connection with such sale and (iii) each Member shall be required to make only representations and warranties with respect to its unencumbered title to its Membership Interests, its due organization and good standing in its jurisdiction of organization and its power, authority and legal right to sell its Membership Interests. Each other Member that has elected to exercise its tag-along right pursuant to this Section 9.5 shall receive the same consideration per class or series of Tag Securities, after deduction of such Member's proportionate share of the related expenses in accordance with Section 9.5(d).

(d) The fees and expenses of the Tag-Along Members incurred in connection with a Transfer subject to this Section 9.5, to the extent not paid or reimbursed by the Company or the proposed transferee, shall be shared by the Members that have elected to exercise their tag-along rights pursuant to this Section 9.5, on a pro rata basis, based on the consideration received by each such Member in connection with such Transfer.

(e) Each other Member that has elected to exercise its tag-along rights shall respond to the Tag-Along Notice in writing with wire instructions for the payment of the purchase price for the Units to be sold in the Tag-Along Sale. Each participating Member shall deliver to the Tag-Along Member all documents to be executed in connection with the Tag-Along Sale.

(f) If a Transfer subject to this Section 9.5 is not consummated within one hundred twenty (120) days following the date of the Tag-Along Notice on substantially the same terms and conditions as set forth in the Tag-Along Notice, then the Tag-Along Member may not sell any Membership Interest held by them (other than in a Permitted Transfer) without again complying with this Section 9.5.

Section 9.6. Drag-Along Rights.

(a) Prior to the consummation of an Initial Public Offering, if one or more Members (together with their respective Permitted Transferees) (such Member or Members, as the case may be, the **"Drag-Along Party"**) desires to Transfer Units representing at least fifty percent (50%) of the Units (other than in a Permitted Transfer or Initial Public Offering), or to otherwise effect a Sale Transaction, such Drag-Along Party may require each other Member (including Members holding Restricted Units and each Permitted Transferee) to sell to the applicable buyer(s) up to all the Membership Interest (but in no event shall any Member be required to Transfer a Pro Rata Interest, including any Units held indirectly through Blocker, greater than the Pro Rata Interest of the Drag-Along Party subject to such Transfer, including any Units held directly or indirectly through Blocker) owned by each of them on the same financial terms and conditions as those to be sold in the proposed Transfer (a **"Drag–Along Sale"**); provided, upon the consummation of such Drag-Along Sale, all Members shall receive (or have the option to receive)

the same form of consideration for such Member's Membership Interests and the same pro rata amount of consideration (provided, that in the event that any securities are part of the consideration payable to any Members, each Member that is not an "accredited investor" (as such term is defined in the Exchange Act) may, in the discretion of the Board, receive, and hereby agrees to accept, in lieu of such securities, cash consideration resulting in the same pro rata amount of consideration).

(b) In order to exercise the "drag-along rights" provided by Section 9.6(a), the Drag-Along Party shall give written notice to each other Member at fifteen (15) Business Days prior to the consummation of the applicable Drag-Along Sale. Such notice shall set forth the amount of Membership Interest proposed to be sold, the name of the proposed buyer(s), the proposed amount and form of consideration and the other material terms and conditions of the offer, including, if available, a copy of the relevant definitive purchase and sale agreement.

(c) Each other Member shall make or provide the same representations, warranties, covenants, agreements and indemnities as the Drag-Along Party in connection with the Drag-Along Sale; provided, that (i) no Member shall be required to agree to non-competition, non-solicitation, or other similar restrictive covenants; (ii) the aggregate liability of each Member with respect to any indemnification obligations in connection with such Drag-Along Sale and any indemnification or liability shall be shared on a several (and not joint) *pro rata* basis among all Members in an amount not to exceed the aggregate proceeds received by the Drag-Along Member and each other Member in connection with the Drag-Along Sale; (iii) no Member will be required to make any representations and warranties regarding the Company or its Subsidiaries or their assets, liabilities and businesses (provided further that this clause (iii) will not limit the obligations of any Member to provide indemnification with respect to such representations and warranties, subject to the other limitations set forth herein); and (iv) each Member shall be required to make only representations and warranties with respect to its unencumbered title to its Membership Interests, its due organization and good standing in its jurisdiction of organization and its power, authority and legal right to sell its Membership Interest.

(d) In connection with any Drag-Along Sale, each Member will (i) consent to, vote in favor of, raise no objection to and waive and refrain from exercising any appraisal or dissenter rights claim and claims of fiduciary breach (but not any claims that such Drag-Along Sale is not being effected in accordance with the terms of this Agreement) and (ii) obtain any required consents and take any and all reasonable necessary action in furtherance of the Drag-Along Sale at the Group's expense and subject to the other terms herein. If a Drag-Along Sale involves a sale or exchange of Membership Interest (including pursuant to a merger), then each Member will enter into instruments of conveyance and transfer and the purchase or merger agreement with the purchaser party thereto, and Transfer its Membership Interest on substantially the same terms and conditions and subject to the other terms herein. In connection with a Drag-Along Sale involving a sale of all or substantially all of the assets of the Group, the Company will and will cause its Subsidiaries to enter into such agreements or arrangements with the purchaser of such assets in a form and on terms and conditions acceptable to the Drag-Along Party consistent with the terms set forth in this Section 9.6.

(e) The fees and expenses of the Drag-Along Party incurred in connection with a Transfer subject to this Section 9.6, to the extent not paid or reimbursed by the Company or the

proposed transferee, shall be shared by all Members, on a pro rata basis, based on the consideration received by each such Member in connection with such Transfer.

(f) If, in connection with a Drag-Along Sale, the Board approves (i) any merger, consolidation, amalgamation or other business combination involving the Company, (ii) any acquisition by purchaser or otherwise of all or a material portion of the business or assets of, or stock or other evidence of beneficial ownership of, any Person, or (iii) the sale of all of the business or assets of, or substantially all of the assets of, the Company, then each other Member agrees to vote or cause to be voted all of its Membership Interest in favor of such transaction and agrees not to exercise any appraisal or dissenters' rights available under any rule, regulation, statute, agreement, certificate of incorporation, bylaws or otherwise. The obligations of each Member with respect to any transaction subject to this Section 9.6 shall be condition on the same terms in such transaction applying to such Member as apply to all other Members.

Section 9.7. Certain Redemptions. Notwithstanding any provisions hereof to the contrary, in the event that a Member determines in its sole discretion that (i) the holding of any rights, interests or obligations with respect to the Company or the Units held by such Member will or could be unlawful or a breach of any applicable banking Law or any other applicable Law, whether U.S. or foreign, or (ii) there has been, is, or could be, an act, matter, event or circumstance related to the Company that results in or could result in damage to the reputation of such Member or any of its Affiliates, upon prior written notice to the Company, such Member shall have the right to: (x) sell or assign all or any portion of its rights, interests and obligations with respect to the Company or the Units held by such Member to a Person on such terms (including as to price) as determined by such Member, provided that such sale or assignment is made in compliance with the applicable provisions of this Article IX (including, for the avoidance of doubt, Section 9.4, Section 9.5 and Section 9.6); or (y) require the Company to repurchase its rights, interests and obligations with respect to the Company or the Units held by such Member for $1.00.

Section 9.8. Expenses. Except as expressly set forth in this Article IX, each Member shall bear its own expenses incurred in connection with this Article IX.

Section 9.9. Transfers Generally; Substitute Members.

(a) Additional Procedural Conditions to Transfers. Notwithstanding anything to the contrary in this Article IX, any Transfer of Units (including any Permitted Transfers and Transfers pursuant to a Tag-Along Sale) shall be valid hereunder only if:

(i) the Transferor and the Transferee (and, in the case of an individual, his or her spouse) execute and deliver to the Company such documents and instruments of conveyance as may be reasonably requested by the Board of Directors to effect such Transfer and to confirm the agreement of the Transferee to be bound by the provisions of this Agreement; and

(ii) the Transferor and the Transferee provide to the Board of Directors the Transferee's taxpayer identification number and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns.

