

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934

DATE OF REPORT (DATE OF EARLIEST EVENT REPORTED)

May 7, 2020



COMMISSION FILE NUMBER 1-6780 (Rayonier Inc.)  
COMMISSION FILE NUMBER: 333-237246 (Rayonier, L.P.)

**RAYONIER INC.**

**Incorporated in the State of North Carolina**  
**I.R.S. Employer Identification Number 13-2607329**

**RAYONIER, L.P.**

**Incorporated in the State of Delaware**  
**I.R.S. Employer Identification Number 91-1313292**

**1 Rayonier Way**  
**Wildlight, Florida 32097**  
**(Principal Executive Office)**

Telephone Number: (904) 357-9100

Check the appropriate box below if the form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Exchange</u>
COMMON STOCK, \$0.00 PAR VALUE	RYN	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Rayonier Inc.:	Emerging growth company	<input type="checkbox"/>
Rayonier, L.P.:	Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Rayonier Inc.:	<input type="checkbox"/>
Rayonier, L.P.:	<input type="checkbox"/>

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## EXPLANATORY NOTE

This current report on Form 8-K combines disclosure in respect of Rayonier Inc., a North Carolina corporation (“Rayonier”), and Rayonier, L.P., a Delaware limited partnership (“Opco”). Rayonier has elected to be taxed as a real estate investment trust, or REIT, under the Internal Revenue Code of 1986, as amended, commencing with its taxable year ended December 31, 2004. Rayonier is structured as an umbrella partnership REIT under which substantially all of its business shall be conducted through Opco. Rayonier is the general partner of Opco. Rayonier and Opco will be operated as one business. The management of Opco will consist of the same members as the management of Rayonier. As general partner with control of Opco, Rayonier will consolidate Opco for financial reporting purposes, and Rayonier will have no material assets or liabilities other than its investment in Opco.

On May 8, 2020, Opco acquired Pope Resources, a Delaware Limited Partnership (“Pope”), and became the general partner of Pope. The acquisition occurred pursuant to a series of mergers (the “Mergers”) provided for in an Agreement and Plan of Merger, dated as of January 14, 2020, as amended by Amendment No. 1, dated as of April 1, 2020 (as amended, the “Merger Agreement”), by and among Rayonier, Opco, Rayonier Operating Company LLC, Rayonier Operating Company Holdings, LLC, Pacific GP Merger Sub I, LLC, Pacific GP Merger Sub II, LLC, Pacific LP Merger Sub III, LLC, Pope, Pope EGP, Inc. (“EGP”), and Pope MGP, Inc. (“MGP”). Following the Mergers, Rayonier holds an approximate 96.5% ownership interest in Opco, with the remaining 3.5% ownership interest owned by limited partners of Opco that are former Pope Resources unitholders. As the sole general partner of Opco, Rayonier will have exclusive control of the day-to-day management of Opco.

**ITEM 1.01.****Entry into a Material Definitive Agreement.***Third Supplemental Indenture*

As set forth in the Merger Agreement, on May 7, 2020, Rayonier contributed to Opco its 100% ownership interest in Rayonier Operating Company LLC (“ROC”). Prior to such contribution, all of the business and operations of Rayonier were conducted through ROC and ROC and/or its subsidiaries held substantially all of Rayonier’s assets. As a result of the contribution, which constituted the transfer of all or substantially all of Rayonier’s assets under the terms of the Indenture, dated March 5, 2012 (as supplemented and amended from time to time, the “Indenture”), between Rayonier, as issuer, the subsidiary guarantors party thereto and The Bank of New York Mellon Trust Company, N.A., as trustee, Opco expressly assumed all the obligations of Rayonier under the Indenture, including obligations with respect to the outstanding \$325,000,000 in aggregate principal amount of 3.750% Senior Notes due 2022 (the “2022 Notes”) issued thereunder.

On May 7, 2020, Rayonier, Opco, the subsidiary guarantors party thereto and the Trustee entered into the Third Supplemental Indenture, pursuant to which (1) Opco succeeded to and became substituted for the Company under the Indenture and 2022 Notes and expressly assumed all the obligations of the Company under the Indenture, including the 2022 Notes, and (2) Rayonier agreed to irrevocably, fully and unconditionally guarantee, jointly and severally, the obligations of Opco under Indenture, including the 2022 Notes.

The foregoing description of the Third Supplemental Indenture does not purport to be complete and

is qualified in its entirety by the full text of the Third Supplemental Indenture, which is attached hereto as Exhibit 4.1 and is incorporated herein by reference.

#### *Tax Protection Agreement*

In connection with the closing of the Mergers contemplated by the Merger Agreement, on May 8, 2020, Rayonier, Opco and Pope entered into a Tax Protection Agreement (the “Tax Protection Agreement”). Under the Tax Protection Agreement, Opco agrees to indemnify qualified holders of Opco units (which are persons who received in the Mergers and beneficially own 525,000 or more Opco units) for the time value of money (determined based on the prime rate plus 2%) if Opco triggers, at any time during the five year period following the closing of the Mergers, a certain amount of U.S. federal, state and local income taxes with respect to such holder’s share of built-in gain with respect to the real property assets directly or indirectly owned by Pope immediately before the Mergers, with certain exceptions.

The foregoing description of the Tax Protection Agreement does not purport to be complete and is qualified in its entirety by reference to the Tax Protection Agreement, which is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

#### **ITEM 2.01.**

##### **Completion of Acquisition or Disposition of Assets.**

On May 8, 2020, Rayonier and Opco completed the business combination contemplated by the Merger Agreement. As a result of the transactions contemplated by the Merger Agreement, Opco indirectly acquired all of the issued and outstanding limited partnership interests of Pope and became the sole general partner of Pope.

At the closing of the Mergers, each unit representing limited partnership interests of Pope (the “Pope Units”) outstanding immediately prior to the effective time of the Mergers were, at the election of their holders and subject to proration described below, converted into the right to receive:

- \$125.00 in cash (the “Cash Election Consideration”);
- 3.929 shares of Rayonier common stock (“Rayonier Shares”) (the “Stock Election Consideration”); or
- 3.929 units representing limited partnership interests of Opco (“Opco Units”) (the “Opco Election Consideration”).

Each of the Cash Election Consideration, Stock Election Consideration and Opco Election Consideration were subject to proration so that approximately 70% of the Pope Units converted into merger consideration were exchanged for Rayonier Shares or Opco Units and approximately 30% of the Pope Units converted into merger consideration were exchanged for cash. These proration procedures were to ensure that the aggregate amount of Rayonier Shares and Opco Units, on the one hand, and cash, on the other hand, issued in the merger to acquire Pope equaled the amounts issued as if every Pope Unit converted into merger consideration received 2.751 Rayonier Shares or Opco Units and \$37.50 in cash. In addition, Pope unitholders that elected to receive the Cash Election Consideration could designate whether, in the event that the cash consideration was oversubscribed, each Pope Unit for which they have made a cash election was prorated into (a) Rayonier Shares and cash or (b) Opco Units and cash (the “Proration Election”).

The results of the elections made by Pope unitholders pursuant to the Merger Agreement and consideration to be received in connection with the merger to acquire Pope are as follows:

- **Cash Elections:** Approximately 79.1% of Pope Units converted into the merger consideration, or 3,362,593 Pope Units, elected to receive the Cash Election Consideration. Therefore, cash elections were oversubscribed and were subject to the proration procedures set forth in the Merger Agreement and described above. As a result of such proration, each Pope Unit for which a valid cash election was made was converted into the right to receive \$47.42 in cash and 2.439 Rayonier Shares or Opco Units (depending on the Proration Election of its holder).
- **Stock Elections:** Approximately 1.8% of Pope Units converted into the merger consideration, or 76,090 Pope Units, elected to receive the Stock Election Consideration. Pope unitholders who elected to receive the Stock Election Consideration with respect to their Pope Units will receive

3.929 Rayonier Shares for each Pope Unit so elected. In addition, approximately 8.4% of Pope Units converted into the merger consideration, or 359,953 Pope Units, did not submit a valid election by the election deadline. Per the Merger Agreement, all of such Pope Units will be treated as having made the Stock Election and, upon completion by its holder of a letter of transmittal to be mailed by Rayonier's exchange agent, receive 3.929 Rayonier Shares for each such Pope Unit.

- **Opco Elections:** Approximately 10.7% of Pope Units converted into the merger consideration, or 453,600 Pope Units, elected to receive the Opco Election Consideration. Pope unitholders who elected to receive the Opco Election Consideration with respect to their Pope Units will receive 3.929 Opco Units for each Pope Unit so elected.

Based on these elections, Rayonier expects approximately 7,141,264 Rayonier Shares, 4,556,638 Opco Units and \$159,458,868 in cash will be issued in connection with the merger to acquire Pope. In addition, pursuant to the Merger Agreement, Rayonier will pay an aggregate of \$10 million in cash to the holders of shares of MGP common stock and EGP common stock outstanding immediately prior to the effective time of the merger to acquire the general partners of Pope.

In addition, at the closing, subject to certain exceptions, each outstanding restricted Pope Unit (Pope Restricted Unit) under Pope's equity compensation plans (the "Pope Equity Plans") was converted into restricted Rayonier Shares on substantially the same terms and conditions as were applicable to the Pope Restricted Units prior to the closing, with the number of Rayonier Shares subject to each such Pope award equal to the number of Pope Units subject to the applicable Pope Restricted Unit award immediately prior to the closing multiplied by 3.929. At the closing, Rayonier also assumed all of Pope's obligations under the Pope Equity Plans, except that the number of units available for issuance under the Pope Equity Plans were adjusted to reflect Rayonier Shares.

The foregoing description of the Merger Agreement and the transactions contemplated thereby is not complete and is subject to and qualified in its entirety by reference to the Merger Agreement, a copy of which was filed as Exhibit 2.1 to Rayonier's Current Report on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on January 15, 2020, and Amendment No. 1 thereto, a copy of which was filed as Exhibit 2.1 to Rayonier's Current Report on Form 8-K filed with the SEC on April 2, 2020, each which is incorporated herein by reference.

**ITEM 2.03.           Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information provided in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

**ITEM 3.03.           Material Modification to Rights of Security Holders.**

In connection with the closing of the transactions contemplated by the Merger Agreement, on May 8, 2020, Opco amended and restated its limited partnership agreement (as so amended, the "Amended Limited Partnership Agreement"). The Amended Limited Partnership Agreement provides, among other things, that the Opco Units can be redeemed by its holder for cash based on the market price of Rayonier Shares or, at Rayonier's option, exchanged for Rayonier Shares on a 1:1 basis following a 60-day notice period. If a holder of Opco Units desires to redeem its Opco Units, such holder is required to submit for redemption at least 1,000 Opco Units or, if such holder owns fewer than 1,000 Opco units, all the Opco Units owned by such holder.

In addition, under the Amended Limited Partnership Agreement, all management powers over the business and affairs of Opco are exclusively vested in Rayonier, as Opco's general partner, including the ability to make any expenditures or borrow money, the acquisition or disposition of assets, the management of any property, the execution and performance of contracts and the issuance of additional Opco Units.

The definitive proxy statement/prospectus, dated April 6, 2020, of Pope that forms part of the registration statement on Form S-4 (File No. 333-237246) filed with the SEC by Rayonier and Opco contains additional information about the rights of holders of Opco Units under the Amended Limited Partnership Agreement under the heading "Description of Opco Units."

The foregoing description of the Amended Limited Partnership Agreement does not purport to be complete and is qualified in its entirety by the full text of the Amended Limited Partnership Agreement, which is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

The description of the Tax Protection Agreement under Item 1.01 of this Current Report on Form 8-K is incorporated into this Item 3.03 by reference.

**ITEM 5.03. Amendments to Articles of Incorporation or Bylaws.**

The information contained in Item 3.03 of this Current Report on Form 8-K is incorporated into this Item 5.03 by reference.

**ITEM 9.01.**

**Financial Statements and Exhibits.**

(a) Financial Statements of Businesses Acquired.

Rayonier and Opco intend to file the financial statements required by Item 9.01(a) under cover of a Form 8-K/A no later than 71 calendar days after the date this Current Report on Form 8-K was required to be filed.

(b) Pro Forma Financial Information.

Rayonier and Opco intend to file the pro forma financial information required by Item 9.01(b) under cover of a Form 8-K/A no later than 71 calendar days after the date this Current Report on Form 8-K was required to be filed.

(d) Exhibits.

**Exhibit No. . Exhibit Description**

2.1	<a href="#">Agreement and Plan of Merger, dated as of January 14, 2020, by and among Rayonier Inc., Rayonier Operating Company LLC, Pacific GP Merger Sub I, LLC, Pacific GP Merger Sub II, LLC, Pacific LP Merger Sub III, LLC, Pope Resources, a Delaware limited partnership, Pope MGP, Inc. and Pope EGP, Inc. (incorporated by reference to Exhibit 2.1 to Rayonier's Current Report on Form 8-K, filed January 15, 2020)</a>
2.2	<a href="#">Amendment No. 1, dated as of April 1, 2020, to the Agreement and Plan of Merger, by and among Rayonier Inc., Rayonier, L.P., Rayonier Operating Company LLC, Rayonier Operating Holdings LLC, Pacific GP Merger Sub I, LLC, Pacific GP Merger Sub II, LLC, Pacific LP Merger Sub III, LLC, Pope Resources, a Delaware limited partnership, Pope MGP, Inc. and Pope EGP, Inc. (incorporated by reference to Exhibit 2.1 to Rayonier's Current Report on Form 8-K filed April 2, 2020)</a>
3.1	<a href="#">Amended and Restated Agreement of Limited Partnership of Rayonier, L.P., dated as of May 8, 2020</a>
4.1	<a href="#">Third Supplemental Indenture relating to the 3.750% Senior Notes due 2022, dated as of May 7, 2020, by and among Rayonier Inc., the subsidiary guarantors party thereto, Rayonier, L.P. and The Bank of New York Mellon Trust Company, N.A., as trustee</a>
10.1	<a href="#">Tax Protection Agreement, dated as of May 8, 2020, by and among Rayonier Inc., Rayonier, L.P. and Pope Resources, A Delaware Limited Partnership*</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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\* Schedules and exhibits omitted pursuant to Item 601(b)(2) of Regulation S-K. Rayonier agrees to furnish a supplemental copy of any omitted schedule to the SEC upon request.



SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this Report to be signed on its behalf by the undersigned hereunto duly authorized.

RAYONIER INC.

BY: /s/ MARK R. BRIDWELL

Mark R. Bridwell

Vice President, General Counsel and Corporate Secretary

RAYONIER, L.P.

BY: /s/ MARK R. BRIDWELL

Mark R. Bridwell

Vice President, General Counsel and Corporate Secretary

May 13, 2020

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**AMENDED AND RESTATED  
AGREEMENT OF LIMITED PARTNERSHIP  
OF  
RAYONIER, L.P.**

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This AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF RAYONIER, L.P., dated as of May 8, 2020, is entered into by and among RAYONIER INC., a North Carolina corporation (the “General Partner”), and the Limited Partners (defined below).

WHEREAS, the General Partner and Rayonier Operating Company Holdings, LLC, a wholly owned subsidiary of the General Partner (the “Initial Limited Partner”), entered into a Limited Partnership Agreement of Rayonier, L.P., dated as of March 12, 2020 (the “Existing Agreement”);

WHEREAS, the General Partner, the Partnership, Pacific LP Merger Sub III, LLC, a Delaware limited liability company and an indirect wholly owned subsidiary of the Partnership (“Merger Sub 3”), Pope Resources, A Delaware Limited Partnership (“Pope Resources”), and certain of their respective Affiliates are parties to an Agreement and Plan of Merger, dated as of January 14, 2020, as amended by Amendment No. 1, dated as of April 1, 2020 (as it may be amended or supplemented, the “Merger Agreement”);

WHEREAS, the Merger Agreement contemplates that (i) Merger Sub 3 would merge with and into Pope Resources, with Pope Resources surviving the merger (the “Merger”); and (ii) in the Merger, the Partnership will issue units representing limited partnership interests (the “Opco Units”) to certain unitholders of Pope Resources, on the terms and subject to the conditions set forth in the Merger Agreement;

WHEREAS, on May 8, 2020, in connection with the Closing (as defined in the Merger Agreement) and as required by the Merger Agreement, the General Partner and the Initial Limited Partner desire to amend and restate the Existing Agreement in its entirety by entering into this Agreement (as hereinafter defined) to reflect, among other things, the issuance of the Opco Units to certain former unitholders of Pope Resources as contemplated by the Merger Agreement and the admission of such persons as Limited Partners; and

WHEREAS, for U.S. federal income tax purposes, from and after the Closing, the Partnership shall be treated as a continuation of Pope Resources tax partnership consistent with the principles of Regulations Section 1.708-1(a).

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## **ARTICLE I DEFINED TERMS**

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

“Act” means the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101 *et seq.*), as it may be amended from time to time, and any successor to such statute.

“Additional Funds” has the meaning set forth in Section 4.4(a).

“Additional Limited Partner” means a Person who is admitted to the Partnership as a Limited Partner pursuant to Section 4.3 and Section 12.2 and who is shown as such on the books and records of the Partnership.

“Adjusted Capital Account” means the Capital Account maintained for each Partner as of the end of each Fiscal Year (i) increased by any amounts which such Partner is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (ii) decreased by the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

“Adjusted Capital Account Deficit” means, with respect to any Partner, the deficit balance, if any, in such Partner’s Adjusted Capital Account as of the end of the relevant Partnership Year or other applicable period.

“Adjustment Event” shall have the meaning set forth in Section 4.6(a).