(b) Rights and Obligations of Transferees and Transferors. Subject to Section 9.9(c), the Transferee of any Transfer of Membership Interests permitted pursuant to this Agreement shall be a Transferee only, and shall only receive, to the extent Transferred, the Economic Interest associated with the Membership Interests so Transferred, and such Transferee shall not be entitled or enabled to exercise any other rights or powers of a Member, such other rights, and all obligations relating to, or in connection with, such Membership Interests remaining with the Transferor. The Transferor shall remain a Member even if it has Transferred all of its Membership Interests to one or more Transferees until such time as all such Transferees are admitted to the Company as Substitute Members pursuant to Section 9.9(c), as applicable. Subject to Section 9.9(c), if any Transferee desires to make a further Transfer of all or any portion of its Membership Interests, such Transferee shall be subject to all of the provisions of this Agreement to the same extent and in the same manner as the Member who initially held such Membership Interests.

(c) Admission of Transferee as Substitute Member. Subject to the other provisions of this Article IX, a Transferee shall be admitted to the Company as a Substitute Member following a Transfer of Membership Interests in accordance with this Article IX upon the satisfaction of all of the following conditions, upon which the Transferee shall have all of the rights and powers, and be subject to all of the restrictions and liabilities, of a Member under the Act and this Agreement with respect to the Membership Interests Transferred: (i) the Transferee shall become a party to this Agreement as a Member by executing a joinder or counterpart signature page to this Agreement and executing such other documents and instruments as the Board may reasonably request for the sole purpose of confirming such Transferee's admission as a Member and agreement to be bound by the terms and conditions of this Agreement and (ii) if requested by the Board, the Transferee agrees to pay or reimburse, or pays or reimburses, the Company for all reasonable costs that the Company incurs in connection with the admission of the Transferee as a Member.

(d) Effect on Transferor and Company. Upon the admission of a Transferee as a Substitute Member, (i) the Transferor shall (A) cease to be a Member with respect to the portion of the Membership Interests so Transferred and (B) be released from any obligations arising after the date of such Transfer with respect to the Membership Interests so Transferred and (ii) the Transferee will become a Member hereunder with respect to such Membership Interests with all the rights and obligations of a Member held by the Transferor in respect of such Membership Interests immediately prior to the time of Transfer.

Section 9.10. Closing Date. Any Transfer and any related admission of a Person as a Member in compliance with this Article IX shall be deemed effective on such date that the Transferee complies with the requirements of this Agreement.

Section 9.11. Effect of Incapacity. The Incapacity of a Member shall not dissolve or terminate the Company or trigger any rights pursuant to this Article IX. In the event of such Incapacity, the executor, administrator, guardian, trustee or other personal representative of the Member that has experienced such Incapacity shall be deemed to be the assignee of such Member's Economic Interest and may, subject to the terms and conditions set forth in this Article IX, become a Substitute Member.

Section 9.12. Specific Performance. The Members agree that a breach of the provisions of this Article IX may cause irreparable injury to the Company and to the other Members for which monetary damages (or other remedy at Law) are inadequate in view of (a) the complexities and uncertainties in measuring the actual damages that would be sustained by reason of the failure of a Member to comply with such provision and (b) the uniqueness of the business of the Company and the relationship among the Members. Accordingly, the Members agree that the provisions of this Article IX may be enforced by specific performance.

Section 9.13. No Appraisal Rights. Except as expressly set forth elsewhere in this Agreement, no Member shall be entitled to any valuation, appraisal or similar rights with respect to such Member's Membership Interests, whether individually or as part of any class or group of Members, in the event of a merger, consolidation, Sale Transaction or other transaction involving the Company or its securities unless such rights are expressly provided by the agreement of merger, agreement of consolidation or other document effectuating such transaction.

Section 9.14. Effect of Non-Compliance.

(a) Improper Transfers Void. ANY ATTEMPTED TRANSFER NOT STRICTLY IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE IX WILL BE VOID AB INITIO AND OF NO FORCE OR EFFECT WHATSOEVER, PROVIDED, HOWEVER, THAT ANY SUCH ATTEMPTED TRANSFER MAY BE A BREACH OF THIS AGREEMENT, NOTWITHSTANDING THAT SUCH ATTEMPTED TRANSFER IS VOID.

(b) Other Consequences. Without limiting the foregoing, if any Membership Interest is purported to be Transferred in whole or in part in contravention of this Article IX, the Person to whom such purported Transfer was made shall not be entitled to any rights as a Member whatsoever, including any of the following rights:

(i) to participate in the management, business or affairs of the Company;

(ii) to receive any reports, or obtain information concerning the Company, pursuant to Section 7.1, or any other provision hereof;

(iii) to inspect or copy the Company's books or records;

(iv) to receive any Economic Interest in the Company; or

(v) to receive upon the dissolution and winding up of the Company the net amount otherwise distributable to the Transferor pursuant to Section 10.2 hereof.

Section 9.15. Notices. Upon request, the Company shall provide any Member seeking to effectuate a Transfer subject to this Article IX with the notice information for each other Member who is required to receive notice regarding such proposed Transfer pursuant to the applicable section.

Section 9.16. Initial Public Offering. The provisions of this Article IX shall expire and have no further force or effect upon the occurrence of an Initial Public Offering.

ARTICLE X - DISSOLUTION, LIQUIDATION, AND TERMINATION

Section 10.1. Dissolution. The Company shall dissolve and its affairs shall be wound up upon the first to occur of the following:

(a) the Board recommends the Company be dissolved and the Company obtains Member Majority Approval of such dissolution pursuant to Section 6.10(b);

(b) the transfer of all or substantially all of the assets of the Company and the receipt and distribution of all proceeds therefrom; or

(c) the occurrence of any other event that causes the dissolution of a limited liability company under the Act.

Section 10.2. Liquidation and Termination. On dissolution of the Company, the liquidator shall be a Person selected by the Board of Directors. The liquidator shall proceed diligently to wind up the affairs of the Company at the direction of the Board of Directors and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense. The steps to be accomplished by the liquidator are as follows:

(a) As promptly as reasonably practicable after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made of the Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(b) The liquidator shall pay, satisfy or discharge from Company funds all of the debts (including debts owing to any Member), liabilities and obligations of the Company (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine).

(c) To the extent that the Company has any assets remaining:

(i) The liquidator may sell any or all Company property and any resulting gain or loss from each sale shall be computed and allocated to the Capital Accounts of the Members as provided in Exhibit D;

(ii) With respect to all Company property that is not sold, the Fair Market Value of that property shall be determined and the Capital Accounts of the Members shall be adjusted to reflect the manner in which the unrealized income, gain, loss, and deduction inherent in property that has not been reflected in the Capital Accounts previously would be allocated among the Members under Exhibit D if there were a taxable disposition of that property for the Fair Market Value of that property on the date of distribution; and

(d) All remaining assets of the Company shall be distributed to the Members in accordance with Section 5.3.

(e) All distributions in kind to the Members shall be valued for purposes of determining each Member's interest therein at its Fair Market Value at the time of such distribution (net of any liability to which such in-kind distribution is subject), and such distributions shall be made subject to the liability of each distributee for costs, expenses, and liabilities incurred or for which the Company has committed prior to the date of termination, and those costs, expenses, and liabilities shall be allocated to the distributee pursuant to this Section 10.2.

(f) Any distribution to the Members in liquidation of the Company shall be made by the later of the end of the taxable year in which the liquidation occurs or 90 days after the date of such liquidation; provided, however, that the liquidator shall be authorized to cause the Company to retain assets, or to place assets in a liquidating trust for the benefit of the creditors of the Company and the Members, to the extent that (and for so long as) the liquidator determines, in its reasonable discretion, that the retention of such assets is necessary or appropriate in order to satisfy contingent liabilities of the Company. For purposes of the preceding sentence, the term **"liquidation"** shall have the same meaning as set forth in Treasury Regulation Section 1.704-1(b)(2)(ii)(g). The distribution of cash and/or property to a Member in accordance with the provisions of this Section 10.2 constitutes a complete return to the Member of its Capital Contribution and a complete distribution to the Member of its Membership Interest and all the Company's property and constitutes a compromise to which all Members have consented within the meaning of Section 7-80-502(2) of the Act. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

(g) Upon a distribution in liquidation of the Company, (i) if any Member has a positive Advance Amount, distributions that such Member would otherwise receive under Section 10.2 shall be reduced by the amount of such positive Advance Amount, and (ii) if the positive Advance Amount of a Member exceeds the amount such Member would be entitled to receive under Section 10.2 (the **"Excess Advance Amount"**), such Member shall contribute the amount of such Excess Advance Amount to the Company, which amount shall be distributed in accordance with Section 10.2.

Section 10.3. Deficit Capital Accounts. No Member shall be obligated to restore a deficit balance in its Adjusted Capital Account or capital account at any time.

Section 10.4. Articles of Dissolution. On completion of the distribution of Company assets as provided herein, the Company shall be terminated and the Members shall file articles of dissolution with the Secretary of State of Delaware, cancel any other filings made pursuant to Section 1.5, and take such other actions as may be necessary to terminate the Company.

ARTICLE XI - MISCELLANEOUS

Section 11.1. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt or: (a) personal delivery to the party to be notified, (b) when sent, if sent by electronic mail or facsimile to the recipient's electronic mail address or facsimile during normal business hours of

the recipient, and if not sent during normal business hours, then on the recipient's next Business Day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) Business Day after the Business Day of deposit with a nationally recognized overnight courier, freight prepaid, specifying next Business Day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on Exhibit A-2, or to such email address, facsimile number or address as subsequently modified by written notice given in accordance with this Section 11.1.

Section 11.2. Amendment or Modification. This Agreement may be amended, modified, extended or terminated, and the provisions hereof may be waived, only by an agreement in writing signed by Member Majority Approval; provided, that (a) any amendment of the provisions of this Agreement (or of the Organizational Documents of the Company or of any member of the Group) eliminating, reducing or otherwise adversely affecting the rights of any Member set forth in this Agreement in a manner that is disproportionate in any material respect from the effect on the rights of similarly situated Members set forth in this Agreement or such Organizational Documents (other than in proportion to the number and relative preferences of Units) shall require the written consent of such Member; (b) any amendment of the provisions of this Agreement (or of the Organizational Documents of the Company or of any member of the Group) increasing the liabilities or obligations of a Member, shall require the written consent of such affected Member; (c) for so long as the Steering Committee Members satisfy the Aggregate Steering Committee Threshold, any amendments or other modifications to Section 6.2 through Section 6.5 and Section 9.4 shall require the unanimous approval of the Steering Committee Members; (d) any amendments or other modifications to provisions requiring Member Supermajority Approval shall require Member Supermajority Approval to amend; and (e) any amendments or other modifications to Section 5.5 or Section 9.7 each shall require the written approval of any Member that has opted into the provisions of Section 3.6; provided further that amendments to this Agreement (or of the Organizational Documents of the Company or of any member of the Group) in connection with any issuance of Units effected in compliance with this Agreement (*e.g.*, amendments to this Agreement (or the Organizational Documents of the Company or of any member of the Group) to effect and/or reflect the issuance of Units in compliance with the provisions herein related to any Permitted Transfer or as set forth in Section 6.7) or a change in the enumerated list of Steering Committee Members in such definition shall not require any consent set forth in the foregoing subclauses (a) through (d) and may be amended by the majority approval of the Board in a manner its deems necessary or appropriate. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and executed by the party so waiving. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including any investigation by or on behalf of any party, will be deemed to constitute a waiver by the party taking such action of compliance with any covenants or agreements contained herein. The waiver by any party hereto of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach.

Section 11.3. Entire Agreement. This Agreement (along with any exhibits or schedules to such documents and agreements specifically referenced in this Agreement, including the Management Incentive Plan), the Side Letter and any other letter agreement entered into between the Company and any Member, constitutes the full and complete agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior contracts or agreements with respect to the Company and the matters addressed or governed hereby, whether oral or written.

Section 11.4. Additional Units Subject to Agreement. Each Member agrees that any other Units that it hereafter acquires by means of a stock split, stock dividend, distribution, exercise of stock options or warrants, Permitted Transfers or otherwise in accordance with the provisions of Article IX shall be subject to the terms hereof.

Section 11.5. Other Business Opportunities.

(a) No business opportunities other than those actually exploited by the Company shall be deemed the property of the Company, and any member of any of the Company's Subsidiaries or Affiliates may engage in or possess an interest in any other business venture, independently or with others, of any nature or description; and no other Person shall have any rights by virtue hereof in and to such other business ventures, or to the income or profits derived therefrom.

(b) Except as otherwise provided in this Section 11.5 or except as provided in that certain Side Letter Agreement, by and among the Company and certain Members, dated as of the date hereof (as the same may be amended, modified, or supplemented from time to time, the "**Side Letter**")[3], a Member may have business interests and engage in business activities in addition to those relating to the Company, including business interests and activities which compete with the Company, and no Member shall have any duty or obligation to bring any business opportunity to the Company.

(c) To the fullest extent permitted by Law and notwithstanding any other provision of this Agreement or of any agreement contemplated herein, except as provided in the Side Letter or as the Members may otherwise agree in writing after the date hereof, the Members, and any of their Permitted Transferees, will (i) have the right (A) to directly or indirectly engage in any business (including, without limitation, any business activities or lines of business that are the same as or similar to those pursued by, or competitive with, the Company and its Subsidiaries) or invest, own or deal in equity securities of any other Person so engaged in any business, (B) to directly or indirectly do business with any client or customer of the Company, its Subsidiaries and its Affiliates, (C) to take any other action that any such Member believes in good faith is necessary or appropriate to fulfill their obligations, and (D) not to present potential transactions, matters or business opportunities to the Company, its Subsidiaries or any of its Affiliates, and to pursue, directly or indirectly, any such opportunity for itself, and to direct any such opportunity to another Person; and (ii) have no duty (contractual or otherwise) to communicate or present any corporate opportunities to the Company, its Subsidiaries or any of its Affiliates, and the Company, on its own behalf and on behalf of its Subsidiaries and Affiliates, hereby renounces and waives any right to require the Members or any of their respective Permitted Transferees to act in a manner inconsistent with the provisions of this Section 11.5.

(d) The provisions of this Section 11.5 shall be subject to, and not in any way affect the enforceability of, any separate agreement by a director or any Affiliate thereof restricting

[3] **Note to Draft**: A side letter agreement will be entered into on the Effective Date to address outside business interests in which the management is currently engaged in and may otherwise engage in.

or prohibiting certain business activities of such director or such Affiliate(s) thereof (in this Agreement or otherwise).