“Adjustment Factor” means 1.0; provided, however, that in the event that:

(i) the General Partner (a) declares or pays a dividend on its outstanding REIT Shares wholly or partly in REIT Shares or makes a distribution to all holders of its outstanding REIT Shares wholly or partly in REIT Shares, (b) splits or subdivides its outstanding REIT Shares or (c) effects a reverse stock split or otherwise combines its outstanding REIT Shares into a smaller number of REIT Shares, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (1) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (2) the denominator of which shall be the actual number of REIT Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;

(ii) the General Partner distributes any rights, options or warrants to all holders of its REIT Shares to subscribe for or to purchase or to otherwise acquire REIT Shares (or other securities or rights convertible into, exchangeable for or exercisable for REIT Shares) at a price per share less than the Value of a REIT Share on the record date for such distribution (each a “Distributed Right”), then, as of the distribution date of such Distributed Rights, or, if later, the time such Distributed Rights become exercisable, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus the maximum number of REIT Shares purchasable under such Distributed Rights and (b) the denominator of which shall be the number of REIT Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus a fraction (1) the numerator of which is the maximum number of REIT Shares purchasable under such Distributed Rights times the minimum purchase price per

REIT Share under such Distributed Rights and (2) the denominator of which is the Value of a REIT Share as of the record date (or, if later, the date such Distributed Rights become exercisable); provided, however, that if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights, to reflect a reduced maximum number of REIT Shares or any change in the minimum purchase price for the purposes of the above fraction;

(iii) the General Partner shall, by dividend or otherwise, distribute to all holders of its REIT Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) or (ii) above), which evidences of indebtedness or assets relate to assets not received by the General Partner or its Subsidiaries pursuant to a *pro rata* distribution by the Partnership, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business on the date fixed for determination of stockholders of the General Partner entitled to receive such distribution by a fraction (a) the numerator of which shall be such Value of a REIT Share on the date fixed for such determination and (b) the denominator of which shall be the Value of a REIT Share on the dates fixed for such determination less the then fair market value (as determined by the REIT, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one REIT Share; and

(iv) an entity other than an Affiliate of the General Partner shall become General Partner pursuant to any merger, consolidation or combination of the General Partner with or into another entity (the "Successor Entity"), the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor by the number of shares of the Successor Entity into which one REIT Share is converted pursuant to such merger, consolidation or combination, determined as of the date of such merger, consolidation or combination.

Any adjustments to the Adjustment Factor shall become effective immediately after the effective date of such event, retroactive to the record date, if any, for such event. Notwithstanding the foregoing, the Adjustment Factor shall not be adjusted in connection with an event described in clauses (i) or (ii) above if, in connection with such event, the Partnership makes a distribution of cash, Partnership Units, REIT Shares and/or rights, options or warrants to acquire Partnership Units and/or REIT Shares with respect to all applicable OP Units (including LTIP Units) or effects a reverse split of, or otherwise combines, the OP Units (including LTIP Units), as applicable, that is comparable as a whole in all material respects with such an event, or if in connection with an event described in clause (iv) above, the consideration payable to holders of OP Units in connection with such event as contemplated by Section 11.2(b) is paid.

"Affiliate" means, with respect to any Person, (i) any Person directly or indirectly controlling or controlled by or under common control with such Person, (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting interests of such Person, (iii) any Person of which such Person owns or controls ten percent (10%) or more of the voting interests or (iv) any officer, director, general partner or trustee of such Person or any Person referred to in clauses (i), (ii), and (iii) above. For the purposes of this definition, "control" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of

voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Agreement” means this Amended and Restated Agreement of Limited Partnership of Rayonier, L.P., as it may be amended or supplemented from time to time.

“Assignee” means a Person to whom one or more Partnership Units have been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Limited Partner, and who has the rights set forth in Section 11.5.

“Available Cash” means, with respect to any period for which such calculation is being made, the amount of cash available for distribution by the Partnership as determined by the General Partner in its sole and absolute discretion (it being understood that the General Partner may determine, in its sole and absolute discretion, that the amount of cash available for distribution for such period shall be less than the amount of cash held by the Partnership and/or that there shall be no amount of cash available for distribution for such period, even if the Partnership shall have cash on hand that could be distributed).

“Board of Directors” means the board of directors of the General Partner.

“Book-Up Target” has the meaning set forth in Section 6.3(c)(ii).

“Business Day” means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York or Jacksonville, Florida are authorized or required by law to close.

“Bylaws” means the Bylaws of the General Partner, as amended, supplemented or restated from time to time.

“Capital Account” means, with respect to any Partner, the Capital Account maintained by the General Partner for such Partner on the Partnership’s books and records in accordance with the following provisions:

(A) To each Partner’s Capital Account, there shall be added such Partner’s Capital Contributions, such Partner’s distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to Section 6.3, and the principal amount of any Partnership liabilities assumed by such Partner or that are secured by any property distributed to such Partner.

(B) From each Partner’s Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement, such Partner’s distributive share of Net Losses and any items in the nature of expenses or losses that are specially allocated pursuant to Section 6.3, and the principal amount of any liabilities of such Partner assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.



(C) In the event any interest in the Partnership is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

(D) In determining the principal amount of any liability for purposes of subsections (A) and (B) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

(E) The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Regulations. If the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the General Partner may make such modification; provided, that such modification will not have a material effect on the amounts distributable to any Partner without such Partner's Consent. The General Partner may, in its sole and absolute discretion, (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b) or Section 1.704-2.

"Capital Account Limitation" has the meaning set forth in Section 4.7(b).

"Capital Contribution" means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any Contributed Property that such Partner contributes to the Partnership or is deemed to contribute to the Partnership pursuant to Section 4.4.

"Cash Amount" means, with respect to a Tendering Partner, an amount of cash equal to the product of (A) the Value of a REIT Share and (B) such Tendering Partner's REIT Shares Amount determined as of the Specified Redemption Date.

"Charity" means an entity described in Code Section 501(c)(3) or any trust all the beneficiaries of which are such entities.

"Charter" means the Articles of Incorporation of the General Partner as filed with the Secretary of State of the State of North Carolina, as amended, supplemented or restated from time to time.

"Closing Price" has the meaning set forth in the definition of "Value."

"Code" means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"Consent" means the consent to, approval of, or vote in favor of a proposed action by a Partner given in accordance with Article XIV hereof.

“Constituent Person” shall have the meaning set forth in Section 4.7(f).

“Contributed Entity” has the meaning set forth in the definition of “Indemnitee.”

“Contributed Property” means each item of Property or other asset (including Property or other assets deemed contributed by Rayonier and its subsidiaries to the Partnership for U.S. federal income tax purposes as part of the transactions contemplated by the Merger Agreement and the continuation of Pope Resources tax partnership consistent with the principles of Regulations Section 1.708-1(a)), in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Partnership, net of any liabilities assumed by the Partnership relating to such Contributed Property and any liability to which such Contributed Property is subject.

“Controlled Entity” means, as to any Partner, (a) any corporation more than twenty-five percent (25%) of the outstanding voting stock of which is owned by such Partner and such Partner’s Family Members and Affiliates, (b) any trust, whether or not revocable, of which such Partner and such Partner’s Family Members and Affiliates are the sole initial income beneficiaries, (c) any partnership of which such Partner or such Partner’s Family Members and Affiliates are the managing partners and in which such Partner, such Partner’s Family Members and Affiliates hold partnership interests representing at least twenty-five percent (25%) of such partnership’s capital and profits and (d) any limited liability company of which such Partner or such Partner’s Family Members and Affiliates are the managers and in which such Partner, such Partner’s Family Members and Affiliates hold membership interests representing at least twenty-five percent (25%) of such limited liability company’s capital and profits.

“Conversion Date” shall have the meaning set forth in Section 4.7(b).

“Conversion Notice” shall have the meaning set forth in Section 4.7(b).

“Conversion Right” shall have the meaning set forth in Section 4.7(a).

“Covered Audit Adjustment” means an adjustment to any partnership-related item (within the meaning of Section 6241(2) (B) of the Code) to the extent such adjustment results in an “imputed underpayment” as described in Section 6225(b) of the Code or any analogous provision of state or local law.

“Debt” means, as to any Person, as of any date of determination, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person’s interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

“Depreciation” means, for each Partnership Year or other applicable period, an amount equal to the U.S. federal income tax depreciation, amortization or other cost recovery deduction

allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for U.S. federal income tax purposes at the beginning of such year or period, Depreciation shall be in an amount that bears the same ratio to such beginning Gross Asset Value as the U.S. federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the U.S. federal income tax depreciation, amortization or other cost recovery deduction for such year or period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

“Directors” means the directors of the General Partner.

“Distributed Right” has the meaning set forth in the definition of “Adjustment Factor.”

“Economic Capital Account Balances” has the meaning set forth in Section 6.3(c).

“Equity Incentive Plan” means any equity incentive plan adopted by the Partnership or the General Partner.

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

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Existing Agreement” has the meaning set forth in the Recitals.

“Family Member” means, as to a Person that is an individual, such Person’s spouse, ancestors (whether by blood or by adoption or step-ancestors by marriage), descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and descendants (whether by blood or by adoption or step-descendants by marriage) of a brother or sister and any limited liability company or *inter vivos* or testamentary trusts (whether revocable or irrevocable) of which only such Person, his or her spouse, ancestors (whether by blood or by adoption or step-ancestors by marriage), descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law and descendants (whether by blood or by adoption or step-descendants by marriage) of a brother or sister are initial income beneficiaries.

“Flow-Through Entity” has the meaning set forth in Section 3.4(a)(iv).

“Flow-Through Partner” has the meaning set forth in Section 3.4(a)(iv).

“Forced Redemption” shall have the meaning set forth in Section 4.7(c).

“Forced Redemption Notice” shall have the meaning set forth in Section 4.7(c).

“Funding Debt” means the incurrence of any Debt for the purpose of providing funds to the Partnership by or on behalf of the General Partner or any wholly owned subsidiary of the General Partner.

“General Partner” has the meaning set forth in the Preamble.

“General Partner Employee” means any employee of the General Partner, the Partnership, and any of their respective Subsidiaries.

“General Partner Interest” means the Partnership Interest held by the General Partner, which Partnership Interest is an interest as a general partner under the Act. A General Partner Interest may be expressed as a number of Partnership Units.

“General Partner Loan” has the meaning set forth in Section 4.4(d).

“Governmental Entity” means any federal, state, county, city, local or foreign governmental, administrative or regulatory authority, commission, committee, agency or body (including any court, tribunal or arbitral body).

“Gross Asset Value” means, with respect to any asset, the asset’s adjusted basis for U.S. federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset as determined by the General Partner in its sole and absolute discretion.

(b) The Gross Asset Values of all Partnership assets immediately prior to the occurrence of any event described in clause (i), clause (ii), clause (iii), clause (iv) or clause (v) hereof shall be adjusted to equal their respective gross fair market values, as determined by the General Partner in its sole and absolute discretion using such reasonable method of valuation as it may adopt, as of the following times: (i) the acquisition of an additional interest in the Partnership (including, without limitation, acquisitions pursuant to Section 4.3 or contributions or deemed contributions by the General Partner pursuant to Section 4.4) by a new or existing Partner in exchange for more than a *de minimis* Capital Contribution; (ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Property as consideration for an interest in the Partnership, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership; (iii) the grant of an interest in the Partnership (other than a *de minimis* interest) as consideration for the provision of services to or for the benefit of the Partnership by an existing Partner acting in a Partner capacity, or by a new Partner acting in a Partner capacity or in anticipation of become a Partner, (iv) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and (v) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2; provided, however, that the adjustments pursuant to clause (i), clause (ii), clause (iii), clause (iv) or clause (v) hereof shall be made only if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership.

(c) The Gross Asset Value of any Partnership asset distributed to a Partner shall be the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner; provided, however, that, if the distributee is the General Partner or if the distributee and the General Partner cannot agree on such a determination, such gross fair market value shall be determined by an independent third party experienced in the valuation of similar assets, selected by the General Partner in good faith.

(d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the General Partner reasonably determines that an adjustment pursuant to subsection (b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).

(e) If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to subsection (a), subsection (b) or subsection (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

“Holder” means either (a) a Partner or (b) an Assignee, owning a Partnership Unit, that is treated as a partner of the Partnership for U.S. federal income tax purposes.

“Imputed Underpayment Modification” means any modification under Section 6225(c) of the Code (or any analogous provision of state or local law) to the extent that such modification is available and would reduce any Partnership Level Taxes attributable to a Covered Audit Adjustment.

“Incapacity” or “Incapacitated” means, (i) as to any Partner who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Partner incompetent to manage his or her person or his or her estate; (ii) as to any Partner that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent, or the revocation of the corporation’s charter; (iii) as to any Partner that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Partner that is an estate, the distribution by the fiduciary of the estate’s entire interest in the Partnership; (v) as to any trustee of a trust that is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Partner is adjudged as bankrupt or insolvent, or a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Partner, (c) the Partner executes and delivers a general assignment for the benefit of the Partner’s creditors, (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above, (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee,

receiver or liquidator for the Partner or for all or any substantial part of the Partner's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within 120 days after the commencement thereof, (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within ninety (90) days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within ninety (90) days after the expiration of any such stay.

"Indemnitee" means (i) any Person made a party to a proceeding by reason of its status as (A) the General Partner or any successor thereto or (B) an officer or director or controlling Person, as applicable, of the Partnership, the General Partner or a Subsidiary thereof (including by reason of being named a Person who is about to become a director) and (ii) such other Persons (including Affiliates of the General Partner or the Partnership) as the General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"Initial Limited Partner" has the meaning set forth in the Recitals.

"IRS" means the Internal Revenue Service.

"Junior Share" means a share of capital stock of the General Partner now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the REIT Shares.

"Junior Unit" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Sections 4.1, 4.3 or 4.4 that has distribution rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the OP Units.

"Limited Partner" means any Person named as a Limited Partner in the books and records of the Partnership or the Transfer Agent (including each Person acquiring OP Units in connection with the Merger), or any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a Limited Partner in the Partnership.

"Limited Partner Interest" means a Partnership Interest of a Limited Partner in the Partnership representing a fractional part of the Partnership Interests of all Limited Partners. A Limited Partner Interest may be expressed as a number of Partnership Units.

"Liquidating Event" has the meaning set forth in Section 13.1.

"Liquidating Gains" has the meaning set forth in Section 6.3(c).

"Liquidating Loss" has the meaning set forth in Section 6.3(c)(iii).

"Liquidator" has the meaning set forth in Section 13.2(a).

"LTIP Award" means each or any, as the context requires, LTIP Award issued under any Equity Incentive Plan.

“LTIP Unit” means a Partnership Unit which is designated as an LTIP Unit and which has the rights, preferences and other privileges and restrictions, qualifications, and limitations set forth in Section 4.6 (except as may be varied by the designations applicable to any particular class or series of LTIP Units) and elsewhere in this Agreement (including any exhibit hereto creating any new class or series of LTIP Units) or in the Equity Incentive Plan or the award, vesting, or other agreement pursuant to which an LTIP Unit is granted to the holder thereof. The allocation of LTIP Units among the Partners shall be set forth in the books and records of the Partnership or the Transfer Agent, as such books and records may be amended from time to time.

“LTIP Unitholder” means a Partner that holds LTIP Units.

“Majority in Interest of the Outside Limited Partners” means Outside Limited Partners holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all such Limited Partners of all classes (taken collectively) who are not excluded for the purpose of granting Consent to the applicable action.

“Market Price” has the meaning set forth in the definition of “Value.”

“Merger” has the meaning set forth in the Recitals.

“Merger Agreement” has the meaning set forth in the Recitals.

“Merger Sub 3” has the meaning set forth in the Recitals.

“National Securities Exchange” means an exchange registered with the SEC under Section 6(a) of the Exchange Act or any other exchange (domestic or foreign, and whether or not so registered) designated by the General Partner as a National Securities Exchange.

“Net Income” or “Net Loss” means, for each Partnership Year of the Partnership, an amount equal to the Partnership’s taxable income or loss for such year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Partnership that is exempt from U.S. federal income tax, and to the extent not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of “Net Income” or “Net Loss,” shall be added to (or subtracted from, as the case may be) such taxable income (or loss);

(b) Any expenditure of the Partnership described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of “Net Income” or “Net Loss,” shall be subtracted from (or added to, as the case may be) such taxable income (or loss);

(c) In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) or subsection (c) of the definition of “Gross Asset Value,” the amount of

such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(d) 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 Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Partnership Year, computed in accordance with the definition of “Depreciation”;

(f) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner’s interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and

(g) Notwithstanding any other provision of this definition of “Net Income” or “Net Loss,” any item that is specially allocated pursuant to Section 6.3 shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Partnership income, gain, loss or deduction available to be specially allocated pursuant to Section 6.3 shall be determined by applying rules analogous to those set forth in this definition of “Net Income” or “Net Loss.”

“New Securities” means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase REIT Shares, Preferred Shares or Junior Shares, except that “New Securities” shall not mean any Preferred Shares, Junior Shares or grants under the Equity Incentive Plans or (ii) any Debt issued by the General Partner that provides any of the rights described in clause (i).

“Nonrecourse Deductions” has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

“Nonrecourse Liability” has the meaning set forth in Regulations Section 1.752-1(a)(2).

“Notice of Redemption” means the Notice of Redemption substantially in the form of Exhibit A attached to this Agreement.

“OP Unit” means a fractional share of the Partnership Interests of all Partners that is designated as a Partnership Unit and issued pursuant to Sections 4.1 and 4.2, but does not include



any LTIP Unit, Preferred Unit, Junior Unit or any other Partnership Unit specified in a Partnership Unit Designation as being other than an OP Unit; provided, however, that the General Partner Interest and the Limited Partner Interests shall have the differences in rights and privileges as specified in this Agreement.

“OP Unit Economic Balance” has the meaning set forth in Section 6.3(c).

“Outside Interest” has the meaning set forth in Section 5.2.

“Outside Limited Partners” means the Limited Partners, excluding (i) the General Partner or its Subsidiaries to the extent such Persons hold Limited Partnership Interests, (ii) any Person of which the General Partner or its Subsidiaries directly or indirectly owns or controls more than fifty percent (50%) of the voting interests and (iii) any Person directly or indirectly owning or controlling more than fifty percent (50%) of the outstanding interests of the General Partner.

“Pope Resources” has the meaning set forth in the Recitals.

“Partner” means the General Partner or a Limited Partner, and “Partners” means the General Partner and the Limited Partners.

“Partner Minimum Gain” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

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

“Partner Nonrecourse Deductions” has the meaning set forth in Regulations Section 1.704-2(i)(2), and the amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

“Partnership” means the limited partnership formed under the Act and pursuant to this Agreement, and any successor thereto.

“Partnership Interest” means an ownership interest in the Partnership held by either a Limited Partner or the General Partner and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. There may be one or more classes or series of Partnership Interests. A Partnership Interest may be expressed as a number of OP Units, LTIP Units, Preferred Units, Junior Units or other Partnership Units.

“Partnership Level Taxes” means any federal, state, or local taxes, additions to tax, penalties, and interest payable by the Partnership as a result of a Tax Audit under the Partnership Tax Audit Rules.

“Partnership Minimum Gain” has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in Partnership Minimum Gain, for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

“Partnership Record Date” means the record date established by the General Partner in its sole and absolute discretion (a) for determining the Partners entitled to notice of or to vote at any meeting of Partners or to Consent to any matter or (b) for the distribution of Available Cash pursuant to Section 5.1, which record date in the case of this clause (b) shall generally be the same as the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution.

“Partnership Tax Audit Rules” means Sections 6221 through 6241 of the Code, as amended, together with any final or temporary Treasury Regulations, Revenue Rulings, and case law interpreting Sections 6221 through 6241 of the Code, as amended (and any analogous provision of state or local tax law), as in effect following the enactment of the Bipartisan Budget Act of 2015.

“Partnership Unit” shall mean an OP Unit, an LTIP Unit, a Preferred Unit, a Junior Unit or any other fractional share of the Partnership Interests that the General Partner has authorized pursuant to Sections 4.1, 4.2, 4.3 or 4.4.

“Partnership Unit Designation” has the meaning set forth in Section 4.3.

“Partnership Unit Distribution” shall have the meaning set forth in Section 4.6(a).

“Partnership Year” means the fiscal year of the Partnership and the Partnership’s taxable year for U.S. federal income tax purposes.

“Percentage Interest” means, (i) as to any holder of OP Units (subject to Section 4.6(a)) and/or LTIP Units, the quotient obtained by dividing the number of OP Units and LTIP Units owned by such Partner as shown in the books and records of the Partnership or the Transfer Agent by the total number of OP Units and LTIP Units then outstanding as specified in the books and records of the Partnership or the Transfer Agent, as such books and records may be amended from time to time. If the Partnership issues additional classes or series of Partnership Interests other than as contemplated herein, the interest in the Partnership among the classes or series of Partnership Interests shall be determined as set forth in the amendment to the Partnership Agreement setting forth the rights and privileges of such additional classes or series of Partnership Interest, if any, as contemplated by Section 4.3(a).

“Person” means an individual or a corporation, partnership (general or limited), trust, estate, custodian, nominee, unincorporated organization, association, limited liability company or any other individual or entity in its own or any representative capacity.

“Preferred Share” means a share of capital stock of the General Partner now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior in rank to the REIT Shares.

“Preferred Unit” means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Sections 4.1, 4.3 or 4.4 that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior in rank to the OP Units.

“Properties” means any assets and property, including, without limitation, timberland and related property, of the Partnership such as, but not limited to, interests in real property and personal property, including, without limitation, fee interests, interests in ground leases, interests in leases other than ground leases, interests in Debt instruments, interests in mortgages, interests in securities, easements and rights of way, and interests in limited liability companies, corporations, joint ventures, partnerships or other entities as the Partnership may hold from time to time and “Property” shall mean any one such asset or property.

“Publicly Traded” means listed or admitted to trading on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Stock Market or another National Securities Exchange or any successor to the foregoing.

“Push-Out Election” means the election to apply the alternative method provided by Section 6226 of the Code (or any analogous provision of state or local tax law).

“Qualified Assets” means any of the following assets: (i) interests, rights, options, warrants or convertible or exchangeable securities of the Partnership; (ii) Debt issued by the Partnership or any Subsidiary thereof in connection with the incurrence of Funding Debt; (iii) equity interests in Qualified REIT Subsidiaries and limited liability companies (or other entities disregarded from their sole owner for U.S. federal income tax purposes, including wholly owned grantor trusts) whose assets consist solely of Qualified Assets; (iv) up to a one percent (1%) equity interest in any partnership or limited liability company at least ninety-nine percent (99%) of the equity of which is owned, directly or indirectly, by the Partnership; (v) cash held for payment of administrative expenses or pending distribution to security holders of the General Partner or any wholly owned Subsidiary thereof or pending contribution to the Partnership; and (vi) other tangible and intangible assets that, taken as a whole, are *de minimis* in relation to the net assets of the Partnership and its Subsidiaries.

“Qualified REIT Subsidiary” means any Subsidiary of the General Partner that is a “qualified REIT subsidiary” within the meaning of Code Section 856(i).

“Qualified Transferee” means an “Accredited Investor” as defined in Rule 501 promulgated under the Securities Act.

“Redemption” has the meaning set forth in Section 8.6(a).

“Regulations” means the applicable income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Regulatory Allocations” has the meaning set forth in Section 6.3(a)(vii).

“REIT” means a real estate investment trust qualifying under Code Section 856.

“REIT Payment” has the meaning set forth in Section 15.11.

“REIT Requirements” has the meaning set forth in Section 5.1.

“REIT Share” means one share of the common stock of the General Partner (or Successor Entity, as the case may be). Where relevant in this Agreement, “REIT Share” includes shares of the General Partner’s common stock (or Successor Entity, as the case may be) issued upon conversion of Preferred Shares or Junior Shares.

“REIT Shares Amount” means a number of REIT Shares equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor in effect on the Specified Redemption Date with respect to such Tendered Units; provided, however, that in the event that the General Partner issues to all holders of REIT Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling the General Partner’s stockholders to subscribe for or purchase REIT Shares, or any other securities or property (collectively, the “Rights”), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the REIT Shares Amount shall also include such Rights that a holder of that number of REIT Shares would be entitled to receive, expressed, where relevant hereunder, in a number of REIT Shares determined by the General Partner in good faith.

“Rights” has the meaning set forth in the definition of “REIT Shares Amount.”

“Safe Harbor” has the meaning set forth in Section 10.2(b).

“Safe Harbor Election” has the meaning set forth in Section 10.2(b).

“Safe Harbor Interests” has the meaning set forth in Section 10.2(b).

“SEC” means the U.S. Securities and Exchange Commission.

“Securities Act” means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Services Agreement” means any brokerage, management, construction, development or advisory agreement with a property and/or asset manager for the provision of brokerage, property management, asset management, leasing, construction, development and/or similar services with respect to the Properties and any agreement for the provision of services of accountants, legal counsel, appraisers, insurers, brokers, transfer agents, registrars, developers, financial advisors and other professional services.

“Specified Redemption Date” means, with respect to a Notice of Redemption, the date that is the 60th calendar day (or if such date is not a Business Day, the immediately subsequent Business Day) following receipt by the General Partner of such Notice of Redemption.

“Subsidiary” means, with respect to any Person, any other Person (which is not an individual) of which a majority of (a) at least 50% of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions, (b) a general partner interest or (c) a managing member interest, is directly or indirectly owned or controlled by the subject Person or by one or more of its respective Subsidiaries.

“Subsidiary Partnership” means any partnership or limited liability company in which the General Partner, the Partnership, or a wholly owned Subsidiary of the General Partner or the Partnership owns a partnership or limited liability company interest

“Substituted Limited Partner” means a Person who is admitted as a Limited Partner to the Partnership pursuant to Section 11.4.

“Successor Entity” has the meaning set forth in the definition of “Adjustment Factor.”

“Target Balance” has the meaning set forth in Section 6.3(c).

“Tax Audit” means any action, suit, audit or claim made by any governmental authority in respect of any Tax matter of the Partnership.

“Tax Items” has the meaning set forth in Section 6.4(a).

“Tax Matters Representative” has the meaning set forth in Section 10.3(a).

“Tendered Units” has the meaning set forth in Section 8.6(a).

“Tendering Partner” has the meaning set forth in Section 8.6(a).

“Terminating Capital Transaction” means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership.

“Termination Transaction” has the meaning set forth in Section 11.2(b).

“Transaction” shall have the meaning set forth in Section 4.7(f).

“Transfer,” when used with respect to a Partnership Unit, or all or any portion of a Partnership Interest, means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary or involuntary or by operation of law; provided, however, that when the term is used in Article XI, “Transfer” does not include (a) any Redemption of Partnership Units by the Partnership or the General Partner, or acquisition of Tendered Units by the General

Partner, pursuant to Section 8.6 or (b) any redemption of Partnership Units pursuant to any Partnership Unit Designation. The terms “Transferred” and “Transferring” have correlative meanings.

“Transfer Agent” means, with respect to any Partnership Units, such bank, trust company or other Person (including the Partnership or one of its Affiliates) as shall be appointed from time to time by the General Partner to act as registrar and transfer agent for such Partnership Units; provided, that if no Transfer Agent is specifically designated by the General Partner for such Partnership Units, the General Partner shall act in such capacity.

“TRS” means a taxable REIT subsidiary (as defined in Section 856(l) of the Code) of the General Partner.

“Unvested LTIP Units” has the meaning set forth in Section 4.6(c)(i).

“U.S. GAAP” means U.S. generally accepted accounting principles consistently applied.

“Value” means, on any date of determination with respect to a REIT Share, the average of the daily Market Prices for ten consecutive trading days immediately preceding the date of determination except that, as provided in Section 4.5(b), the Market Price for the trading day immediately preceding the date of exercise of a stock option under any Equity Incentive Plan shall be substituted for such average of daily market prices for purposes of Section 4.5; provided, however, that for purposes of Section 8.6, the “date of determination” shall be the date of receipt by the General Partner of a Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day. The term “Market Price” on any date shall mean, with respect to any class or series of outstanding REIT Shares, the Closing Price for such REIT Shares on such date. The “Closing Price” on any date shall mean: (i) if the REIT Shares are listed or admitted to trading on any National Securities Exchange, the closing price, regular way, on such day as reported by such National Securities Exchange, or if no such sale takes place on such day, the average of the closing bid and asked prices on such day; (ii) if the REIT Shares are not listed or admitted to trading on any National Securities Exchange, the last reported sale price on such day or, if no sale takes place on such day, the average of the closing bid and asked prices on such day, as reported by a reliable quotation source designated by the General Partner; (iii) if the REIT Shares are not listed or admitted to trading on any National Securities Exchange and no such last reported sale price or closing bid and asked prices are available, the average of the reported high bid and low asked prices on such day, as reported by a reliable quotation source designated by the General Partner, or if there shall be no bid and asked prices on such day, the average of the high bid and low asked prices, as so reported, on the most recent day (not more than ten (10) days prior to the date in question) for which prices have been so reported; or (iv) if none of the conditions set forth in clauses (i), (ii), or (iii) is met then, unless the holder of the REIT Shares or OP Units and the General Partner otherwise agree, with respect to a REIT Share per OP Unit offered for redemption, the amount that a Holder of one OP Unit would receive if each of the assets of the Partnership were sold for its fair market value on the Specified Redemption Date, the Partnership were to pay all of its outstanding liabilities, and the remaining proceeds were to be distributed to the Partners in accordance with the terms of this Agreement.

In the event that the REIT Shares Amount includes Rights that a holder of REIT Shares would be entitled to receive, then the Value of such Rights shall be determined by the General Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

“Vested LTIP Units” has the meaning set forth in Section 4.6(c)(i).

“Vesting Agreement” means each or any, as the context implies, award agreement entered into by an LTIP Unitholder upon acceptance of an award of LTIP Units under an Equity Incentive Plan.

## **ARTICLE II ORGANIZATIONAL MATTERS**

Section 2.1. Organization. The Partnership is a limited partnership organized pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.2. Name. The name of the Partnership is “Rayonier, L.P.” The Partnership’s business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words “Limited Partnership,” “LP,” “L.P.,” “Ltd.” or similar words or letters shall be included in the Partnership’s name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may change the name of the Partnership at any time and from time to time and shall notify the Limited Partners of such change in the next regular communication to the Limited Partners.

Section 2.3. Registered Office and Agent; Principal Office. The address of the registered office of the Partnership in the State of Delaware is located at 1209 Orange Street, Wilmington, Delaware 19801, and the registered agent for service of process on the Partnership in the State of Delaware at such registered office is The Corporation Trust Company. The principal office of the Partnership is located at 1 Rayonier Way, Wildlight, Florida 32097 or such other place as the General Partner may from time to time designate by notice to the Limited Partners. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the General Partner deems advisable.

Section 2.4. Power of Attorney.

(a) By executing this Agreement, each Limited Partner and each Assignee irrevocably constitutes and appoints the General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(i) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate of Limited Partnership and all amendments, supplements or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and in all other jurisdictions in which the Partnership may conduct business or own property; (b) all instruments that the General Partner or the Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Partnership pursuant to the terms of this Agreement; (e) all instruments relating to the admission, withdrawal, removal or substitution of any Partner pursuant to, or other events described in, Article XI, Article XII or Article XIII or the Capital Contribution of any Partner in accordance with the terms of this Agreement; and (f) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges relating to Partnership Interests; and

(ii) execute, swear to, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Partners hereunder or is consistent with the terms of this Agreement or appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to effectuate the terms or intent of this Agreement.

Nothing contained herein shall be construed as authorizing the General Partner or the Liquidator to amend this Agreement except in accordance with Article XIV or as may be otherwise expressly provided for in this Agreement.

(b) The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Limited Partners and Assignees will be relying upon the power of the General Partner or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the Transfer of all or any portion of such Limited Partner's or Assignee's Partnership Units or Partnership Interest and shall extend to such Limited Partner's or Assignee's heirs, successors, assigns and personal representatives. Each such Limited Partner or Assignee hereby agrees to be bound by any representation made by the General Partner or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Limited Partner or Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the General Partner or the Liquidator, taken in good faith under such power of attorney. Each Limited Partner or Assignee shall execute and deliver to the General Partner or the Liquidator, within



fifteen (15) days after receipt of the General Partner's or the Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator, as the case may be, deems necessary to effectuate this Agreement and the purposes of the Partnership. Notwithstanding anything else set forth in this Section 2.4(b), no Limited Partner shall incur any personal liability for any action of the General Partner or the Liquidator taken under such power of attorney.

Section 2.5. Term. Pursuant to Sections 17-201(b) and 17-801 of the Act, the term of the Partnership commenced on March 12, 2020 and shall continue perpetually, unless it is dissolved pursuant to the provisions of Article X or as otherwise provided by law.

Section 2.6. Partnership Interests as Securities. All Partnership Interests shall be securities within the meaning of, and governed by, (i) Article 8 of the Delaware Uniform Commercial Code and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction.

### ARTICLE III

#### PURPOSE

Section 3.1. Purpose and Business. The purpose and nature of the Partnership is to conduct any business, enterprise or activity permitted by or under the Act; provided, however, that, such business and arrangements and interests shall be limited to and conducted in such a manner as to permit the General Partner at all times to be classified as a REIT (and avoid any additional taxes under Code Section 857 or Code Section 4981 or any other related or successor provision of the Code) unless the General Partner, in its sole and absolute discretion, has chosen to cease to qualify as a REIT for any reason. Without limiting the General Partner's right in its sole and absolute discretion to cease qualifying as a REIT, the Partners acknowledge that the qualification of the General Partner as a REIT inures to the benefit of all Partners and not solely to the General Partner or its Affiliates. In connection with the foregoing purpose and business, the Partnership shall have full power and authority to enter into, perform and carry out contracts of any kind, to borrow and lend money and to issue and guarantee evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien and, directly or indirectly, to acquire additional Properties necessary, useful or desirable in connection with its business.

#### Section 3.2 Powers.

(a) The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership.

(b) The Partnership may contribute from time to time Partnership capital to one or more newly formed entities solely in exchange for equity interests therein (or in a wholly owned subsidiary entity thereof).

(c) Notwithstanding any other provision in this Agreement, but without limiting the rights of any Limited Partner pursuant to Section 8.6, the General Partner may cause the

Partnership not to take, or to refrain from taking, any action that, in the judgment of the General Partner (i) could adversely affect the ability of the General Partner to qualify or continue to qualify as a REIT or the Partnership to be taxed as a partnership for U.S. federal income tax purposes, (ii) could subject the General Partner to any additional taxes under Code Section 857 or Code Section 4981 or any other related or successor provision of the Code or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over the General Partner, its securities or the Partnership.

Section 3.3. Partnership Only for Partnership Purposes Specified. This Agreement shall not be deemed to create a company, venture or partnership between or among the Partners with respect to any activities whatsoever other than the activities within the purposes of the Partnership as specified in Section 3.1 hereof. Except as otherwise expressly provided in this Agreement, no Partner shall have any authority to act for, bind, commit or assume any obligation or responsibility on behalf of the Partnership, its properties or any other Partner. No Partner, in its capacity as a Partner under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Partner, and the Partnership shall not be responsible or liable for any indebtedness or obligation of any Partner, incurred either before or after the execution and delivery of this Agreement by such Partner, except as to those responsibilities, liabilities, indebtedness or obligations incurred pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.4. Representations and Warranties by the Parties.

(a) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) represents and warrants that this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms.

(b) Each Partner acquiring OP Units (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) represents, warrants and agrees that it has acquired and continues to hold its interest in the Partnership for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or distribution of all or any part thereof in violation of applicable laws, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances in violation of applicable laws. Each Partner acquiring OP Units further represents and warrants that it is a sophisticated investor, able and accustomed to handling sophisticated financial and tax matters for itself, particularly real estate investments, and that it has a sufficiently high net worth that it does not anticipate a need for the funds that it has invested in the Partnership in what it understands to be a highly speculative and illiquid investment. Notwithstanding the foregoing, this Section 3.4(b) shall not apply to any Limited Partner acquiring OP Units in connection with the Merger.