Section 11.6. Non-Disclosure. Each Member agrees that it will keep confidential and will not disclose, divulge or use for any purpose, other than to monitor its investment in the Company and its Subsidiaries, any Confidential Information and the business and Oil and Gas Interests of the Company and its Subsidiaries; provided, however, that a Member may disclose Confidential Information: (a) to its and its Affiliates' respective attorneys, accountants, advisors, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (b) to its and its Affiliates' respective equityholders, managers, officers, directors, partners, members, employees, and agents in the ordinary course of business; (c) to any proposed Transferees permitted by this Agreement who are not competitors and who enter into a non-disclosure agreement in a form approved by the Company; (d) as may otherwise be required by Law (provided, that such party takes reasonable steps to minimize the extent of any such required disclosure) or (e) the Members may make customary disclosure to their investors, potential investors (subject to customary confidentiality requirements), general partners, limited partners or other supervisory bodies; provided, further, that the acts and omissions of any Person to whom such party may disclose Confidential Information pursuant to clauses (a), (b),(c) and (e) of the preceding proviso shall be attributable to such party for purposes of determining such party's compliance with this Section 11.6.

Section 11.7. Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations hereunder or with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person hereunder or with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default hereunder or with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

Section 11.8. Successors and Assigns. Subject to Article IX, this Agreement shall be binding upon and inure to the benefit of the Members and their respective heirs, legal representatives, successors, and permitted assigns.

Section 11.9. Governing Law. This Agreement shall be construed in accordance with and governed by the internal Laws of the State of Delaware, without regard to the principles of conflicts of Law (whether of the State of Delaware or otherwise) that would result in the application of the Laws of any other jurisdiction. In the event of a direct conflict between the provisions of this Agreement and any mandatory provision of the Act, the applicable provision of the Act shall control.

Section 11.10. Severability. If any provision of this Agreement is held to be unenforceable, this Agreement shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects this Agreement shall remain in full force and effect; provided, however, that if any provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable Law.

Section 11.11. Further Assurances. Subject to the terms and conditions set forth in this Agreement, in connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

Section 11.12. Title to Company Property. All property contributed to the Company or acquired by the Company, whether real or personal, tangible or intangible, shall be deemed to be owned by the Company, and no Member, individually, shall have any ownership of such property. The Company shall hold all of its property in its own name or the name of a nominee determined by the Board of Directors.

Section 11.13. No Third Party Beneficiaries. Except as otherwise provided in Article VIII, it is the intent of the parties hereto that no third-party beneficiary rights be created or deemed to exist in favor of any Person not a party to this Agreement, unless otherwise expressly agreed to in writing by the parties.

Section 11.14. Expenses. All direct, third-party out-of-pocket costs and expenses reasonably incurred in the Company's business shall be paid with Company funds, including costs of obtaining audits (including the fees and expenses of the Company's independent auditors), fees and expenses attributable to the preparation of the Company's tax returns and reports, fees and expenses of independent petroleum engineers retained by the Company, routine outside legal costs, and printed and mailing expenses.

Section 11.15. Counterparts. This Agreement may be executed in any number of counterparts and delivered by facsimile or portable document format, with each such counterpart constituting an original and all of such counterparts constituting but one and the same instrument.

Section 11.16. Headings. The headings used in this Agreement are for the purpose of reference only and will not otherwise affect the meaning or interpretation of any provision of this Agreement.

Section 11.17. Consent to Jurisdiction of Process; Appointment for Agent for Service. EACH PARTY TO THIS AGREEMENT HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY UNITED STATES DISTRICT COURT LOCATED IN WILMINGTON, DELAWARE OR ANY STATE COURT LOCATED IN WILMINGTON, DELAWARE AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER SUCH ACTIONS OR PROCEEDINGS ARE BASED IN STATUTE, TORT, CONTRACT OR OTHERWISE), SHALL BE LITIGATED IN SUCH COURTS. EACH PARTY (i) CONSENTS TO SUBMIT ITSELF TO THE PERSONAL JURISDICTION OF SUCH COURTS FOR SUCH ACTIONS OR PROCEEDINGS, (ii) AGREES THAT IT WILL NOT ATTEMPT TO DENY OR DEFEAT SUCH PERSONAL JURISDICTION BY MOTION OR OTHER REQUEST FOR LEAVE FROM ANY SUCH COURT, AND (iii) AGREES THAT IT WILL NOT BRING ANY SUCH ACTION OR PROCEEDING IN ANY COURT OTHER THAN SUCH COURTS. EACH PARTY ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND

UNCONDITIONALLY, THE EXCLUSIVE AND IRREVOCABLE JURISDICTION AND VENUE OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY NON-APPEALABLE JUDGMENT RENDERED THEREBY IN CONNECTION WITH SUCH ACTIONS OR PROCEEDINGS. A COPY OF ANY SERVICE OF PROCESS SERVED UPON THE PARTIES SHALL BE MAILED BY REGISTERED MAIL TO THE RESPECTIVE PARTY EXCEPT THAT, UNLESS OTHERWISE PROVIDED BY APPLICABLE LAW, ANY FAILURE TO MAIL SUCH COPY SHALL NOT AFFECT THE VALIDITY OF SERVICE OF PROCESS. IF ANY AGENT APPOINTED BY A PARTY REFUSES TO ACCEPT SERVICE, EACH PARTY AGREES THAT SERVICE UPON THE APPROPRIATE PARTY BY REGISTERED MAIL SHALL CONSTITUTE SUFFICIENT SERVICE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF A PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 11.18. Waiver of Jury Trial. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES TO THIS AGREEMENT HEREBY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT AND THE RELATIONSHIP THAT IS BEING ESTABLISHED.

Section 11.19. Remedies. The Company and the Members shall be entitled to enforce their rights under this Agreement specifically, to recover damages by reason of any breach of any provision of this Agreement (including costs of enforcement) and to exercise any and all other rights existing in their favor. The parties hereto agree and acknowledge that money damages may not be an adequate remedy for any breach of the provisions of this Agreement and that the Company or any Member may in its, his or her sole discretion apply to any court of law or equity of competent jurisdiction for specific performance or injunctive relief (without posting a bond or other security) in order to enforce or prevent any violation or threatened violation of the provisions of this Agreement. In addition, any successful Member is entitled to costs related to enforcing this Agreement, including reasonable and documented attorneys' fees and court costs.

Section 11.20. Initial Public Offering.

(a) If at any time the Board of Directors (upon the receipt of Member Majority Approval), desires to cause (i) a Transfer of all or a substantial portion of (x) the assets of the Company or (y) the Units to a newly organized corporation or other business entity (an **"IPO Entity"**), (ii) a merger or consolidation of the Company into or with an IPO Entity as provided under Section 18-209 of the Act or otherwise, (iii) the IPO Entity to receive the contribution of equity interests of an entity that owns Units by the equity holders of that entity or (iv) another restructuring of all or substantially all the assets or Units of the Company into an IPO Entity, including by way of the conversion of the Company into a Delaware corporation as provided under Section 18-216 of the Act (any such corporation also herein referred to as an **"IPO Entity"**), in any such case in anticipation of or otherwise in connection with an Initial Public Offering of securities of an IPO Entity or its Affiliate, each Member shall take such steps to effect such Transfer, merger, consolidation, conversion, contribution or other restructuring as may be reasonably requested by the Board of Directors, including, without limitation, executing and

delivering all agreements, instruments, and documents as may be reasonably required and Transferring or tendering such Member's Units to an IPO Entity in exchange for consideration for shares of capital stock or other equity interests of the IPO Entity, determined in accordance with the valuation procedures set forth in Section 11.20(b).

(b) In connection with a transaction described in Section 11.20(a), the Board of Directors shall, in good faith but subject to the following sentence, determine the Fair Market Value of the assets and/or Units Transferred to, merged with, or converted into shares of the IPO Entity, the aggregate Fair Market Value of the IPO Entity, and the number of shares of capital stock or other equity interests to be issued to each Member in exchange for consideration therefor. In determining Fair Market Value, (i) the offering price of the Initial Public Offering shall be used by the Board of Directors to determine the Fair Market Value of the capital stock or other equity interests of the IPO Entity and (ii) the distributions that the Members would have received with respect to their Units, if the Company were dissolved, its affairs wound up, and distributions made to the Members in accordance with Section 10.2 shall be used to determine the Fair Market Value of the Units. In addition, any Units to be converted into or redeemed or exchanged for shares of the IPO Entity shall receive shares with substantially equivalent economic, governance, priority, and other rights and privileges as in effect immediately prior to such transaction (disregarding the tax treatment of such transaction).