(c) The representations and warranties contained in Sections 3.4(a) and 3.4(b) shall survive the execution and delivery of this Agreement by each Partner (and, in the case of an Additional Limited Partner or a Substituted Limited Partner, the admission of such Additional

Limited Partner or Substituted Limited Partner as a Limited Partner in the Partnership) and the dissolution, liquidation and termination of the Partnership.

(d) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner) hereby acknowledges that no representations as to potential profit, cash flows, funds from operations or yield, if any, in respect of the Partnership or the General Partner have been made by the General Partner, any Partner or any employee or representative or Affiliate of the General Partner or any Partner, and that projections and any other information, including, without limitation, financial and descriptive information and documentation, that may have been in any manner submitted to such Partner shall not constitute any representation or warranty of any kind or nature, express or implied.

(e) Notwithstanding the foregoing, the General Partner may, in its sole and absolute discretion, permit the modification of any of the representations and warranties contained in Sections 3.4(a) and 3.4(b) as applicable to any Partner (including, without limitation any Additional Limited Partner or Substituted Limited Partner or any transferee of either), provided, that such representations and warranties, as modified, shall be set forth in either (i) a Partnership Unit Designation applicable to the Partnership Units held by such Partner or (ii) a separate writing addressed to the Partnership and the General Partner.

#### Section 3.5. Not Taxable as a Corporation

. It is intended that the Partnership be classified as a partnership for U.S. federal income tax purposes and not as a publicly traded partnership taxable as a corporation under Code Section 7704. The Partnership shall not file any election pursuant to Regulations Section 301.7701-3(c) to be treated as an entity other than a partnership for U.S. federal income tax purposes. The Partnership shall not elect, pursuant to Code Section 761(a), to be excluded from the provisions of subchapter K of the Code. To ensure that Partnership Interests are not traded on an established securities market within the meaning of Regulations Section 1.7704-1(b) or readily tradable on a secondary market or the substantial equivalent thereof within the meaning of Regulations Section 1.7704-1(c), notwithstanding anything to the contrary contained herein, (i) the Partnership shall not participate in the establishment of any market or the inclusion of its Partnership Interests thereon, and (ii) the Partnership shall not recognize any Transfer made on any market by: (A) redeeming the transferor Partner (in the case of a redemption or repurchase by the Partnership); or (B) admitting the transferee as a Partner or otherwise recognizing any rights of the transferee, such as a right of the transferee to receive Partnership distributions (directly or indirectly) or to acquire an interest in the capital or profits of the Partnership.

### ARTICLE IV CAPITAL CONTRIBUTIONS

#### Section 4.1. Capital Contributions of the Partners.

(a) Capital Contributions. Each Partner has made a Capital Contribution to the Partnership and owns Partnership Units in the amount and designation set forth for such Partner on the books and records of the Partnership or any Transfer Agent appointed by the General Partner

from time to time, as the same may be amended, or caused to be amended, from time to time by the General Partner to the extent necessary to reflect accurately sales, exchanges, conversions or other Transfers, redemptions, Capital Contributions, the issuance of additional Partnership Units or similar events having an effect on a Partner's ownership of Partnership Units. Except as provided by law or in Sections 4.4, 10.4 or 13.2(c), the Partners shall have no obligation or right to make any additional Capital Contributions or loans to the Partnership.

(b) General Partnership Interest. A number of OP Units held by the General Partner equal to one percent (1%) of all outstanding OP Units shall be deemed to be the General Partner Interest of the General Partner. All other Partnership Units, if any, held by the General Partner shall be deemed to be Limited Partner Interests and shall be held by the General Partner in its capacity as a Limited Partner in the Partnership.

Section 4.2. Classes and Series of Partnership Units. Until such time as additional classes or series of Partnership Units are created pursuant to Section 4.3(a), the Partnership shall have two classes of Partnership Units, entitled "OP Units" and "LTIP Units." Subject to Section 4.6, OP Units, LTIP Units or Partnership Units of any additional class or series, in each case at the election of the General Partner in its sole and absolute discretion, may be issued to newly admitted Partners in exchange for any Capital Contributions by such Partners and/or the provision of services by such Partners. Any Partnership Unit that is not specifically designated by the General Partner as being of a particular class or series shall be deemed to be an OP Unit.

#### Section 4.3. Issuances of Additional Partnership Interests.

(a) General. The General Partner is hereby authorized to cause the Partnership to issue additional Partnership Interests, in the form of Partnership Units, for any Partnership purpose, at any time or from time to time, to the Partners (including the General Partner) or to other Persons, and to admit such Persons as Additional Limited Partners, for such consideration and on such terms and conditions as shall be established by the General Partner in its sole and absolute discretion, all without the approval of any Limited Partners. Without limiting the foregoing, the General Partner is expressly authorized to cause the Partnership to issue Partnership Units (i) upon the conversion, redemption or exchange of any Debt, Partnership Units or other securities issued by the Partnership, (ii) for less than fair market value, so long as the General Partner concludes in good faith that such issuance is in the best interests of the General Partner and the Partnership and (iii) in connection with any merger of any other Person into the Partnership or any Subsidiary of the Partnership if the applicable merger agreement provides that Persons are to receive Partnership Units in exchange for their interests in the Person merging into the Partnership or any Subsidiary of the Partnership. Subject to Delaware law, any additional Partnership Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences and relative, participating, optional or other special rights, powers and duties as shall be determined by the General Partner, in its sole and absolute discretion without the approval of any Limited Partner, and set forth in a written document thereafter attached to and made an exhibit to this Agreement which exhibit shall be an amendment to this Agreement and shall be incorporated herein by this reference (each, a "Partnership Unit Designation"). Without limiting the generality of the foregoing, the General Partner shall have authority to specify (a) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests, (b) the right of each such class or series of Partnership Interests to

share (on a *pari passu*, junior or preferred basis) in Partnership distributions, (c) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership, (d) the voting rights, if any, of each such class or series of Partnership Interests and (e) the conversion, redemption or exchange rights applicable to each such class or series of Partnership Interests.

(b) Issuances to the General Partner. No additional Partnership Units shall be issued to the General Partner unless (i) the additional Partnership Units are issued to all Partners in proportion to their respective Percentage Interests with respect to the class of Partnership Units so issued, (ii) (a) the additional Partnership Units are (x) OP Units issued in connection with an issuance of REIT Shares or (y) Partnership Units (other than OP Units) issued in connection with an issuance of Preferred Shares, Junior Shares, New Securities or other interests in the General Partner (other than REIT Shares), which Preferred Shares, Junior Shares, New Securities or other interests have designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of the additional Partnership Units issued to the General Partner and (b) the General Partner directly or indirectly contributes or otherwise causes to be transferred to the Partnership the cash proceeds or other consideration, if any, received in connection with the issuance of such REIT Shares, Preferred Shares, Junior Shares, New Securities or other interests in the General Partner or (iii) the additional Partnership Units are issued upon the conversion, redemption or exchange of Debt, Partnership Units or other securities issued by the Partnership. In the event that the Partnership issues additional Partnership Units pursuant to this Section 4.3(b), the General Partner shall make such revisions to this Agreement (including but not limited to the revisions described in Sections 6.2(b) and 8.6) as it determines are necessary to reflect the issuance of such additional Partnership Interests, without the approval of any Limited Partner.

(c) No Preemptive Rights. No Person, including, without limitation, any Partner or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Partnership Interest.

#### Section 4.4. Additional Funds and Capital Contributions.

(a) General. The General Partner may, at any time and from time to time, determine that the Partnership requires additional funds (“Additional Funds”) for the acquisition or development of additional Properties, for the redemption of Partnership Units or for such other purposes as the General Partner may determine in its sole and absolute discretion. Additional Funds may be obtained by the Partnership, at the election of the General Partner, in any manner provided in, and in accordance with, the terms of this Section 4.4 without the approval of any Limited Partners.

(b) Additional Capital Contributions. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by accepting Capital Contributions from any Partners or other Persons. In connection with any such Capital Contribution (of cash or property), the General Partner is hereby authorized to cause the Partnership from time to time to issue additional Partnership Units (as set forth in Section 4.3) in consideration therefor and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect the issuance of such additional Partnership Units.

(c) Loans by Third Parties. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to any Person upon such terms as the General Partner determines appropriate, including making such Debt convertible, redeemable or exchangeable for Partnership Units or REIT Shares; provided, however, that the Partnership shall not incur any such Debt if any Partner would be personally liable for the repayment of such Debt (unless such Partner otherwise agrees).

(d) General Partner Loans. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to the General Partner (a "General Partner Loan"), if (i) such Debt is, to the extent permitted by law, on substantially the same terms and conditions (including interest rate, repayment schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by the General Partner, the net proceeds of which are loaned to the Partnership to provide such Additional Funds (provided, that the General Partner shall not be obligated to lend the net proceeds of any Funding Debt to the Partnership in a manner that would be inconsistent with the General Partner's ability to remain qualified as a REIT) or (ii) such Debt is on terms and conditions no less favorable to the Partnership than would be available to the Partnership from any third party; provided, however, that the Partnership shall not incur any such Debt if (a) a breach, violation or default of such Debt would be deemed to occur by virtue of the Transfer by any Limited Partner of any Partnership Interest or (b) such Debt is recourse to any Partner (unless the Partner otherwise agrees).

(e) Issuance of Securities by the General Partner. The General Partner shall not issue any additional REIT Shares, Preferred Shares, Junior Shares or New Securities unless the General Partner contributes directly or indirectly the cash proceeds or other consideration, if any, received from the issuance of such additional REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, and from the exercise of the rights contained in any such additional New Securities, to the Partnership in exchange for (x) in the case of an issuance of REIT Shares, Partnership Units or (y) in the case of an issuance of Preferred Shares, Junior Shares or New Securities, Partnership Units with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities; provided, however, that notwithstanding the foregoing, the General Partner may issue REIT Shares, Preferred Shares, Junior Shares or New Securities (a) pursuant to Sections 4.5 or 8.6(b), (b) pursuant to a dividend or distribution (including any stock split) wholly or partly of REIT Shares, Preferred Shares, Junior Shares or New Securities to all of the holders of REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, (c) upon a conversion, redemption or exchange of Preferred Shares, (d) upon a conversion of Junior Shares into REIT Shares, (e) upon a conversion, redemption, exchange or exercise of New Securities or, (f) pursuant to share grants or awards made pursuant to any equity incentive plan of the General Partner. In the event of any issuance of additional REIT Shares, Preferred Shares, Junior Shares or New Securities by the General Partner, and the direct or indirect contribution to the Partnership, by the General Partner, of the cash proceeds or other consideration received from such issuance, if any, the Partnership shall pay any expenses of the General Partner associated with such issuance, including any underwriting discounts or commissions (it being understood that if the proceeds actually received by the General Partner are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred by the General Partner in connection with such issuance, then

the General Partner shall be deemed to have made a Capital Contribution to the Partnership in the amount of the gross proceeds of such issuance and the Partnership shall be deemed simultaneously to have reimbursed the General Partner pursuant to Section 7.4(b) for the amount of such underwriter's discount or other expenses, which discount and expense shall be treated as an expense for the benefit of the Partnership for purposes of such Section).

(f) Redemption of Securities of the General Partner. Except as otherwise provided in Section 8.6(b), if, at any time, any Preferred Shares, Junior Shares or New Securities are redeemed or otherwise repurchased (whether by exercise of a put or call, automatically or by means of another arrangement) by the General Partner, the Partnership shall, immediately prior to such redemption or repurchase, redeem or repurchase an equal number of Partnership Units held by the General Partner with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities upon the same terms and for the same price per Partnership Unit as such Preferred Shares, Junior Shares or New Securities are redeemed or repurchased. If, at any time, any REIT Shares are redeemed or otherwise repurchased (whether by exercise of a put or call, automatically or by means of another arrangement) by the General Partner, the Partnership shall, immediately prior to such redemption or repurchase, redeem or repurchase a number of Partnership Units held by the General Partner equal to the quotient of (i) the REIT Shares so redeemed or repurchased, divided by (ii) the Adjustment Factor then in effect, such redemption or repurchase to be upon the same terms and for the same price per Partnership Unit (after giving effect to application of the Adjustment Factor) as such REIT Shares are redeemed or repurchased.

#### Section 4.5. Equity Incentive Plan.

(a) Equity Awards Granted to General Partner Employees and Directors. If at any time or from time to time, in connection with an Equity Incentive Plan, the General Partner grants to any General Partner Employee or Director a restricted REIT Share, a restricted stock unit, stock option or other equity award denominated in REIT Shares, then the Partnership shall grant to the General Partner a Partnership Unit with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such restricted stock unit, stock option or other equity award (after giving effect to application of the Adjustment Factor).

(b) If any such stock option granted for REIT Shares is duly exercised:

(i) the General Partner shall, as soon as practicable after such exercise, make or cause to be made directly or indirectly a Capital Contribution to the Partnership in an amount equal to the exercise price paid to the General Partner by such exercising party in connection with the exercise of such stock option;

(ii) notwithstanding the amount of the Capital Contribution actually made pursuant to Section 4.5(a)(i), the General Partner shall be deemed to have contributed directly or indirectly to the Partnership, as a Capital Contribution, in consideration of an additional Limited Partner Interest (expressed in and as additional Partnership Units), an amount equal to the

Value of a REIT Share as of the date of exercise multiplied by the number of REIT Shares then being issued in connection with the exercise of such stock option; and

(iii) an equitable Percentage Interest adjustment shall be made in which the General Partner shall be treated as having made a cash contribution equal to the amount described in Section 4.5(a)(ii).

(c) Special Valuation Rule. For purposes of this Section 4.5, in determining the Value of a REIT Share, only the trading date immediately preceding the exercise of the relevant stock option under the Equity Incentive Plan shall be considered.

(d) Forfeit of Equity Awards. If at any time or from time to time, any restricted REIT Share, restricted stock unit, stock option or other equity award denominated in REIT Share shall be forfeited, and the General Partner shall have a Partnership Unit with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such forfeited restricted stock unit, stock option or other equity award, then the General Partner shall forfeit such Partnership Unit (after giving effect to application of the Adjustment Factor) that was previously issued to the General Partner in respect of such forfeited restricted REIT Share, restricted stock unit, stock option or other equity award.

#### Section 4.6. LTIP Units.

(a) Issuance of LTIP Units. The General Partner may from time to time issue LTIP Units, in one or more classes or series established in accordance with Section 4.3, to Persons who provide services to the Partnership, for such consideration as the General Partner may determine to be appropriate, and admit such Persons as Limited Partners. Any provision herein relating to LTIP Units or LTIP Unitholders may be varied by the provisions applicable to an individual class or series of LTIP Units. Except to the extent a Capital Contribution is made with respect to an LTIP Unit, each LTIP Unit shall be intended to qualify as a profits interest in the Partnership within the meaning of the Code, the Regulations, and any published guidance by the IRS with respect thereto as specified in Section 4.6(c)(vi). Subject to the provisions of this Section 4.6 and the special provisions of Section 4.7 and 6.3(c), LTIP Units shall be treated as OP Units, with all of the rights, privileges and obligations attendant thereto. For purposes of computing the Partners' Percentage Interests, holders of LTIP Units shall be treated as holders of OP Units and LTIP Units shall be treated as OP Units. In particular, the Partnership shall maintain at all times a one-to-one correspondence between LTIP Units and OP Units for conversion, distribution and other purposes, including without limitation complying with the following procedures:

(i) If an Adjustment Event (as defined below) occurs, then the General Partner shall make a corresponding adjustment to the LTIP Units to maintain the same correspondence between OP Units and LTIP Units as existed prior to such Adjustment Event. The following shall be Adjustment Events: (A) the Partnership makes a distribution on all outstanding OP Units in Partnership Units, (B) the Partnership subdivides the outstanding OP Units into a greater number of units or combines the outstanding OP Units into a smaller number of units, or (C) the Partnership issues any Partnership Units in exchange for its outstanding OP Units by way of a reclassification or recapitalization of its OP Units. If more than one Adjustment Event occurs,



the adjustment to the LTIP Units need be made only once using a single formula that takes into account each and every Adjustment Event as if all Adjustment Events occurred simultaneously. For the avoidance of doubt, the following shall not be Adjustment Events: (x) the issuance of Partnership Units in a financing, reorganization, acquisition or other similar business transaction, (y) the issuance of Partnership Units pursuant to any employee benefit or compensation plan or distribution reinvestment plan, or (z) the issuance of any Partnership Units to the General Partner in respect of a capital contribution to the Partnership of proceeds from the sale of securities by the General Partner. If the Partnership takes an action affecting the OP Units other than actions specifically described above as “Adjustment Events” and in the opinion of the General Partner such action would require an adjustment to the LTIP Units to maintain the one-to-one correspondence described above, the General Partner shall have the right to make such adjustment to the LTIP Units, to the extent permitted by law and by any applicable Equity Incentive Plan, in such manner and at such time as the General Partner, in its sole and absolute discretion, may determine to be appropriate under the circumstances. If an adjustment is made to the LTIP Units as herein provided the Partnership shall promptly file in the books and records of the Partnership an officer’s certificate setting forth such adjustment and a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after filing of such certificate, the Partnership shall mail a notice to each LTIP Unitholder setting forth the adjustment to his or her LTIP Units and the effective date of such adjustment; and

(ii) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, the LTIP Unitholders shall, when, as and if authorized and declared by the General Partner out of assets legally available for that purpose, be entitled to receive distributions in an amount per LTIP Unit equal to the distributions per OP Unit (the “Partnership Unit Distribution”), paid to holders of OP Units on such Partnership Record Date established by the General Partner with respect to such distribution. Subject to the terms of any LTIP Award or Vesting Agreement, so long as any LTIP Units are outstanding, no distributions (whether in cash or in kind) shall be authorized, declared or paid on OP Units, unless equal distributions have been or contemporaneously are authorized, declared and paid on the LTIP Units. Subject to the terms of any LTIP Award or Vesting Agreement, an LTIP Unitholder shall be entitled to transfer his or her LTIP Units to the same extent, and subject to the same restrictions as holders of OP Units are entitled to transfer their OP Units pursuant to Article XI of this Agreement.