(c) Each Member hereby makes, constitutes and appoints the Company, with full power of substitution and resubstitution, its true and lawful attorney, for it and in its name, place, and stead and for its use and benefit, to act as its proxy in respect of any vote or approval of Members required to give effect to this Section 11.20, including any vote or approval required under Section 18-209 or Section 18-216 of the Act. The proxy granted pursuant to this Section 11.20(c) is a special proxy coupled with an interest and is irrevocable.

Section 11.21. Electronic Transmissions. Each of the parties hereto agrees that (a) any consent or signed document transmitted by electronic transmission shall be treated in all manner and respects as an original written document, (b) any such consent or document shall be considered to have the same binding and legal effect as an original document and (c) at the request of any party hereto, any such consent or document shall be re-delivered or re-executed, as appropriate, by the relevant party or parties in its original form. Each of the parties further agrees that they will not raise the transmission of a consent or document by electronic transmission as a defense in any proceeding or action in which the validity of such consent or document is at issue and hereby forever waives such defense. For purposes of this Agreement, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 11.22. Spousal Consent. Each Member who is a natural person that has a spouse on the date of this Agreement (or upon such Member's execution of a joinder to this Agreement, if later) shall cause such Member's spouse to execute and deliver to the Company a spousal consent in the form of Exhibit F hereto, pursuant to which the spouse acknowledges that he or she has read and understood the Agreement and agrees to be bound by its terms and conditions. If any Member should marry following the date of this Agreement, such Member shall cause his or her Spouse to execute and deliver to the Company a spousal consent within 30 days thereof.

[Remainder of Page Intentionally Left Blank - Signature Pages Follow]

IN WITNESS WHEREOF, the Members have executed this Agreement in counterparts effective as of the date first above written.

MEMBER:

By: _____
Name:
Title:

MEMBER:

By: _____
Name:
Title:

EXHIBIT A-1

CAPITALIZATION TABLE

MEMBER	UNITS	PRO RATA INTEREST
TOTAL	**[•]**	

- Restricted Units per the terms of the Plan, the Management Incentive Plan and the associated award agreements with respect to such Management Members.

EXHIBIT A-2

ADDRESSES OF MEMBERS

MEMBER	ADDRESS
[•]	
[•]	
[•]	
[•]	
[•]	
[•]	
[•]	

EXHIBIT A-3

OFFERING MEMBERS[4]

MEMBER	ADDRESS
[•]	
[•]	
[•]	
[•]	
[•]	
[•]	
[•]	

[4] Note to Draft: Intended to be all holders of Allowed RBL Claims.

EXHIBIT B

INITIAL BOARD OF DIRECTORS

Matthew B. Steele

Richard Doleshek

Mark Bisso

Mike Wichterich

Kevin Asarnow

EXHIBIT C

INITIAL OFFICERS

Name	Title
Matthew B. Steele	Chief Executive Officer
Tyler Crabtree	Chief Financial Officer
Kennon Doyal	Executive Vice President, Chief Operating Officer
William Getschow	Executive Vice President, General Counsel and Secretary
Nader Daylami	Executive Vice President, Business Development and Finance
Kenneth Smith	Chief Accounting Officer
Erik Baros	Chief Information Officer

EXHIBIT D

ALLOCATIONS AND TAX PROCEDURES

D1.1 Definitions. In addition to the capitalized terms used in the Agreement, as used in this Exhibit D, the following terms shall be defined as follows:

"Adjusted Capital Account" means the Capital Account, with respect to each Member, maintained for such Member as of the end of each taxable year of the Company, (a) increased by any amounts that such Member is obligated to restore under the standards set by Treasury Regulation section 1.704-1(b)(2)(ii)(c) (or is deemed obligated to restore under Treasury Regulation sections 1.704-2(g) and 1.704-2(i)(5)), and (b) decreased by (i) adjustments that, as of the end of such taxable year, are reasonably expected to be made to such Member's Capital Account under Treasury Regulation section 1.704-1(b)(2)(iv)(k), (ii) the amount of all losses and deductions that, as of the end of such taxable year, are reasonably expected to be allocated to such Member in subsequent years under sections 704(e)(2) and 706(d) of the Code and Treasury Regulation section 1.751-1(b)(2)(ii), and (iii) the amount of all distributions that, as of the end of such taxable year, are reasonably expected to be made to such Member in subsequent years in accordance with the terms of this Agreement or otherwise to the extent they exceed offsetting increases to such Member's Capital Account that are reasonably expected to occur during (or prior to) the year in which such distributions are reasonably expected to be made (other than increases as a result of a minimum gain chargeback pursuant to Section D1.3(c)(i) or Section D1.3(c)(ii)). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulation section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Adjusted Property" means any property the Carrying Value of which has been adjusted pursuant to Section D1.2(d).

"Agreed Value" of any Contributed Property or Adjusted Property means the Fair Market Value of such property at the time of contribution or adjustment as determined by the Board of Directors. The Board of Directors shall use such method as it determines appropriate to allocate the aggregate Agreed Value of Contributed Properties contributed to the Company in a single or integrated transaction among each separate property on a basis proportional to the Fair Market Value of each Contributed Property.

"Book-Tax Disparity" means with respect to any item of Contributed Property or Adjusted Property, as of the date of any determination, the difference between the Carrying Value of such Contributed Property or Adjusted Property and the adjusted basis thereof for federal income tax purposes as of such date.

"Book Liability Value" means with respect to any liability of the Company described in Treasury Regulation section 1.752-7(b)(3)(i), the amount of cash that a willing assignor would pay to a willing assignee to assume such liability in an arm's-length transaction. The Book Liability Value of each liability of the Company described in Treasury Regulation section 1.752-7(b)(3)(i) shall be adjusted at such times as provided in this Agreement for an adjustment to Carrying Values.

"Carrying Value" means (a) with respect to Contributed Property or Adjusted Property, the Agreed Value of such property reduced (but not below zero) by all Depreciation charged to the

Members' Capital Accounts in respect of such Contributed Property or Adjusted Property, and (b) with respect to any other Company property, the adjusted basis of such property for federal income tax purposes, all as of the time of determination. The Carrying Value of any property shall be adjusted from time to time in accordance with Section D1.2(d) to reflect changes, additions or other adjustments to the Carrying Value for dispositions and acquisitions of Company properties, as deemed appropriate by the Board of Directors.

"Company Minimum Gain" has the meaning given the term "partnership minimum gain" in Treasury Regulation section 1.704-2(b)(2) and the amount of which shall be determined in accordance with the principles of Treasury Regulation section 1.704-2(d).

"Contributed Property" means each property or other asset, but excluding cash, contributed to the Company. Once the Carrying Value is adjusted hereunder, such property shall no longer constitute a Contributed Property but shall be deemed to be an Adjusted Property.

"Curative Allocation" means any allocation of an item of income, gain, deduction or loss pursuant to the provisions of Section D1.3(c)(x).

"Depreciation" means, for any Fiscal Year or other period, except as provided in Treasury Regulation section 1.704-3(d)(2), an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such year or other period, except that, if the Carrying Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation will be an amount that bears the same ratio to such beginning Carrying Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; except that if the federal income tax depreciation, amortization, or other cost recovery deduction for such year is zero, Depreciation will be determined with reference to such beginning Carrying Value using any reasonable method selected by the Board of Directors.

"Economic Risk of Loss" has the meaning set forth in Treasury Regulation section 1.752-2(a).