(b) Priority. Subject to the provisions of this Section 4.6, the special provisions of Section 6.3(c) and the terms of any LTIP Award or Vesting Agreement, the LTIP Units shall rank *pari passu* with the OP Units as to the payment of regular and special periodic or other distributions and, subject to Sections 13.2(a)(iv) and Section 13.2(c) distribution of assets upon liquidation, dissolution or winding up. As to the payment of distributions and as to distribution of assets upon liquidation, dissolution or winding up, any class or series of Partnership Units or Partnership Interests which by its terms specifies that it shall rank junior to, on a parity with, or senior to the OP Units shall also rank junior to, or *pari passu* with, or senior to, as the case may be, the LTIP Units.

(c) Special Provisions. LTIP Units shall be subject to the following special provisions:

(i) Vesting Agreements. LTIP Units may, in the sole and absolute discretion of the General Partner, be issued subject to vesting, forfeiture and additional restrictions on transfer pursuant to the terms of a Vesting Agreement. Vesting and forfeiture terms may include, without limitation, service conditions and performance conditions. The terms of any Vesting Agreement may be modified by the General Partner from time to time in its sole and absolute discretion, subject to any restrictions on amendment imposed by the relevant Vesting Agreement or by the Equity Incentive Plan, if applicable. LTIP Units that have vested under the terms of a Vesting Agreement are referred to as “Vested LTIP Units,” all other LTIP Units shall be treated as “Unvested LTIP Units.” Upon grant, the grantee of any LTIP Unit shall be treated as a Partner for all purposes hereunder. The Partners acknowledge that the liquidation value of each LTIP Unit will be zero upon grant for all purposes hereunder.

(ii) Forfeiture. Unless otherwise specified in the Vesting Agreement, upon the occurrence of any event specified in a Vesting Agreement as resulting in either the right of the Partnership or the General Partner to repurchase LTIP Units at a specified purchase price or some other forfeiture of any LTIP Units, then if the Partnership or the General Partner exercises such right to repurchase or forfeiture in accordance with the applicable Vesting Agreement, the relevant LTIP Units shall immediately, and without any further action, be treated as cancelled and no longer outstanding for any purpose. Unless otherwise specified in the Vesting Agreement, no consideration or other payment shall be due with respect to any LTIP Units that have been forfeited, other than any distributions declared with respect to a Partnership Record Date prior to the effective date of the forfeiture.

(iii) Allocations. LTIP Unitholders shall be entitled to certain special allocations of gain under Section 6.3(c).

(iv) Redemption. The Redemption right provided to Limited Partners under Section 8.6 shall not apply with respect to LTIP Units unless and until they are converted to OP Units as provided in clause (v) below and Section 4.7.

(v) Conversion to OP Units. Vested LTIP Units are eligible to be converted into OP Units under Section 4.7.

(vi) Tax Treatment. The Partners intend that the LTIP Units shall be classified as “profits interests” within the meaning of IRS Revenue Procedure 93-27, 1993-2 C.B. 343 (June 9, 1993), as clarified by IRS Revenue Procedure 2001-43, 2001-2 C.B. 191 (August 3, 2001), and the provisions of this Agreement shall be interpreted in a manner consistent with this intent.

(d) Voting. LTIP Unitholders shall (a) have the same voting rights as the holders of OP Units, with all Vested LTIP Units and Unvested LTIP Units voting as a single class with the OP Units and having one vote per LTIP Unit and (b) have the additional voting rights that are expressly set forth below. So long as any LTIP Units remain outstanding, the Partnership shall

not, without the affirmative vote of the holders of a majority of the LTIP Units (Vested LTIP Units and Unvested LTIP Units) outstanding at the time, given in person or by proxy, either in writing or at a meeting (voting separately as a class), amend, alter or repeal, whether by merger, consolidation or otherwise, the provisions of this Agreement applicable to LTIP Units so as to materially and adversely affect (as determined in good faith by the General Partner) any right, privilege or voting power of the LTIP Units or the LTIP Unitholders as such, unless such amendment, alteration, or repeal affects equally, ratably and proportionately the rights, privileges and voting powers of the holders of OP Units; but subject, in any event, to the following provisions:

(i) With respect to any Transaction, so long as the LTIP Units are treated in accordance with Section 4.7(f) hereof, the consummation of such Transaction shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers of the LTIP Units or the LTIP Unitholders as such; and

(ii) Any creation or issuance of any Partnership Units or of any class or series of Partnership Interest including, without limitation, additional OP Units or LTIP Units, whether ranking senior to, junior to, or on a parity with the LTIP Units with respect to distributions and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers of the LTIP Units or the LTIP Unitholders as such.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required will be effected, all outstanding LTIP Units shall have been converted into OP Units.

#### Section 4.7. Conversion of LTIP Units.

(a) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, an LTIP Unitholder shall have the right (the "Conversion Right"), at his or her option, at any time to convert all or a portion of his or her Vested LTIP Units into OP Units; provided, however, that a holder may not exercise the Conversion Right for less than one thousand (1,000) Vested LTIP Units or, if such holder holds less than one thousand (1,000) Vested LTIP Units, all of the Vested LTIP Units held by such holder. LTIP Unitholders shall not have the right to convert Unvested LTIP Units into OP Units until they become Vested LTIP Units; provided, however, that when an LTIP Unitholder is notified of the expected occurrence of an event that will cause his or her Unvested LTIP Units to become Vested LTIP Units, such LTIP Unitholder may give the Partnership a Conversion Notice conditioned upon and effective as of the time of vesting and such Conversion Notice, unless subsequently revoked by the LTIP Unitholder, shall be accepted by the Partnership subject to such condition. In all cases, the conversion of any LTIP Units into OP Units shall be subject to the conditions and procedures set forth in this Section 4.7.

(b) Unless otherwise provided in an LTIP Award or Vesting Agreement or by the General Partner with respect to any particular class or series of LTIP Units, a holder of Vested LTIP Units may convert such Units into an equal number of fully paid and nonassessable OP Units, giving effect to all adjustments (if any) made pursuant to Section 4.6. Notwithstanding the foregoing, in no event may a holder of Vested LTIP Units convert a number of Vested LTIP

Units that exceeds (x) the Economic Capital Account Balance of such Limited Partner, to the extent attributable to its ownership of LTIP Units, divided by (y) the OP Unit Economic Balance, in each case as determined as of the effective date of conversion (the “Capital Account Limitation”). In order to exercise his or her Conversion Right, an LTIP Unitholder shall deliver a notice (a “Conversion Notice”) in the form attached as Exhibit B to the Partnership (with a copy to the General Partner) not less than ten (10) nor more than sixty (60) days prior to a date (the “Conversion Date”) specified in such Conversion Notice; provided, however, that if the General Partner has not given to the LTIP Unitholders notice of a proposed or upcoming Transaction (as defined below in Section 4.7(f)) at least thirty (30) days prior to the effective date of such Transaction, then LTIP Unitholders shall have the right to deliver a Conversion Notice until the earlier of (x) the 10th day after such notice from the General Partner of a Transaction or (y) the third business day immediately preceding the effective date of such Transaction. A Conversion Notice shall be provided in the manner provided in Section 15.1. Each LTIP Unitholder covenants and agrees with the Partnership that all Vested LTIP Units to be converted pursuant to this Section 4.7(b) shall be free and clear of all liens. Notwithstanding anything herein to the contrary, a holder of LTIP Units may deliver a Notice of Redemption pursuant to Section 8.6(a) relating to those OP Units that will be issued to such holder upon conversion of such LTIP Units into OP Units in advance of the Conversion Date; provided, however, that the redemption of such OP Units by the Partnership shall in no event take place until after the Conversion Date. For clarity, it is noted that the objective of this paragraph is to put an LTIP Unitholder in a position where, if he or she so wishes, the OP Units into which his or her Vested LTIP Units will be converted can be redeemed by the Partnership simultaneously with such conversion, with the further consequence that, if the General Partner elects to assume the Partnership’s redemption obligation with respect to such OP Units under Section 8.6(b) of this Agreement by delivering to such holder REIT Shares rather than cash, then such holder can have such REIT Shares issued to him or her simultaneously with the conversion of his or her Vested LTIP Units into OP Units. The General Partner shall reasonably cooperate with an LTIP Unitholder to coordinate the timing of the different events described in the foregoing sentence.

(c) The Partnership, at any time at the election of the General Partner, may cause any number of Vested LTIP Units held by an LTIP Unitholder to be converted (a “Forced Redemption”) into an equal number of OP Units, giving effect to all adjustments (if any) made pursuant to Section 4.6; provided, however, that the Partnership may not cause a Forced Redemption of any LTIP Units that would not at the time be eligible for conversion at the option of such LTIP Unitholder pursuant to Section 4.7(b). In order to exercise its right of Forced Redemption, the Partnership shall deliver a notice (a “Forced Redemption Notice”) in the form attached as Exhibit C to the applicable LTIP Unitholder not less than ten (10) nor more than sixty (60) days prior to the Conversion Date specified in such Forced Redemption Notice. A Forced Redemption Notice shall be provided in the manner provided in Section 15.1.

(d) A conversion of Vested LTIP Units for which the holder thereof has given a Conversion Notice or the Partnership has given a Forced Redemption Notice shall occur automatically after the close of business on the applicable Conversion Date without any action on the part of such LTIP Unitholder, as of which time such LTIP Unitholder shall be credited on the books and records of the Partnership with the issuance as of the opening of business on the next day of the number of OP Units issuable upon such conversion. After the conversion of LTIP Units

as aforesaid, the Partnership shall deliver to such LTIP Unitholder, upon his or her written request, a certificate of the General Partner certifying the number of OP Units and remaining LTIP Units, if any, held by such person immediately after such conversion. The Assignee of any Limited Partner pursuant to Article XI may exercise the rights of such Limited Partner pursuant to this Section 4.7 and such Limited Partner shall be bound by the exercise of such rights by the Assignee.

(e) For purposes of making future allocations under Section 6.3(c) and applying the Capital Account Limitation, the portion of the Economic Capital Account Balance of the applicable LTIP Unitholder that is treated as attributable to his or her LTIP Units shall be reduced, as of the date of conversion, by the product of the number of LTIP Units converted and the OP Unit Economic Balance.

(f) If the Partnership or the General Partner shall be a party to any transaction (including without limitation a merger, consolidation, unit exchange, self-tender offer for all or substantially all OP Units or other business combination or reorganization, or sale of all or substantially all of the Partnership's assets, but excluding any transaction which constitutes an Adjustment Event) in each case as a result of which OP Units shall be exchanged for or converted into the right, or the holders of such Units shall otherwise be entitled, to receive cash, securities or other property or any combination thereof (any of the foregoing being referred to herein as a "Transaction"), then the General Partner shall, immediately prior to the Transaction, exercise its right to cause a Forced Redemption with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the Transaction or that would occur in connection with the Transaction if the assets of the Partnership were sold at the Transaction price or, if applicable, at a value determined by the General Partner in good faith using the value attributed to the Partnership Units in the context of the Transaction (in which case the Conversion Date shall be the effective date of the Transaction), provided, that nothing in this paragraph shall prevent the General Partner from determining to apply the same vesting conditions that applied to the underlying LTIP Units to the cash, securities, or other property received in connection with such exchange or conversion.

(g) In anticipation of such Forced Redemption and the consummation of the Transaction, the Partnership shall use commercially reasonable efforts to cause each LTIP Unitholder to be afforded the right to receive in connection with such Transaction in consideration for the OP Units into which such LTIP Unitholder's LTIP Units will be converted the same kind and amount of cash, securities and other property (or any combination thereof) receivable upon the consummation of such Transaction by a holder of the same number of OP Units, assuming such holder of OP Units is not a Person with which the Partnership consolidated or into which the Partnership merged or which merged into the Partnership or to which such sale or transfer was made, as the case may be (a "Constituent Person"), or an affiliate of a Constituent Person. In the event that holders of OP Units have the opportunity to elect the form or type of consideration to be received upon consummation of the Transaction, prior to such Transaction, the General Partner shall give prompt written notice to each LTIP Unitholder of such election, and shall use commercially reasonable efforts to afford the LTIP Unitholders the right to elect, by written notice to the General Partner, the form or type of consideration to be received upon conversion of each LTIP Unit held by such holder into OP Units in connection with such Transaction. If an LTIP Unitholder fails to make such an election, such holder (and any of its transferees) shall receive

upon conversion of each LTIP Unit held by such LTIP Unitholder (or by any of such LTIP Unitholder's transferees) the same kind and amount of consideration that a holder of a OP Unit would receive if such OP Unit holder failed to make such an election.

(h) Subject to the rights of the Partnership and the General Partner under any Vesting Agreement and any Equity Incentive Plan, the Partnership shall use commercially reasonable efforts to cause the terms of any Transaction to be consistent with the provisions of this Section 4.7 and to enter into an agreement with the successor or purchasing entity, as the case may be, for the benefit of any LTIP Unitholders whose LTIP Units will not be converted into OP Units in connection with the Transaction that will (i) contain provisions enabling the holders of LTIP Units that remain outstanding after such Transaction to convert their LTIP Units into securities as comparable as reasonably possible under the circumstances to the Op Units and (ii) preserve as far as reasonably possible under the circumstances the distribution, special allocation, conversion, and other rights set forth in this Agreement for the benefit of the LTIP Unitholders

Section 4.8. No Interest; No Return. No Partner shall be entitled to interest on its Capital Contribution or on such Partner's Capital Account. Except as provided herein or by law, no Partner shall have any right to demand or receive the return of its Capital Contribution from the Partnership.

Section 4.9. Other Contribution Provisions. In the event that any Partner is admitted to the Partnership and is given a Capital Account in exchange for services rendered to the Partnership, unless otherwise determined by the General Partner in its sole and absolute discretion, such transaction shall be treated by the Partnership and the affected Partner as if the Partnership had compensated such partner in cash and such Partner had contributed the cash to the capital of the Partnership. In addition, with the consent of the General Partner, one or more Limited Partners may enter into contribution agreements with the Partnership which have the effect of providing a guarantee of certain obligations of the Partnership.

Section 4.10. No Third Party Beneficiary. No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners. In addition, it is the intent of the parties hereto that no distribution to any Limited Partner shall be deemed a return of money or other property in violation of the Act. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Limited Partner is obligated to return such money or property, such obligation shall be the obligation of such Limited Partner and not of the General Partner. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.

**ARTICLE V**  
**DISTRIBUTIONS**

Section 5.1. Requirement and Characterization of Distributions. Subject to the terms of any Partnership Unit Designation, the Partnership shall distribute the Available Cash at such times and in such amounts as are determined by the General Partner in its sole and absolute discretion, to the Partners who are Partners on the Partnership Record Date with respect to such distribution period and in the following manner: (1) first, with respect to any Partnership Interests that are entitled to any preference in distribution, in accordance with the rights of such class(es) of Partnership Interests (and, within such class(es), *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date) and (2) second, with respect to any Partnership Interests that are not entitled to any preference in distribution, in accordance with the rights of such class of Partnership Interests (and, within such class, *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date). At the election of the General Partner, distributions payable with respect to any Partnership Units that were not outstanding during the entire distribution period in respect of which any distribution is made may be prorated based on the portion of the period that such Partnership Units were outstanding.

Notwithstanding anything herein to the contrary, the General Partner shall make such reasonable efforts, as determined by it in its sole and absolute discretion and consistent with the General Partner's qualification as a REIT, to cause the Partnership to distribute sufficient amounts to enable the General Partner, for so long as the General Partner desires to maintain or restore its qualification as a REIT, to pay stockholder dividends that will (a) satisfy the requirements for its qualification as a REIT under the Code and Regulations (the "REIT Requirements") and (b) except to the extent otherwise determined by the General Partner, avoid any U.S. federal income or excise tax liability of the General Partner.

Each distribution in respect of a Partnership Unit shall be paid by the Partnership, directly or through the Transfer Agent or through any other Person or agent, only to the Holder of such Partnership Unit as of the Partnership Record Date set for such distribution. Such payment shall constitute full payment and satisfaction of the Partnership's liability in respect of such payment, regardless of any claim of a Person who may have an interest in such payment by reason of an assignment or otherwise.

Section 5.2. Interests in Property not Held Through the Partnership. To the extent amounts distributed by the Partnership are attributable to amounts received from a property in which the General Partner or any Affiliate of the General Partner holds a direct or indirect interest (other than through the Partnership) (an "Outside Interest"), (i) such amounts distributed to the General Partner will be reduced so as to take into account amounts received pursuant to the Outside Interest and (ii) the amounts distributed to the Limited Partners will be increased to the extent necessary so that the overall effect of the distribution is to distribute what would have been distributed had such Outside Interest been held through the Partnership (treating any distribution made in respect of the Outside Interest as if such distribution had been received by the General Partner).

Section 5.3. Distributions In-Kind. No right is given to any Partner to demand and receive property other than cash as provided in this Agreement. The General Partner may determine, in its sole and absolute discretion, to make a distribution in-kind of Partnership assets to the Holders in accordance with the rights of such class of Partnership Interests (and, within such class(es), *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date), and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with Articles V, VI and X.

Section 5.4. Amounts Withheld. All amounts withheld or paid pursuant to the Code or any provisions of any state or local tax law and Section 10.4 with respect to any allocation, payment or distribution to any Holder (or otherwise paid on behalf or with respect to such Holder) shall be treated as amounts paid or distributed to such Holder pursuant to Section 5.1 hereof for all purposes under this Agreement.

Section 5.5. Distributions Upon Liquidation. Notwithstanding the other provisions of this Article V, net proceeds from a Terminating Capital Transaction, and any other cash received or reductions in reserves made after commencement of the liquidation of the Partnership, shall be distributed to the Holders in accordance with Section 13.2.

Section 5.6. Distributions to Reflect Issuance of Additional Partnership Units. Notwithstanding Section 7.3(b), in the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article IV, subject to Section 7.3(d), the General Partner is hereby authorized to make such revisions to this Article V as it determines are necessary or desirable to reflect the issuance of such additional Partnership Units, including, without limitation, making preferential distributions to certain classes of Partnership Units.

Section 5.7. Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, neither the Partnership nor the General Partner, on behalf of the Partnership, shall make a distribution to any Holder on account of its Partnership Interest or interest in Partnership Units if such distribution would violate Section 17-607 of the Act or other applicable law.

## **ARTICLE VI ALLOCATIONS**

Section 6.1. Timing and Amount of Allocations of Net Income and Net Loss. Net Income and Net Loss of the Partnership shall be determined and allocated with respect to each Partnership Year of the Partnership as of the end of each such year. Except as otherwise provided in this Article VI, and subject to Section 11.6(c) hereof, an allocation to a Holder of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

Section 6.2. General Allocations.

(a) Allocations of Net Income and Net Loss.



(i) Net Income. Except as otherwise provided herein, Net Income for any Partnership Year or other applicable period shall be allocated in the following order and priority:

(A) *First*, to the General Partner to the extent the cumulative Net Loss allocated to the General Partner pursuant to subparagraph (ii)(B) below exceeds the cumulative Net Income allocated to the General Partner pursuant to this subparagraph (i)(A);

(B) *Thereafter*, to the Holders of Partnership Interests in accordance with their respective Percentage Interests.

(ii) Net Loss. Except as otherwise provided herein, Net Loss for any Partnership Year or other applicable period shall be allocated in the following order and priority:

(A) *First*, to the Holders of Partnership Interests with positive Adjusted Capital Account balances in accordance with their respective Percentage Interests until their Adjusted Capital Account balances are reduced to zero;

(B) *Thereafter*, to the General Partner.

(b) Allocations to Reflect Issuance of Additional Partnership Units. Notwithstanding Section 7.3(b) hereof, in the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article IV hereof, the General Partner is hereby authorized to make such revisions to this Section 6.2 as it determines are necessary or desirable to reflect the terms of the issuance of such additional Partnership Units.

Section 6.3. Additional Allocation Provisions. Notwithstanding the foregoing provisions of this Article VI:

(a) Regulatory Allocations.

(i) Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of Section 6.2, or any other provision of this Article VI, if there is a net decrease in Partnership Minimum Gain during any Partnership Year, each Holder shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 6.3(a)(i) is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) Partner Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in Section 6.3(a)(i), if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Year,

each Holder who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each General Partner, Limited Partner and other Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 6.3(a)(ii) is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(iii) Nonrecourse Deductions and Partner Nonrecourse Deductions. Any Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holders of OP Units in accordance with their Percentage Interests. Any Partner Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holder(s) who bears the economic risk of loss (as defined in Regulations Section 1.752-2) with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(iv) Qualified Income Offset. If any Holder unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Partnership income and gain shall be allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible. It is intended that this Section 6.3(a)(iv) qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(v) No Excess Deficit. Loss or items thereof shall not be allocated to any Holder to the extent such allocation would cause an Adjusted Capital Account Deficit with respect to such Holder at the end of any Partnership Year.

(vi) Section 754 Adjustment. To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder in complete liquidation of its interest in the Partnership, 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 gain or loss shall be specially allocated to the Holders in accordance with their Partnership Units in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holders to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(vii) Curative Allocations. The allocations set forth in Section 6.3(a)(i), (ii), (iii), (iv), (v), and (vi) hereof (the "Regulatory Allocations") are intended to comply with

certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Section 6.1, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders of Partnership Units so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount of such allocations of other items and the Regulatory Allocations to each Holder of a Partnership Unit shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

(b) Allocation of Excess Nonrecourse Liabilities. The Partnership shall allocate “nonrecourse liabilities” (within the meaning of Regulations Section 1.752-1(a)(2)) of the Partnership that are secured by multiple Properties under any reasonable method chosen by the General Partner in accordance with Regulations Section 1.752-3(a)(3) and (b). The Partnership shall allocate “excess nonrecourse liabilities” of the Partnership under any method approved under Regulations Section 1.752-3(a)(3) as chosen by the General Partner.

(c) Special Allocations Regarding LTIP Units.

(i) Notwithstanding the provisions of Section 6.2 above, after giving effect to the allocations in Sections 6.3(a)(i) through (v) and Sections 6.2(a)(i)(A) through (C), Liquidating Gains shall first be allocated to the LTIP Unitholders until the Economic Capital Account Balances of such Holders, to the extent attributable to their ownership of LTIP Units, are equal to (i) the OP Unit Economic Balance, multiplied by (ii) the number of their LTIP Units (the “Target Balance”). Any such allocations shall be made among the Partners in proportion to the aggregate amounts required to be allocated to each Partner pursuant to this Section 6.3(c); provided, however, that unless otherwise specified by the General Partner in the grant of specific LTIP Units, no such Liquidating Gains will be allocated with respect to any particular LTIP Unit unless and to the extent that such Liquidating Gains, when aggregated with other Liquidating Gains realized since the issuance of such LTIP Unit, exceed Liquidating Losses realized since the issuance of such LTIP Unit. For this purpose, “Liquidating Gains” means net capital gains realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership, including but not limited to net capital gain realized in connection with an adjustment to the Gross Asset Value of Partnership assets under Code Section 704(b). The “Economic Capital Account Balances” of the LTIP Unitholders will be equal to their Capital Account balances to the extent attributable to their ownership of LTIP Units, plus the amount of their allocable share of any Partner Minimum Gain or Partnership Minimum Gain attributable to such LTIP Units. Similarly, the “OP Unit Economic Balance” shall mean (i) the Capital Account balance of the General Partner, plus the amount of the General Partner’s share of any Partner Minimum Gain or Partnership Minimum Gain, in either case to the extent attributable to the General Partner’s ownership of OP Units and computed on a hypothetical basis after taking into account all allocations through the date on which any allocation is made under this Section 6.3(c) (including, without limitation, any expenses of the Partnership reimbursed to the General Partner pursuant to Section 7.4(b)), divided by (ii) the number of the General Partner’s OP Units. Any such allocations shall be made among the LTIP Unitholders in proportion to the amounts required to be allocated to each under this Section 6.3(c).

(ii) Liquidating Gain allocated to an LTIP Unit holder will generally be attributed in the following order: (A) first, to Vested LTIP Units held for more than two years, (B) second, to Vested LTIP Units held for two years or less, (C) third, to Unvested LTIP Units that have remaining vesting conditions that only require continued employment or service to the General Partner, the Partnership or an Affiliate of either for a certain period of time (with such Liquidating Gains being attributed in order of vesting from soonest vesting to latest vesting), and (D) fourth, to other Unvested LTIP Units (with such Liquidating Gains being attributed in order of issuance from earliest issued to latest issued). Within each category, Liquidating Gain will be allocated serially (i.e., entirely to the first unit in a set, then entirely to the next unit in the set, and so on, until a full allocation is made to the last unit in the category) in the order of smallest Book-Up Target to largest Book-Up Target. For purposes of the previous sentence, “Book-Up Target” for an LTIP unit means (i) initially the OP Unit Economic Balance as determined on the date such LTIP Unit was granted and (ii) thereafter, the remaining balance, if any required to be allocated to such LTIP Unit for the Economic Capital Account Balance of the holder of such LTIP Unit, to the extent attributable to such LTIP Unit, to be equal to the OP Unit Economic Balance.

(iii) After giving effect to the special allocations set forth above, if, due to distributions with respect to OP Units in which the LTIP Unit holders do not participate, forfeitures or otherwise, the Economic Capital Account Balance of any present or former LTIP Unit holder attributable to such LTIP Unit holder’s LTIP Units, exceeds the Target Balance, then Liquidating Losses shall be allocated to such LTIP Unit holder, or Liquidating Gains shall be allocated to the other Partners, to reduce or eliminate the disparity; provided, however, that if Liquidating Losses or Liquidating Gains are insufficient to completely eliminate all such disparities, such losses or gains shall be allocated among Partners in a manner reasonably determined by the General Partner. For this purpose, “Liquidating Loss” means any net loss realized in connection with the actual or hypothetical sale of substantially all of the assets of the partnership, including but not limited to net loss realized in connection with an adjustment to the Gross Asset Value of Partnership Assets under Code Section 704(b).

(iv) The parties agree that the intent of this Section 6.3(c) is (A) to the extent possible to make the Economic Capital Account Balance associated with each LTIP Unit economically equivalent to the OP Unit Economic Balance and (B) to allow conversion of an LTIP Unit (assuming prior vesting) into an OP Unit when sufficient Liquidating Gains have been allocated to such LTIP Unit pursuant to Section 6.3(c)(i) so that parity described in the definition of Target Balance has been achieved. The General Partner shall be permitted to interpret this Section 6.3(c)(iv) or to amend this Agreement to the extent necessary and consistent with this intention.

(v) In the event that Liquidating Gains or Liquidating Losses are allocated under this Section 6.3(c), Profits allocable under clause 6.2 and any Losses shall be recomputed without regard to the Liquidating Gains or Liquidating Losses so allocated.

(vi) If an LTIP Unit holder forfeits any LTIP Units to which Liquidating Gain has previously been allocated under Section 6.3(c), (A) the portion of such LTIP Unit holder’s Capital Account attributable to such Liquidating Gain allocated to such forfeited LTIP Units will be re-allocated to that LTIP Unit holder’s remaining LTIP Units that were outstanding on the date of the initial allocation of such Liquidating Gain, using a methodology

similar to that described in Section 6.3(c)(ii) above as reasonably determined by the General Partner, to the extent necessary to cause such LTIP Unit holder's Economic Capital Account Balance attributable to each such LTIP Unit to equal the OP Unit Economic Balance and (B) such LTIP Unit holder's Capital Account will be reduced by the amount of any such Liquidating Gain not re-allocated pursuant to clause (A) above.

(vii) LTIP Units are intended to constitute "profits interests" within the meaning of Revenue Procedure 93-27, 1993-2 C.B. 343 (June 9, 1993), and Revenue Procedure 2001-43, 2001-2 C.B. 191 (August 3, 2001). For any fiscal year in which distributions are actually made to Holders of LTIP Units, after all other allocations have been tentatively made pursuant to this Section 6.3, if necessary to cause the Capital Accounts relating to any LTIP Units to be equal (immediately before such distributions and so as to avoid negative Capital Accounts) to the amounts distributed to the holders of the LTIP Units, the General Partner, in its discretion, may allocate appropriate items of gross income that are accrued and realized following the issuance of the relevant LTIP Units to the Holders of such LTIP Units. If there are insufficient items of gross income to be allocated to the Holders of the LTIP Units, then such distributions shall, to the extent of such excess, be treated as "guaranteed payments" within the meaning of Section 707(c) of the Code.

(d) Allocations to Reflect Outside Interests. Any income or loss to the Partnership associated with an Outside Interest shall be specially allocated so as to take into account amounts received by, and income or loss allocated to, the General Partner or any Affiliate of the General Partner with respect to such Outside Interest so that the overall effect is to allocate income or loss in the same manner as would have occurred had such Outside Interest been held through the Partnership (treating any allocation in respect of the Outside Interest as if such allocation had been made to the General Partner).

#### Section 6.4. Tax Allocations.

(a) In General. Except as otherwise provided in this Section 6.4, for income tax purposes under the Code and the Regulations each Partnership item of income, gain, loss and deduction (collectively, "Tax Items") shall be allocated among the Holders of Partnership Units in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Sections 6.2 and 6.3.

(b) Allocations Respecting Section 704(c) Revaluations. Notwithstanding Section 6.4(a), Tax Items with respect to Property that is contributed to the Partnership with a Gross Asset Value that varies from its basis in the hands of the contributing Partner immediately preceding the date of contribution shall be allocated among the Holders of Partnership Units for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Partnership shall account for such variation under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner; provided, that with respect to any "forward 704(c) layer" created in connection with property contributed in connection with the transactions contemplated by the Merger Agreement, the Partnership shall use the traditional method with curative allocations, with the curative allocations applied only on the disposition of the applicable property, as described in Treasury Regulations Section 1.704-3(c), without limiting its curative allocations to one or more particular

tax items (e.g., only depreciation from a specific property or properties). In the event that the Gross Asset Value of any partnership asset is adjusted pursuant to subsection (b) of the definition of “Gross Asset Value” (provided in Article I), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations or under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner; provided, that with respect to any “reverse 704(c) layer” created in connection with the transactions contemplated by the Merger Agreement, the Partnership shall use the traditional method with curative allocations, with the curative allocations applied only on the disposition of the applicable property, under Treasury Regulations Section 1.704-3(c), without limiting the curative allocations to one or more particular tax items (e.g., only depreciation from a specific property or properties).

(c) Notwithstanding the foregoing provisions of this Agreement, the General Partner in its sole and absolute discretion shall make such allocations as may be needed to ensure that allocations are in accordance with the interests of the Partners of the Partnership, within the meaning of the Code and Regulations. The General Partner shall determine all matters concerning allocations for tax purposes not expressly provided for herein in its sole and absolute discretion. Notwithstanding anything to the contrary contained in this Agreement, for the proper administration of the Partnership, the General Partner may (A) amend the provisions of this Agreement as appropriate to reflect the proposal or promulgation of Regulations under Sections 704(b) or 704(c) of the Code, and (B) adopt and employ or modify such conventions and methods as the General Partner determines in its sole and absolute discretion to be appropriate for (i) the determination of Tax Items and the allocation of such Tax Items among Partners and between transferors and transferees under this Agreement pursuant to the Code and Regulations promulgated thereunder, (ii) the determination of the identities and tax classifications of Partners, (iii) the valuation of the Partnership’s assets and the determination of tax basis, (iv) the allocation of asset values and tax basis, (v) the adoption and maintenance of accounting methods, and (vi) taking into account differences between the Gross Asset Values of the assets of the Partnership and adjusted tax basis pursuant to Code Section 704(c) and the Regulations promulgated thereunder.

(d) Allocations that would otherwise be made to a Partner under the provisions of this Article VI shall instead be made to the beneficial owner of OP Units held by a nominee in any case in which the nominee has furnished the identity of such owner to the Partnership in accordance with Code Section 6031(c), or pursuant to any other method determined by the General Partner in its sole and absolute discretion.

## **ARTICLE VII**

### **MANAGEMENT AND OPERATIONS OF BUSINESS**

#### Section 7.1. Management.

(a) Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. The General Partner may not

be removed by the Partners with or without cause, except with the consent of the General Partner. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any other provision of this Agreement, the General Partner, subject to the other provisions hereof including Section 7.3, shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, to exercise all powers set forth in Section 3.2 hereof and to effectuate the purposes set forth in Section 3.1, including, without limitation, taking the actions and decisions set forth below:

(i) the making of any expenditures, the lending or borrowing of money (including, without limitation, making prepayments on loans and borrowing money or selling assets to permit the Partnership to make distributions in such amounts as will permit the General Partner (so long as the General Partner desires to maintain or restore its qualification as a REIT) to avoid the payment of any income or excise tax under the Code and to make distributions to its stockholders sufficient to permit the General Partner to maintain or restore REIT qualification or otherwise to satisfy the REIT Requirements), the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness (including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Partnership's assets) and the incurring of any obligations that it deems necessary for the conduct of the activities of the Partnership;

(ii) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership, the registration of any class of securities of the Partnership under the Exchange Act and the listing of any debt securities of the Partnership on any exchange;

(iii) subject to Section 11.2, the acquisition, sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Partnership (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Partnership) or the merger, consolidation, reorganization or other combination of the Partnership with or into another entity;

(iv) the mortgage, pledge, encumbrance or hypothecation of any assets of the Partnership, the assignment of any assets of the Partnership in trust for creditors or on the promise of the assignee to pay the debts of the Partnership, the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that it sees fit, including, without limitation, the financing of the operations and activities of the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the Partnership's Subsidiaries) and the repayment of obligations of the Partnership, its Subsidiaries and any other Person in which the Partnership has an equity investment, and the making of capital contributions to and equity investments in the Partnership's Subsidiaries;

(v) the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms it sees fit, including, without limitation, the financing of the conduct of the operations of the

General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the General Partner and its Subsidiaries and the Partnership's Subsidiaries) and the repayment of obligations of the Partnership and its Subsidiaries and any other Person in which the Partnership has an equity investment and the making of capital contributions to its Subsidiaries;

(vi) the management, operation, leasing, landscaping, harvesting, repair, alteration, demolition, replacement or improvement of any Property, including, without limitation, any Contributed Property, or other asset of the Partnership or any Subsidiary, whether pursuant to a Services Agreement or otherwise;

(vii) the negotiation, execution and performance of any contracts, leases, conveyances or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with contractors, developers, consultants, governmental authorities, accountants, legal counsel and other professional advisors and other agents and the payment of their expenses and compensation out of the Partnership's assets;

(viii) the distribution of cash or other assets of the Partnership in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Partnership and the collection and receipt of revenues, rents and income of the Partnership;

(ix) the maintenance of such insurance for the benefit of the Partnership and the Partners (including, without limitation, the General Partner) as the General Partner deems necessary or appropriate, including, without limitation, (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder;

(x) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, limited liability companies, joint ventures or other relationships that the General Partner deems desirable (including, without limitation, the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which it has an equity investment from time to time); provided, however, that as long as the General Partner desires to maintain or restore its qualification as a REIT, the General Partner and the Partnership may not engage in any such formation, acquisition or contribution that would cause it to fail to qualify as a REIT;

(xi) the filing of applications, communicating and otherwise dealing with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any other aspect of the Partnership business;

(xii) the taking of any action necessary or appropriate to comply with all regulatory requirements applicable to the Partnership in respect of its business, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports, filings and documents, if any, required under the Exchange Act, the Securities Act, or by National Securities Exchange requirements;



(xiii) the control of any matters affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(xiv) the undertaking of any action in connection with the Partnership's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);

(xv) except as otherwise specifically set forth in this Agreement, the determination of the fair market value of any Partnership property distributed in-kind using such reasonable method of valuation as it may adopt; provided, that such methods are otherwise consistent with the requirements of this Agreement;

(xvi) the enforcement of any rights against any Partner pursuant to representations, warranties, covenants and indemnities relating to such Partner's contribution of property or assets to the Partnership;

(xvii) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power-of-attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;

(xviii) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(xix) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest, pursuant to contractual or other arrangements with such Person;

(xx) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure Debt, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases or legal instruments or agreements in writing necessary or appropriate in the judgment of the General Partner for the accomplishment of any of the powers of the General Partner enumerated in this Agreement;

(xxi) the issuance of additional Partnership Units, as appropriate and in the General Partner's sole and absolute discretion, in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to Article IV hereof;

(xxii) the selection and dismissal of agents, outside attorneys, accountants, consultants and contractors of the Partnership, the determination of their compensation and other terms of hiring;

(xxiii) the distribution of cash to acquire Partnership Units held by a Limited Partner in connection with a Limited Partner's exercise of its Redemption right under Section 8.6;

(xxiv) maintaining or causing to be maintained, the books and records of the Partnership or the Transfer Agent to reflect accurately at all times the Capital Contributions and Percentage Interests of the Partners as the same are adjusted from time to time to the extent necessary to reflect sales, exchanges, conversions or other Transfers, redemptions, Capital Contributions, the number of Partnership Units (including any issuance thereof), the admission of any Additional Limited Partner or any Substituted Limited Partner or otherwise;

(xxv) the determination regarding whether a payment to a Partner who exercises its Redemption right under Section 8.6 that is assumed by the General Partner will be paid in the form of the Cash Amount or the REIT Shares Amount, except as such determination may be limited by Section 8.6.