"Liquidating Gains and Losses" means all items of income, gain, loss and deduction of the Company, as determined for Capital Account purposes, either (i) arising from the sale of all or substantially all assets of the Company, or (ii) realized in the year in which the Company dissolves and winds up pursuant to Article X (or the immediately prior taxable year if the Company dissolves on or before the unextended due date for its federal income tax return for such prior taxable year).

"Member Nonrecourse Debt" has the meaning set forth for "partner nonrecourse debt" in Treasury Regulation section 1.704-2(b)(4).

"Member Nonrecourse Debt Minimum Gain" has the meaning set forth for the term "partner nonrecourse debt minimum gain" in Treasury Regulation section 1.704-2(i)(2).

"Member Nonrecourse Deductions" means any and all items of loss, deduction, expenditure (including any expenditure described in section 705(a)(2)(B) of the Code), that are attributable to Member Nonrecourse Debt.

"Nonrecourse Built-in Gain" means with respect to any Contributed Properties or Adjusted Properties that are subject to a mortgage or pledge securing a Nonrecourse Liability, the amount of any taxable gain that would be allocated to the Members if such properties were disposed of in a taxable transaction in full satisfaction of such liabilities and for no other consideration.

"Nonrecourse Deductions" means any and all items of loss, deduction, expenditure (including any expenditure described in section 705(a)(2)(B) of the Code), that are attributable to a Nonrecourse Liability.

"Nonrecourse Liability" has the meaning assigned to such term in Treasury Regulation section 1.704-2(b)(3).

"**Percentage Interest**" means, for any taxable year and for each Member, the Profit or Loss allocated to such Member for such taxable year divided by the aggregate Profit or Loss allocated to all Members for such taxable year.

"Percentage Interest in Partnership Capital" means, at any time of determination and as to any Member, the percentage of the total distributions that would be made to such Member if the assets of the Company were sold for their Carrying Values, all liabilities of the Company were paid in accordance with their terms, all items of Company income, gain, loss and deduction were allocated to the Members in accordance with this Exhibit D, and the resulting net proceeds were distributed to the Members in accordance with the terms of this Agreement. The foregoing definition of Percentage Interest in Partnership Capital is intended to result in a percentage that corresponds with that defined as "partner's proportionate interest in partnership capital" in Treasury Regulation sections 1.613A-3(e)(2)(ii) and 1.704-1(b)(4)(v), and Percentage Interest in Partnership Capital shall be interpreted consistently therewith.

"Profits" or **"Losses"** means, for each taxable year (or other period), an amount equal to the Company's taxable income or loss for such period, determined in accordance with Code section 703(a) (including in taxable income or loss for this purpose all items of income, gain, loss, or deduction required to be stated separately pursuant to Code section 703(a)(1)), after making the adjustments described in paragraphs (i) through (viii) of Section D1.2(b); provided, that any items that are allocated pursuant to Section D1.3(b) or D1.3(c) shall not be taken into account in computing Profits and Losses.

"Regulatory Allocations" has the meaning assigned to such term in Section D1.3(c)(x).

"Unrealized Gain" attributable to any item of Company property means, as of any date of determination, the excess, if any, of (a) the Fair Market Value of such property as of such date (as determined under Section D1.2(d)) over (b) the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section D1.2(d) as of such date).

"Unrealized Loss" attributable to any item of Company property means, as of any date of determination, the excess, if any, of (a) the Carrying Value of such property as of such date (prior to any adjustment to be made pursuant to Section D1.2(d) as of such date) over (b) the Fair Market Value of such property as of such date (as determined under Section D1.2(d)).

D1.2 Capital Accounts. The Company shall maintain for each Member a separate Capital Account with respect to each class or series of interests owned by the Member in accordance with the rules of Treasury Regulation section 1.704-1(b)(2)(iv) and in accordance with the following provisions:

(a) Each Member's Capital Account shall be increased by (i) the amount of all cash and the Agreed Value of any property contributed to the Company by such Member pursuant to this Agreement, (ii) all items of Company income and gain computed in accordance with Section D1.2(b) and allocated with respect to such Member pursuant to Section D1.3, (iii) the amount of any Company liabilities assumed by such Member or that are secured by any Company property distributed to such Member, and (iv) in the case of a Member receiving Restricted Units, the amount included in the Member's compensation income under section 83 of the Code, and decreased by (x) the amount of cash or Fair Market Value of property actually or deemed distributed to such Member pursuant to this Agreement, (y) all items of Company deduction and loss computed in accordance with Section D1.2(b) and allocated to such Member pursuant to Section D1.3 and (z) the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company.

(b) For purposes of computing the amount of any item of income, gain, loss or deduction which is to be allocated pursuant to this Exhibit D and is to be reflected in the Members' Capital Accounts, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for federal income tax purposes; provided, that:

(i) All fees and other expenses incurred by the Company to promote the sale of (or to sell) a Membership Interest that can neither be deducted nor amortized under section 709 of the Code, if any, shall, for purposes of Capital Account maintenance, be treated as an item of deduction at the time such fees and other expenses are incurred and shall be allocated among the Members pursuant to Section D1.3.

(ii) Except as otherwise provided in Treasury Regulation section 1.704-1(b)(2)(iv)(m), the computation of all items of income, gain, loss, deduction, shall be made without regard to any election under section 754 of the Code which may be made by the Company and, as to those items described in section 705(a)(1)(B) or 705(a)(2)(B) of the Code, without regard to the fact that such items are not includable in gross income or are neither currently deductible nor capitalized for federal income tax purposes. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulation section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment in the Capital Accounts shall be treated as an item of gain or loss.

(iii) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing such items, there shall be taken into

account Depreciation, computed in accordance with the definition of **"Depreciation."**

(iv) Any income of the Company that is exempt from U.S. federal income tax and not otherwise taken into account shall be treated as an item of income.

(v) In the event the Carrying Value of any asset is adjusted pursuant to Section D1.2(d), the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Carrying Value of the asset) or an item of loss (if the adjustment decreases the Carrying Value of the asset) from the disposition of such asset.

(vi) In the event the Book Liability Value of any liability of the Company described in Treasury Regulation section 1.752-7(b)(3)(i) is adjusted as required by this Agreement, the amount of such adjustment shall be treated as an item of loss (if the adjustment increases the Book Liability Value of such liability of the Company) or an item of gain (if the adjustment decreases the Book Liability Value of such liability of the Company).

(vii) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for U.S. federal income tax purposes shall be computed by reference to the Carrying Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Carrying Value.

(viii) For purposes of determining income, gain, loss, and deduction, or any other item allocable to any period, such items will be determined on a daily, monthly or other basis, as reasonably determined by the Board of Directors using any permissible method under Code section 706 and the related Treasury Regulation.

(c) A transferee of a Membership Interest pursuant to a Transfer shall succeed to the pro rata portion of the Capital Account of the transferor relating to the Membership Interest so transferred. Except as otherwise provided herein, all items of income, gain, expense, loss, deduction, and credit allocable to any Membership Interest that may have been transferred during any calendar year shall, if permitted by law, be allocated between the transferor and the transferee based on the portion of the calendar year during which each was recognized as owning that Membership Interest, based upon the interim closing of the books method or such other method as agreed among the transferor, the transferee and the Board; provided, however, that this allocation must be made in accordance with a method permissible under section 706 of the Code and the Treasury Regulation thereunder.

(d) (i) In accordance with Treasury Regulation section 1.704-1(b)(2)(iv)(f), (i) on an issuance of additional Membership Interests for more than a de minimis amount of cash or Contributed Property, (ii) immediately prior to any actual or deemed distribution to a Member of more than a de minimis amount of any Company property (other than a

distribution of cash that is not in redemption or retirement of a Membership Interest), (iii) upon the issuance of Membership Interests (other than a de minimis Membership Interest) as consideration for the provision of services or (iv) upon the occurrence of any other event provided in such Treasury Regulation (including the issuance by the Company of a **"noncompensatory option"** within the meaning of Treasury Regulation Sections 1.721-2(f) and 1.761-3(a) other than for a de minimis Membership Interest and which is not treated as a Membership Interest under Treasury Regulation Section 1.761-3(a) or common law), the Capital Accounts of all Members and the Carrying Value of each Company property immediately prior to such issuance, distribution or such other event shall be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to such Company property, as if such Unrealized Gain or Unrealized Loss had been recognized on an actual sale of each such property immediately prior to such issuance, distribution or such other event and had been allocated to the Members at such time pursuant to Section D1.3 in the same manner as any item of gain or loss actually recognized during such period would have been allocated; provided, however, that such adjustments shall be made only if the Board of Directors reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company. In determining such Unrealized Gain or Unrealized Loss, the aggregate cash amount and Fair Market Value of all Company assets (including cash and cash equivalents) immediately prior to the event triggering such adjustment shall be determined by the Board of Directors using such method of valuation as it may adopt. The Board of Directors shall allocate such aggregate value among the assets of the Company (in such manner as it determines) to arrive at a Fair Market Value for individual properties.

(ii) In addition, in accordance with Treasury Regulation section 1.704-1(b)(2)(iv)(s)(2), upon the exercise of a noncompensatory option in the Company, the Capital Accounts of all Members and the Carrying Value of all Company property, shall, immediately after such exercise, be adjusted upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to each Company property (as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of each such property, immediately prior to such exercise), and shall be allocated (A) first, to the exercising Member to the extent necessary to cause the Capital Account of the exercising Member attributable to the noncompensatory option to reflect such Member's relative right to share in Company capital, and (B) second, to the Initial Members in accordance with the provisions of Section D1.3.

(iii) If, after the allocations described in Section D1.2(d)(ii) have been made, the exercising Member's Capital Account attributable to the noncompensatory option does not reflect such Member's relative right to share in Company capital, in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(s)(3), Company capital shall be reallocated between the Initial Members and the exercising Member to the extent necessary to cause the exercising Member's Capital Account attributable to the noncompensatory option to reflect such Member's relative right to share in Company capital.

D1.3 Allocations for Capital Account Purposes. For purposes of maintaining the Capital Accounts, the Company's items of income, gain, loss and deduction (computed in

accordance with Section D1.2(b)) shall be allocated among the Members in each taxable year (or portion thereof) as provided herein below.

(a) *General*. Except as otherwise provided in this Exhibit D, Profit and Loss shall be allocated between the Members in a manner such that, after giving effect to the special allocations set forth in Section D1.3(c), the Capital Account of each Member, immediately after making such allocation, is, as nearly as possible, equal (proportionately) to (i) the distributions that would be made to such Member pursuant to Section 5.3 if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Carrying Value, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the Carrying Value of the assets securing such liability), and the net assets of the Company were distributed in accordance with Section 5.3 without regard to any reductions in future distributions that would be required by Section 5.4(c) to the Members immediately after making such allocation, minus (ii) such Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain, computed immediately prior to the hypothetical sale of assets and any amounts that such Member is obligated to restore under the standards set by Treasury Regulation section 1.704-1(b)(2)(ii)(c).

(b) *Allocations of Liquidating Gains and Losses*. Except as otherwise provided in this Exhibit D, Liquidating Gains and Losses shall be allocated among the Members in a manner reasonably determined by the Board of Directors as shall cause to the nearest extent possible the Capital Account of each Member to equal the amount that would be distributed to such Member upon a distribution of proceeds of the Company's assets under Section 10.2.

(c) *Special Allocations*. Notwithstanding any other provision of this Section D1.3, the following special allocations shall be made for such taxable period in the following order and priority:

(i) *Company Minimum Gain Chargeback*. Notwithstanding the other provisions of this Section D1.3, if there is a net decrease in Company Minimum Gain during any Company taxable period, each Member shall be allocated items of Company income and gain for such taxable period (and, if necessary, subsequent taxable periods) in the manner and amounts provided in Treasury Regulation sections 1.704-2(f)(6) and (g)(2) and section 1.704-2(j)(2)(i), or any successor provisions. This Section D1.3(c)(i) is intended to comply with the Company Minimum Gain chargeback requirement in Treasury Regulation section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) *Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt*. Notwithstanding the other provisions of this Section D1.3 (other than Section D1.3(c)(i)), except as provided in Treasury Regulation section 1.704-2(i)(4), if there is a net decrease in Member Nonrecourse Debt Minimum Gain during any Company taxable period, any Member with a share of Member Nonrecourse Debt Minimum Gain at the beginning of such taxable period shall be allocated items of Company income and gain for such taxable period (and, if necessary, subsequent

taxable periods) in the manner and amounts provided in Treasury Regulation sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. This Section D1.3(c)(ii) is intended to comply with the chargeback of items of income and gain requirement in Treasury Regulation section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(iii) *Qualified Income Offset*. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulation section 1.704-1(b)(2)(ii)(d)(4) through (6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulation promulgated under section 704(b) of the Code, the deficit balance, if any, in each Member's Adjusted Capital Account created by such adjustments, allocations or distributions as quickly as possible; provided, that, an allocation pursuant to this Section D1.3(c)(iii) shall be made only if and to the extent that such Member would have a deficit in such Member's Adjusted Capital Account after all other allocations provided in this Exhibit D have been tentatively made as if this Section D1.3(c)(iii) were not a part of this Agreement. This Section D1.3(c)(iii) is intended to be a **"qualified income offset"** provision as that term is used in Treasury Regulation section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(iv) *Stop Loss*. No amount of loss or deduction shall be allocated pursuant to Section D1.3(a) to the extent that such allocation would cause any Member to have a deficit balance in its Adjusted Capital Account at the end of such taxable period (or increase any existing deficit balance in its Adjusted Capital Account). All loss and deductions in excess of the limitation set forth in the preceding sentence shall be allocated among such other Members, who have positive Adjusted Capital Account balances, in proportion to their respective Membership Interests until each Member's Adjusted Capital Account balance is reduced to zero.

(v) *Gross Income Allocations*. In the event any Member has a deficit balance in its Adjusted Capital Account at the end of any Company taxable period in excess of the sum of (A) the amount such Member is obligated to restore pursuant to any provision of this Agreement and (B) the amount such Member is deemed obligated to restore pursuant to Treasury Regulation sections 1.704-2(g) and 1.704-2(i)(5), such Member shall be specially allocated items of Company gross income and gain in the amount of such excess as quickly as possible; provided, that, an allocation pursuant to this Section D1.3(c)(v) shall be made only if and to the extent that such Member would have a deficit balance in its Adjusted Capital Account after all other allocations provided in this Section D1.3(c) have been tentatively made as if this Section D1.3(c)(v) and Section D1.3(c)(iii) were not in the Agreement.

(vi) *Nonrecourse Deductions*. Nonrecourse Deductions for any taxable period shall be allocated to the Members in accordance with their respective Percentage Interests.

(vii) *Member Nonrecourse Deductions*. Member Nonrecourse Deductions for any taxable period shall be allocated 100% to the Member that bears the Economic Risk of Loss with respect to such Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Treasury Regulation section 1.704-2(i). If more than one Member bears the Economic Risk of Loss with respect to a Member Nonrecourse Debt, such Member Nonrecourse Deductions attributable thereto shall be allocated between or among such Members in accordance with the ratios in which they share such Economic Risk of Loss.

(viii) *Nonrecourse Liabilities*. For purposes of Treasury Regulation section 1.752-3(a)(3), the Members agree that Nonrecourse Liabilities of the Company in excess of the sum of (A) the amount of Company Minimum Gain and (B) the total amount of Nonrecourse Built-in Gain shall be allocated among the Members in accordance with their relative Percentage Interests.