(xxvi) the collection and receipt of revenues and income of the Partnership;

(xxvii) the registration of any class of securities of the Partnership under the Securities Act or the Exchange Act;

(xxviii) the entering into of listing agreements with any National Securities Exchange and the listing of any securities of the Partnership on any such exchange;

(xxix) an election to dissolve the Partnership pursuant to Section 13.1(d); and

(xxx) the taking of any action necessary or appropriate to enable the General Partner to qualify or continue to qualify as a REIT (so long as the General Partner desires to maintain or restore its qualification as a REIT).

(b) Each of the Limited Partners agrees that, except as provided in Section 7.3 hereof, the General Partner is authorized to execute, deliver and perform the above-mentioned agreements and transactions on behalf of the Partnership without any further act, approval or vote of the Partners, notwithstanding any other provision of this Agreement, the Act or any applicable law, rule or regulation and, in the absence of any specific corporate action on the part of the General Partner to the contrary, the taking of any action or the execution of any such document or writing by an officer of the General Partner, in the name and on behalf of the General Partner, in its capacity as the general partner of the Partnership, shall conclusively evidence (1) the approval thereof by the General Partner, in its capacity as the general partner of the Partnership, (2) the General Partner's determination that such action, document or writing is necessary or desirable to conduct the business and affairs of the Partnership, exercise the powers of the Partnership under this Agreement and the Act or effectuate the purposes of the Partnership, or any other determination by the General Partner required by this Agreement in connection with the taking of

such action or execution of such document or writing, and (3) the authority of such officer with respect thereto.

(c) At all times from and after the date hereof, the General Partner may cause the Partnership to establish and maintain working capital and other reserves in such amounts as the General Partner, in its sole and absolute discretion, deems appropriate and reasonable from time to time.

(d) In exercising its authority under this Agreement, the General Partner may, but shall be under no obligation to, take into account the tax consequences to any Partner (including the General Partner) of any action taken (or not taken) by it. Except as may be provided in a separate written agreement between the Partnership and the Limited Partners, the General Partner and the Partnership shall not have liability to a Limited Partner under any circumstances as a result of a tax liability incurred by such Limited Partner as a result of an action (or inaction) by the General Partner pursuant to its authority under this Agreement or applicable Law; provided, that the General Partner has acted in good faith and pursuant to its authority under this Agreement.

Section 7.2. Certificate of Limited Partnership To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate of Limited Partnership and do all the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the State of Delaware and each other state, the District of Columbia or any other jurisdiction, in which the Partnership may elect to do business or own property. Except as otherwise required under the Act, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate of Limited Partnership or any amendment thereto to any Limited Partner. The General Partner shall use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and any other state, or the District of Columbia or other jurisdiction, in which the Partnership may elect to do business or own property.

#### Section 7.3. Restrictions on General Partner's Authority

(a) The General Partner may not take any action in contravention of an express prohibition or limitation of this Agreement without the written consent of a Majority in Interest of the Outside Limited Partners or such other percentage of the Limited Partners as may be specifically provided for under a provision of this Agreement and may not (1) perform any act that would subject a Limited Partner to liability as a general partner in any jurisdiction or any other liability except as provided herein or under the Act; or (2) enter into any contract, mortgage, loan or other agreement that expressly prohibits or restricts (A) the General Partner or the Partnership from performing its specific obligations under Section 8.6 in full or (B) a Limited Partner from exercising its rights under Section 8.6 to effect a Redemption in full, except, in either case, with the written consent of such Limited Partner affected by the prohibition or restriction.

(b) The General Partner may amend, modify or repeal any provision of this Agreement in any respect; provided that, without the written consent of a Majority in Interest of the Outside Limited Partners, the General Partner shall not amend, modify or repeal, including by way of merger or consolidation, the following provisions in any manner that disproportionately affects the Outside Limited Partners: Section 4.3, Article V, Article VI, Article VII (including this Section 7.3(b)), Section 8.6, Sections 11.2 or 11.3 or Article XIV.

(c) Notwithstanding Sections 7.3(b) and 14.2, the General Partner shall have the exclusive power, without the prior consent of the Limited Partners, to amend this Agreement as may be required to facilitate or implement any of the following purposes:

(i) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;

(ii) to reflect the admission, substitution or withdrawal of Partners or the termination of the Partnership in accordance with this Agreement, and to cause the Partnership or the Transfer Agent to amend its books and records in connection with such admission, substitution or withdrawal;

(iii) to reflect a change that is of an inconsequential nature or does not adversely affect the Limited Partners as such in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement;

(iv) to satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, ruling or regulation of a federal or state agency or contained in federal or state law;

(v) to set forth or amend the designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to distributions, qualifications or terms or conditions of redemption of the holders of any additional Partnership Units or Partnership Interests issued or established pursuant to this Agreement;

(vi) (a) to reflect such changes as are reasonably necessary for the General Partner to maintain or restore its qualification as a REIT or to satisfy the REIT Requirements; or (b) to reflect the Transfer of all or any part of a Partnership Interest among the General Partner, and any Qualified REIT Subsidiary or entity that is disregarded as an entity separate from the General Partner for U.S. federal income tax purposes;

(vii) to modify either or both the manner in which items of Net Income or Net Loss are allocated pursuant to Article VI or the manner in which Capital Accounts are adjusted, computed or maintained (but only to the extent set forth in the definition of "Capital Account" or contemplated by the Code or the Regulations);

(viii) to issue additional Partnership Interests in accordance with Section 4.3;

(ix) to reflect any other modification to this Agreement as is reasonably necessary for the business or operations of the Partnership or the General Partner and which does not violate Section 7.3(d);

(x) as may be required to reflect the admission, substitution, termination or withdrawal of Partners in accordance with this Agreement; and

(xi) for the purposes contemplated by Section 11.3(e).

The General Partner will provide notice to the Limited Partners whenever any action under this Section 7.3(c) is taken.

(d) Notwithstanding Sections 7.3(b) and 7.3(c), this Agreement shall not be amended (including by way of merger or consolidation), and no action may be taken by the General Partner without the consent of each Partner adversely affected thereby, if such amendment or action would (i) convert a Limited Partner Interest in the Partnership into a General Partner Interest (except as a result of the General Partner acquiring such Partnership Interest), (ii) modify the limited liability of a Limited Partner, (iii) alter the rights of any Partner to receive the distributions to which such Partner is entitled, pursuant to Article V or Section 13.2(a)(iv), or alter the allocations specified in Article VI (except, in any case, as permitted pursuant to Sections 4.3, 7.3(c) and Article VI), (iv) alter or modify the Redemption rights, Cash Amount or REIT Shares Amount as set forth in Section 8.6, or amend or modify any related definitions or (v) amend this Section 7.3(d). Further, no amendment or action may alter the restrictions on the General Partner's authority set forth elsewhere in this Section 7.3 without the consent specified therein. Any such amendment or action consented to by any Partner shall be effective as to that Partner, notwithstanding the absence of such consent by any other Partner.

#### Section 7.4. Reimbursement of the General Partner

(a) Except as provided in this Section 7.4 and elsewhere in this Agreement (including the provisions of Articles V and VI regarding distributions, payments and allocations to which it may be entitled), the General Partner shall not be compensated for its services as general partner of the Partnership.

(b) The Partnership shall be responsible for and shall pay all expenses relating to the Partnership's organization, the ownership of its assets and its operations. The General Partner and its Affiliates shall be reimbursed on a monthly basis, or such other basis as the General Partner may determine in its sole and absolute discretion, for all sums expended in connection with the Partnership's business, including, without limitation, (i) expenses that the General Partner and its Affiliates incur relating to the ownership and operation of, or for the benefit of, the Partnership, (ii) compensation of officers and employees, (iii) director fees and expenses and (iv) all costs and expenses of the General Partner being a public company, including costs of filings with the SEC, reports and other distributions to its stockholders; provided, that the amount of any such reimbursement shall be reduced by any interest earned by the General Partner with respect to bank accounts or other instruments or accounts held by it on behalf of the Partnership. The Partners acknowledge that all such expenses of the General Partner are deemed to be for the benefit of the Partnership. Such reimbursement shall be in addition to any reimbursement made as a result of

indemnification pursuant to Sections 10.3 and 7.7. In the event that certain expenses are incurred for the benefit of the Partnership and other entities (including the General Partner), such expenses will be allocated to the Partnership and such other entities in such a manner as the General Partner in its sole and absolute discretion deems fair and reasonable. All payments and reimbursements hereunder shall be characterized for U.S. federal income tax purposes as expenses of the Partnership incurred on its behalf, and not as expenses of the General Partner.

(c) If the General Partner shall elect to purchase from its stockholders REIT Shares for the purpose of delivering such REIT Shares to satisfy an obligation under any dividend reinvestment program adopted by the General Partner, any employee stock purchase plan adopted by the General Partner or any similar obligation or arrangement undertaken by the General Partner in the future or for the purpose of retiring such REIT Shares, the purchase price paid by the General Partner for such REIT Shares and any other expenses incurred by the General Partner in connection with such purchase shall be considered expenses of the Partnership and shall be advanced to the General Partner or reimbursed to the General Partner, subject to the condition that: (1) if such REIT Shares subsequently are sold by the General Partner, the General Partner shall pay or cause to be paid to the Partnership any proceeds received by the General Partner for such REIT Shares (which sales proceeds shall include the amount of dividends reinvested under any dividend reinvestment or similar program; provided, that a transfer of REIT Shares for Partnership Units pursuant to Section 8.6 would not be considered a sale for such purposes); and (2) if such REIT Shares are not retransferred by the General Partner within thirty (30) days after the purchase thereof, or the General Partner otherwise determines not to retransfer such REIT Shares, the General Partner shall cause the Partnership to redeem a number of Partnership Units held by the General Partner equal to the number of such REIT Shares, as adjusted for stock dividends and distributions, stock splits and subdivisions, reverse stock splits and combinations, distributions of rights, warrants or options, and distributions of evidences of indebtedness or assets relating to assets not received by the General Partner pursuant to a *pro rata* distribution by the Partnership (in which case such advancement or reimbursement of expenses shall be treated as having been made as a distribution in redemption of such number of Partnership Units held by the General Partner).

(d) As set forth in Section 4.3, the General Partner shall be treated as having made a Capital Contribution in the amount of all expenses that it incurs relating to its offering of REIT Shares, Preferred Shares, Junior Shares or New Securities.

(e) If and to the extent any reimbursements to the General Partner pursuant to this Section 7.4 constitute gross income of the General Partner (as opposed to the repayment of advances made by the General Partner on behalf of the Partnership), such amounts shall constitute guaranteed payments with respect to capital within the meaning of Code Section 707(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

Section 7.5. Outside Activities of the General Partner The General Partner shall not directly or indirectly enter into or conduct any business, other than in connection with (a) the ownership, acquisition and disposition of Partnership Interests, (b) the management of the business of the Partnership, (c) the operation of the General Partner as a reporting company with one or more classes of securities registered under the Exchange Act, (d) the offering, sale, syndication,

private placement or public offering of stock, bonds, securities or other interests, (e) financing or refinancing of any type related to the Partnership or its assets or activities, (f) any of the foregoing activities as they relate to a Subsidiary of the Partnership, and (g) such activities as are incidental thereto. Nothing contained herein shall be deemed to prohibit the General Partner from (i) executing guarantees of Partnership Debt, (ii) holding such bank accounts or similar instruments or accounts in its name as it deems necessary to carry out its responsibilities and purposes as contemplated under this Agreement and its organizational documents (provided, that accounts held on behalf of the Partnership to permit the General Partner to carry out its responsibilities under this Agreement shall be considered to belong to the Partnership and the interest earned thereon shall, subject to Section 7.4(b), be applied for the benefit of the Partnership) or (iii) acquiring Qualified Assets.

#### Section 7.6. Contracts with Affiliates

(a) The Partnership may lend or contribute funds or other assets to its Subsidiaries or other Persons in which it has an equity investment, and such Persons may borrow funds from the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Subsidiary or any other Person.

(b) The Partnership may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law as the General Partner, in its sole and absolute discretion, believes to be advisable.

(c) Except as expressly permitted by this Agreement, neither the General Partner nor any of its Affiliates shall sell, transfer or convey any property to the Partnership, directly or indirectly, except pursuant to transactions that are determined by the General Partner in good faith to be fair and reasonable.

(d) The General Partner, in its sole and absolute discretion, may propose and adopt on behalf of the Partnership employee benefit plans funded by the Partnership for the benefit of employees of the General Partner, the Partnership, Subsidiaries of the Partnership or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the Partnership or any of the Partnership's Subsidiaries.

(e) The General Partner is expressly authorized to enter into, in the name and on behalf of the Partnership, any Services Agreement with Affiliates of any of the Partnership or the General Partner, on such terms as the General Partner, in its sole and absolute discretion, believes are advisable.

#### Section 7.7. Indemnification

(a) The Partnership shall, to the maximum extent permitted by applicable law in effect from time to time, indemnify, and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to each Indemnitee; provided, however, that the Partnership shall not

indemnify an Indemnitee (1) for material acts or omissions that were committed in bad faith or were the result of active and deliberate dishonesty, (2) for any transaction for which such Indemnitee received an improper personal benefit in money, property or services in violation or breach of any provision of this Agreement, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful. Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty or otherwise (unless otherwise provided by the terms of any such guaranty or other instrument), for any indebtedness of the Partnership or any Subsidiary of the Partnership (including, without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken subject to), and the General Partner is hereby authorized and empowered, on behalf of the Partnership, to enter into one or more indemnity agreements consistent with the provisions of this Section 7.7 in favor of any Indemnitee having or potentially having liability for any such indebtedness. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this Section 7.7(a). The termination of any proceeding by conviction of an Indemnitee or upon a plea of *nolo contendere* or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.7(a) with respect to the subject matter of such proceeding. Any indemnification pursuant to this Section 7.7 shall be made only out of the assets of the Partnership and any insurance proceeds from the liability policy covering the General Partner and any Indemnitees, and neither the General Partner nor any Limited Partner shall have any obligation to contribute to the capital of the Partnership or otherwise provide funds to enable the Partnership to fund its obligations under this Section 7.7.

(b) To the fullest extent permitted by law, and without requiring a preliminary determination of the Indemnitee's ultimate entitlement to indemnification under Section 7.7(a) above, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any proceeding shall be paid or reimbursed by the Partnership as incurred by the Indemnitee in advance of the final disposition of the proceeding upon receipt by the Partnership of (1) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized by Section 7.7(a) has been met and (2) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

(c) The indemnification provided by this Section 7.7 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

(d) The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Partnership's activities, regardless of whether the Partnership



would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(e) Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Partnership or the General Partner (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this Section 7.7, unless such liabilities arise as a result of (1) material acts or omissions that were committed in bad faith or were the result of active and deliberate dishonesty, (2) any transaction in which such Indemnitee received an improper personal benefit in money, property or services in violation or breach of any provision of this Agreement or applicable law, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful.

(f) In no event may an Indemnitee subject any of the Partners to personal liability by reason of the indemnification provisions set forth in this Agreement.

(g) An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.7 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

(h) The provisions of this Section 7.7 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.7 or any provision hereof shall be prospective only and shall not in any way affect the obligations of the Partnership or the limitations on the Partnership's liability to any Indemnitee under this Section 7.7 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

(i) If and to the extent any payments to the General Partner pursuant to this Section 7.7 constitute gross income to the General Partner (as opposed to the repayment of advances made on behalf of the Partnership) such amounts shall be treated as "guaranteed payments" for the use of capital within the meaning of Code Section 707(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

#### Section 7.8. Liability of the General Partner and Affiliates

(a) Notwithstanding anything to the contrary set forth in this Agreement, to the maximum extent that Delaware law in effect from time to time permits, none of the General Partner, its Affiliates or their respective directors or officers shall be liable or accountable in damages or otherwise to the Partnership, any Partners or any Assignees for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or

law or of any act or omission if the General Partner or such Affiliate or such director or officer acted in good faith.

(b) The Limited Partners expressly acknowledge that the General Partner is acting for the benefit of the Partnership and the Limited Partners and its own stockholders collectively and that the General Partner is under no obligation to give priority to the separate interests of the Limited Partners or its own stockholders (including, without limitation, the tax consequences to Limited Partners, Assignees or its own stockholders) in deciding whether to cause the Partnership to take (or decline to take) any actions. If there is a conflict between the interests of the stockholders of the General Partner on one hand and the Limited Partners on the other, the Limited Partners expressly acknowledge that the General Partner will fulfill its duties to such Limited Partners by acting in the best interests of the stockholders of the General Partner. The General Partner shall not be liable under this Agreement to the Partnership or to any Partner for monetary damages for losses sustained, liabilities incurred or benefits not derived by Limited Partners in connection with such decisions; provided, that the General Partner has acted in good faith.