(ix) *Code Section 754 Adjustments*. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to section 734(b) or 743(b) of the Code is required, pursuant to Treasury Regulation section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such item of gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such section of the Treasury Regulation.

(x) *Curative Allocations*. The allocations set forth in the preceding provisions of Section D1.3(c) (the **"Regulatory Allocations"**) are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section D1.3(c)(x). Therefore, notwithstanding any other provision of this Section D1.3 (other than the Regulatory Allocations), but subject to the Code and the Treasury Regulations, the Board of Directors shall make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement. In exercising its discretion under this Section D1.3(c)(x), the Board may take into account future Regulatory Allocations that, although not yet made, are likely to offset other Regulatory Allocations previously made.

D1.4 Allocations for Tax Purposes.

(a) Except as otherwise provided herein, for federal income tax purposes, each item of income, gain, loss and deduction shall be allocated among the Members in the same

manner as its correlative item of **"book"** income, gain, loss or deduction is allocated pursuant to Section D1.3.

(b) Notwithstanding any provisions contained herein to the contrary, solely for federal (and applicable state and local) income tax purposes, items of income, gain, depreciation, depletion, amortization, loss or amount realized with respect to property for which a Book-Tax Disparity exists shall be allocated so as to take into account the variation between the Company's tax basis in such property and its Carrying Value consistent with Treasury Regulation sections 1.704-1(b)(4)(i) and 1.704-3. With respect to allocations pursuant to section 704(c) of the Code, the Company will make such allocations in accordance with any method permissible under the Treasury Regulations as determined by the Board of Directors.

(c) For the proper administration of the Company, the Board of Directors shall (i) adopt such conventions as it deems appropriate in determining the amount of depreciation, amortization and cost recovery deductions; (ii) make special allocations for federal income tax purposes of income (including gross income or deductions); and (iii) amend the provisions of this Agreement as appropriate to reflect the proposal or promulgation of new or revised Treasury Regulations under section 704(b) or section 704(c) of the Code. The Board of Directors may adopt such conventions, make such allocations and make such amendments to this Agreement as provided in this Section D1.4(c) only if such conventions, allocations or amendments are required to comply with the principles of section 704 of the Code and would not have a materially disproportionate adverse effect on any Member.

(d) All recapture of income tax deductions resulting from the taxable sale or other disposition of Company property shall, to the maximum extent possible, be allocated to the Member to whom the deduction that gave rise to such recapture was allocated hereunder to the extent that such Member is allocated any gain from the disposition of such property.

(e) All items of income, gain, loss, deduction and credit recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof shall be determined without regard to any election under section 754 of the Code that will be made by the Company; provided, however, that in the event such an election is made under section 754 of the Code, such allocations, once made, shall be adjusted (in any manner determined by the Board of Directors) as necessary or appropriate to take into account those adjustments permitted or required by sections 734 and 743 of the Code.

(f) In accordance with Treasury Regulation section 1.704-1(b)(2)(iv)(s)(4), if Company capital is reallocated in accordance with Section D1.2(d)(iii) hereof, beginning with the year of reallocation and continuing until the allocations required are fully taken into account, the Company will make corrective allocations (allocations of items of gross income or gain or loss or deduction for federal income tax purposes that do not have a corresponding book allocation) to take into account the Capital Account reallocation.

D1.5 Determinations by the Company. All matters concerning the computation of Capital Accounts, the allocation of items of Company income, gain, loss, deduction and expense for all purpose of this Agreement and the adoption of any accounting procedures not expressly provided for by the terms of this Agreement shall be determined by the Board of Directors reasonably and in good faith. Such determinations shall be final and conclusive as to all the Members absent manifest error. Without in any way limiting the scope of the foregoing, if and to the extent that, for income tax purposes, any item of income, gain, loss, deduction or expense of any Member or the Company is constructively attributed to, respectively, the Company or any Member, or any contribution to or distribution by the Company or any payment by any Member or the Company is re-characterized, the Board of Directors may, in their discretion and without limitation, specially allocate items of Company income, gain, loss, deduction and expense and/or make correlative adjustments to the Capital Accounts of the Members in a manner so that the net amount of income, gain, loss, deduction and expense realized by each relevant party (after taking into account such special allocations) and the net Capital Account balances of the Members (after taking into account such special allocations and adjustments) shall, as nearly as possible, be equal, respectively, to the amount of income, gain, loss, deduction and expense that would have been realized by each relevant party and the Capital Account balances of the Members that would have existed if such attribution and/or re-characterization and the application of this Section D1.5 had not occurred. Notwithstanding anything expressed or implied to the contrary in this Agreement, in the event the Board of Directors shall determine in good faith that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to effectuate the intended economic sharing arrangement of the Members, the Board of Directors may make such modification.

EXHIBIT E

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT (the **"Joinder Agreement"**) is executed by the undersigned Member pursuant to the terms of the Limited Liability Company Agreement of Bruin Purchaser LLC (the **"Company"**) dated as of August [31], 2020, as amended, restated, supplemented, or otherwise modified from time to time, a copy of which is attached hereto and is incorporated herein by reference (the **"Agreement"**). By the execution of this Joinder Agreement, the Member agrees as follows:

Acknowledgment. The Member acknowledges that it is acquiring a Membership Interest in the Company. Capitalized terms used herein without definition are defined in the Agreement and are used herein with the same meanings set forth therein.

Agreement. The Member (a) agrees that the Membership Interest acquired by the Member shall be bound by and subject to the terms of the Agreement (including the Exhibits thereto), and (b) hereby joins in, and agrees to be bound by, all the provisions of the Agreement (including the Exhibits thereto); provided, however, that the Member's joinder in the Agreement shall not constitute his or her admission as a Member unless and until he or she is duly admitted in accordance with the terms of the Agreement.

Notice. Any notice required or permitted by the Agreement shall be given to the Member at the address listed beside the Member's signature below.

EXECUTED AND DATED on this _____ day of _____, 20____.

MEMBER:

[•]

By: _____
Name: _____
Title: _____

ACKNOWLEDGED AND ACCEPTED:

BRUIN PURCHASER LLC

By: _____
Name: _____
Title: _____

Address for Notice:

_____
_____
_____
_____

EXHIBIT F

FORM OF SPOUSAL CONSENT

[•], [•]

I, [•], spouse of [•], acknowledge that I have read the Limited Liability Company Agreement of Bruin Purchaser, LLC, a Delaware limited liability company (the **"Company"**), dated as of August [31], 2020 (as the same may be amended, restated, supplemented or modified from time to time, the **"Agreement"**), and that I understand the contents of the Agreement. I am aware that my spouse is a party to the Agreement and the Agreement contains provisions regarding the voting and transfer of Membership Interests (as defined in the Agreement) of the Company which my spouse may own, including any interest I might have therein.

I hereby agree that I and any interest, including any community property interest, that I may have in the Membership Interests of the Company subject to the Agreement shall be irrevocably bound by the Agreement, including any restrictions on the transfer or other disposition of Membership Interests or voting or other obligations as set forth in the Agreement. I hereby appoint [•] as my attorney-in-fact with respect to the exercise of any rights and obligations under the Agreement.

This Consent shall be binding on my executors, administrators, heirs and assigns. I agree to execute and deliver such documents as may be necessary to carry out the intent of the Agreement and this Consent.

I am aware that the legal, financial and related matters contained in the Agreement are complex and that I am free to seek independent professional guidance or counsel with respect to this Consent. I have either sought such guidance or counsel or determined after reviewing the Agreement carefully that I will waive such right. I am under no disability or impairment that affects my decision to sign this Consent and I knowingly and voluntarily intend to be legally bound by this Consent.

CONSENTED TO BY:

_____

Signature

_____

Print Name