(c) Subject to its obligations and duties as General Partner set forth in Section 7.1, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its employees or agents (subject to the supervision and control of the General Partner). The General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by it in good faith.

(d) To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or the Limited Partners, the General Partner shall not be liable to the Partnership or to any other Partner for its good faith reliance on the provisions of this Agreement.

(e) Notwithstanding anything herein to the contrary, except for fraud, willful misconduct or gross negligence, or pursuant to any express indemnities given to the Partnership by any Partner pursuant to any other written instrument, no Partner shall have any personal liability whatsoever, to the Partnership or to the other Partner(s), for the debts or liabilities of the Partnership or the Partnership's obligations hereunder, and the full recourse of the other Partner(s) shall be limited to the interest of that Partner in the Partnership. To the fullest extent permitted by law, no officer, director or stockholder of the General Partner or any of its Affiliates shall be liable to the Partnership for money damages except for (1) active and deliberate dishonesty established by a nonappealable final judgment or (2) actual receipt of an improper benefit or profit in money, property or services. Without limitation of the foregoing, and except for fraud, willful misconduct or gross negligence, or pursuant to any such express indemnity, no property or assets of any Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement.

(f) Any amendment, modification or repeal of this Section 7.8 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the General Partner's, and its Affiliates' or their officers' and directors', liability to the Partnership and the

Limited Partners under this Section 7.8 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

Section 7.9. Other Matters Concerning the General Partner

(a) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

(b) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

(c) The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers and a duly appointed attorney or attorneys-in-fact. Each such attorney shall, to the extent provided by the General Partner in the power of attorney, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the General Partner hereunder.

(d) Notwithstanding any other provision of this Agreement or the Act, but without limiting the rights of any Limited Partner pursuant to Section 8.6, any action of the General Partner on behalf of the Partnership or any decision of the General Partner to refrain from acting on behalf of the Partnership, undertaken in the good faith belief that such action or omission is necessary or advisable in order (1) to protect the ability of the General Partner to qualify or to continue to qualify as a REIT or the Partnership to be taxed as a partnership for U.S. federal income tax purposes, or (2) without limitation of the foregoing clause, to avoid the General Partner or the Partnership incurring any income or excise taxes under the Code, is expressly authorized under this Agreement and is deemed approved by all of the Limited Partners.

Section 7.10. Title to Partnership Assets. Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually or collectively with other Partners or Persons, shall have any ownership interest in such Partnership assets or any portion thereof. Title to any or all of the Partnership assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of the General Partner. The General Partner hereby declares and warrants that any Partnership assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner for the use and benefit of the Partnership in accordance with the provisions of this Agreement. All Partnership assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11. Reliance by Third Parties. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full power and authority, without the consent or approval of any other Partner or Person, to encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, and take any and all actions on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner as if the General Partner were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the General Partner in connection with any such dealing. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the General Partner or its representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or its representatives shall be conclusive evidence in favor of any and every Person relying in good faith thereon or claiming thereunder that (1) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (2) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Partnership, and (3) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.

## **ARTICLE VIII RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS**

Section 8.1. Limitation of Liability. The Limited Partners shall have no liability under this Agreement (other than for breach thereof) except as expressly provided in Sections 10.4 and Section 13.2(c) or under the Act.

Section 8.2. Management of Business. No Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent or director of the General Partner, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operations, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent, representative, stockholder or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.3. Outside Activities of Limited Partners. Subject to any agreements entered into pursuant to Section 7.6(e) and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or any Affiliate thereof (including, without limitation, any employment agreement), any Limited Partner and any Assignee, officer, director, employee, agent, trustee, Affiliate, member or shareholder of any Limited Partner shall be entitled to and may have business interests and engage in business activities in addition to those

relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner or Assignee. Subject to such agreements, none of the Limited Partners nor any other Person shall have any rights by virtue of this Agreement or the partnership relationship established hereby in any business ventures of any other Person (other than the General Partner, to the extent expressly provided herein), and such Person shall have no obligation pursuant to this Agreement, subject to Section 7.6(e) hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or any Affiliate thereof, to offer any interest in any such business ventures to the Partnership, any Limited Partner or any such other Person, even if such opportunity is of a character that, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.

Section 8.4. Return of Capital. Except pursuant to the rights of Redemption set forth in Section 8.6 hereof, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement or upon termination of the Partnership as provided herein. Except to the extent provided in Article VI hereof or otherwise expressly provided in this Agreement, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.5. Adjustment Factor. The Partnership shall notify any Limited Partner, upon written request, of the then current Adjustment Factor or any change made to the Adjustment Factor.

Section 8.6. Redemption Rights.

(a) Each Limited Partner shall have the right (subject to the terms and conditions set forth herein) to require the Partnership to redeem all or a portion of the OP Units held by such Limited Partner (such OP Units being hereafter referred to as "Tendered Units") in exchange for the Cash Amount (a "Redemption"), provided, however, that the Partnership shall not be obligated to satisfy such Redemption for the Cash Amount if the General Partner elects to exchange the Tendered Units for the applicable REIT Shares Amount pursuant to Section 8.6(b). The Tendering Partner shall have no right, with respect to any OP Units so redeemed, to receive any distributions in respect thereof paid on or after the Specified Redemption Date. Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the General Partner by the Limited Partner who is exercising the right (the "Tendering Partner"). The Cash Amount (or, if the General Partner elects to exchange the Tendered Units for the applicable REIT Shares Amount pursuant to Section 8.6(b), the REIT Shares Amount) shall be payable to the Tendering Partner on the Specified Redemption Date.

(b) Notwithstanding Section 8.6(a) above, if a Limited Partner has delivered to the General Partner a Notice of Redemption, then the General Partner may, in its sole and absolute discretion (subject to the limitations on ownership and other transfer of REIT Shares set forth in Section 8.6(c)), elect to assume and satisfy the Partnership's Redemption obligation and acquire some or all of the Tendered Units from the Tendering Partner in exchange for the REIT Shares Amount (as of the Specified Redemption Date) and, if the General Partner so elects, the

Tendering Partner shall sell the Tendered Units to the General Partner in exchange for the REIT Shares Amount. In such event, the Tendering Partner shall have no right to cause the Partnership to redeem such Tendered Units for the Cash Amount. In the event the General Partner purchases OP Units with respect to the exercise of a Redemption right, the Partnership shall have no obligation to pay any amount to the Tendering Partner with respect to such Tendering Partner's exercise of such Redemption right, and each of the Tendering Partner, the Partnership and the General Partner shall treat the transaction between the General Partner and the Tendering Partner as a sale of the Tendering Partner's OP Units to the General Partner for U.S. federal income tax purposes. The General Partner shall give such Tendering Partner written notice of its election on or before the close of business on the fifteenth (15th) Business Day after its receipt of the Notice of Redemption.

(c) Notwithstanding the provisions of Sections 8.6(a) and 8.6(b), a Limited Partner shall not be entitled to exercise the Redemption right if the delivery of REIT Shares to such Limited Partner on the Specified Redemption Date by the General Partner pursuant to Section 8.6(b) hereof (regardless of whether or not the General Partner would in fact exercise its rights under Section 8.6(b)) would, in the sole and absolute discretion of the General Partner, create a significant risk of (i) REIT Shares being owned by fewer than 100 persons (determined without reference to any rules of attribution), (ii) the General Partner being "closely held" within the meaning of Section 856(h) of the Code, (iii) the General Partner owning, actually or constructively, 10% or more of the ownership interests in a tenant (other than a TRS) of the General Partner, the Partnership or a Subsidiary Partnership, within the meaning of Section 856(d)(2)(B) of the Code, (iv) otherwise cause the General Partner to fail to qualify as a REIT under the Code, or (v) cause the acquisition of REIT Shares by such Limited Partner to be "integrated" with any other distribution of REIT Shares or OP Units for purposes of complying with the registration provisions of the Securities Act. To the extent any attempted Redemption would be in violation of this Section 8.6(c), it shall be null and void *ab initio* and the Tendering Partner shall not acquire any rights or economic interest in the REIT Shares otherwise issuable upon such exercise. The General Partner, in its sole and absolute discretion, may waive the restriction on Redemption set forth in this Section 8.6(c).

(d) The REIT Shares Amount, if applicable, shall be delivered as duly authorized, validly issued, fully paid and nonassessable REIT Shares and, if applicable, free of any pledge, lien, encumbrance or restriction, other than those provided in the Charter, the Bylaws, the Securities Act, relevant state securities or blue sky laws and any applicable registration rights agreement with respect to such REIT Shares entered into by the Tendering Partner. Notwithstanding any delay in such delivery (but subject to Section 8.6(f)), the Tendering Partner shall be deemed the owner of such REIT Shares for all purposes, including without limitation, rights to vote or consent, and receive dividends, as of the Specified Redemption Date. In addition, the REIT Shares for which the Partnership Units might be exchanged shall also bear any applicable legend set forth in the Charter or other organizational documents of the General Partner.

(e) Each Limited Partner covenants and agrees with the General Partner that all Tendered Units shall be delivered to the Partnership or General Partner, as applicable, free and clear of all liens, claims and encumbrances whatsoever and should any such liens, claims and/or encumbrances exist or arise with respect to such Tendered Units, the Partnership or the General Partner, as applicable, shall be under no obligation to acquire the same and shall be indemnified

and held harmless for any losses with respect thereto. Each Limited Partner further agrees that, in the event any state or local property transfer tax is payable as a result of the transfer of its Tendered Units to the Partnership or the General Partner, such Limited Partner shall assume and pay such transfer tax.

(f) Notwithstanding anything herein to the contrary (but subject to Section 8.6(c)), with respect to any Redemption pursuant to this Section 8.6: (i) a portion of the OP Units acquired by the General Partner pursuant thereto shall automatically, and without further action required, be converted into and deemed to be General Partner Interests and all other OP Units shall be deemed to be Limited Partner Interests and held by the General Partner in its capacity as a Limited Partner in the Partnership to the extent necessary so that, immediately after such Redemption, the requirements of Section 4.1(b) continue to be met; (ii) without the consent of the General Partner, which consent may be withheld in its sole and absolute discretion, each Limited Partner may effect a Redemption or exchange for REIT Shares no more than one (1) time per quarter; (iii) without the consent of the General Partner, which consent may be withheld in its sole and absolute discretion, each Limited Partner may not effect a Redemption for less than one thousand (1,000) OP Units or, if the Limited Partner holds less than one thousand (1,000) OP Units, all of the OP Units held by such Limited Partner; (iv) without the consent of the General Partner, each Limited Partner may not effect a Redemption during the period after the Partnership Record Date with respect to a distribution and before the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution, and in such case the "Specified Redemption Date" shall be the calendar day following the record date established for such distribution to the General Partner's stockholder (or if such date is not a Business Day, the immediately subsequent Business Day); (v) the consummation of any Redemption shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; and (vi) each Tendering Partner shall continue to own all OP Units subject to any Redemption, and be treated as a Limited Partner with respect to such OP Units for all purposes of this Agreement, until such OP Units are transferred to the Partnership or the General Partner, as applicable, and paid for or exchanged on the Specified Redemption Date. Until a Specified Redemption Date, the Tendering Partner shall have no rights as a stockholder of the General Partner with respect to such OP Units of the Tendering Partner.

(g) The Assignee of any Limited Partner may exercise the rights of such Limited Partner pursuant to this Section 8.6, and such Limited Partner shall be deemed to have assigned such rights to such Assignee and shall be bound by the exercise of such rights by such Limited Partner's Assignee. In connection with any exercise of such rights by such Assignee on behalf of such Limited Partner, the Cash Amount or REIT Shares, as applicable, shall be paid or issued by the Partnership directly to such Assignee and not to such Limited Partner.

(h) In the event that the Partnership issues additional Partnership Interests to any Additional Limited Partner pursuant to Section 4.4, the General Partner shall make such revisions to this Section 8.6 as it determines are necessary to reflect the issuance of such additional Partnership Interests.

## ARTICLE IX

## **BOOKS, RECORDS, ACCOUNTING AND REPORTS**

### **Section 9.1. Records and Accounting.**

(a) The General Partner shall keep or cause to be kept at the principal office of the Partnership or the Transfer Agent, as applicable, those records and documents required to be maintained by the Act and other books and records deemed by the General Partner to be appropriate with respect to the Partnership's business, including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to Section 8.5 or 9.3 hereof.

(b) The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with U.S. GAAP, or on such other basis as the General Partner determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Partnership and the General Partner may operate with integrated or consolidated accounting records, operations and principles. The Partnership also shall maintain its tax books on the accrual basis.

Section 9.2. Partnership Year. The Partnership Year shall be the calendar year unless otherwise required under the Code.

### **Section 9.3. Reports**

(a) As soon as practicable, but in no event later than the date on which the General Partner mails its annual report to its stockholders, the General Partner shall cause to be mailed to each Limited Partner an annual report, as of the close of the most recently ended Partnership Year, containing financial statements of the Partnership, or of the General Partner if such statements are prepared solely on a consolidated basis with the Partnership, for such Partnership Year, presented in accordance with U.S. GAAP, such statements to be audited by nationally recognized independent public accountants selected by the General Partner.

(b) If and to the extent that the General Partner mails quarterly reports to its stockholders, as soon as practicable, but in no event later than the date on such reports are mailed, the General Partner shall cause to be mailed to each Limited Partner a report containing unaudited financial statements, as of the last day of such fiscal quarter, of the Partnership, or of the General Partner if such statements are prepared solely on a consolidated basis with the Partnership, and such other information as may be required by applicable law or regulations, or as the General Partner determines to be appropriate.

(c) The General Partner shall have satisfied its obligations under Sections 9.3(a) and 9.3(b) by posting or making available the reports required by this Section 9.3 on either the Electronic Data Gathering, Analysis, and Retrieval, or "EDGAR" database maintained by the SEC, or the website maintained from time to time by the Partnership or the General Partner.

(d) At the request of any Limited Partner, the General Partner shall provide access to the books, records and work papers upon which the reports required by this Section 9.3 are based, to the extent required by the Act.



Section 9.4. Certificates Describing Partnership Units At the request of a Limited Partner, the General Partner may, at its option and in its discretion, issue a certificate summarizing the terms of such Limited Partner's interest in the Partnership, including the number of Partnership Units owned as of the date of such certificate. If issued, any such certificates (a) shall be in form and substance as approved by the General Partner, (b) shall not be negotiable, and (c) shall bear a legend substantially similar to the following: **"This certificate is not negotiable. The Partnership Units represented by this certificate are governed by and transferable only in accordance with the provisions of the Amended and Restated Agreement of Limited Partnership of Rayonier, L.P., as amended from time to time."**

## ARTICLE X TAX MATTERS

Section 10.1. Preparation of Tax Returns. At the expense of the Partnership, the General Partner shall arrange for the preparation and timely filing of all returns with respect to Partnership income, gains, deductions, losses and other items required of the Partnership for federal and state income tax purposes and shall use all reasonable effort to furnish, within one-hundred and twenty (120) days of the close of the Partnership Year that includes the Closing Date (as defined in the Merger Agreement) or within ninety (90) days of the close of any other Partnership Year, to each Limited Partner who was a Limited Partner at any time during such Partnership Year a Schedule K-1 and such other information, if any, with respect to the Partnership as the General Partner determines may be necessary for the preparation of such Limited Partner's federal and state income tax returns; provided, that to the extent information from third parties required to produce any of the foregoing information is unavailable at such time and the General Partner has reasonably attempted to obtain such information, the General Partner may furnish such information to the Limited Partners as soon as it becomes available. The Limited Partners shall promptly provide the General Partner with such information relating to the Contributed Properties (other than Contributed Property contributed or deemed contributed to the Partnership as part of the transactions contemplated by the Merger Agreement), including tax basis and other relevant information, as may be reasonably requested by the General Partner from time to time.

### Section 10.2. Tax Elections and Other Tax Matters.

(a) All elections required or permitted to be made by the Partnership under the Code or any applicable state, local or foreign tax law shall be made by the General Partner in its sole and absolute discretion, including, but not limited to, the election under Code Section 754 and the election to use the "recurring item" method of accounting provided under Code Section 461(h) with respect to property taxes imposed. The General Partner shall have the right to seek to revoke any such election (including, without limitation, any election under Code Sections 461(h) and 754) upon the General Partner's determination in its sole and absolute discretion that such revocation is in the best interests of the Partners. In the event of a transfer of all or any part of the Partnership Interest of any Partner, the Partnership, at the option of the General Partner, may elect pursuant to Section 754 of the Code to adjust the basis of the Properties. Notwithstanding anything contained in Article VI of this Agreement, any adjustments made pursuant to Section 754 shall affect only the successor in interest to the transferring Partner and in no event shall be taken into account in establishing, maintaining or computing Capital Accounts for the other Partners for any purpose

under this Agreement. Each Partner will furnish the Partnership with all information necessary to give effect to such election.

(b) The Partners, intending to be legally bound, hereby authorize the Partnership to make an election (the “Safe Harbor Election”) to have the “liquidation value” safe harbor provided in Proposed Treasury Regulation § 1.83-3(1) and the Proposed Revenue Procedure set forth in IRS Notice 2005-43, as such safe harbor may be modified when such proposed guidance is issued in final form or as amended by subsequently issued guidance (the “Safe Harbor”), apply to any Partnership Interest transferred to a service provider in connection with the performance of services while the Safe Harbor Election remains effective, to the extent such interest meets the Safe Harbor requirements (collectively, such interests are referred to as “Safe Harbor Interests”). The Tax Matters Representative is authorized and directed to execute and file the Safe Harbor Election on behalf of the Partnership and the Partners. The Partnership and the Partners (including any person to whom an interest in the Partnership is transferred in connection with the performance of services) hereby agree to comply with all requirements of the Safe Harbor (including forfeiture allocations) with respect to all Safe Harbor Interests and to prepare and file all U.S. federal income tax returns reporting the tax consequences of the issuance and vesting of Safe Harbor Interests consistent with such final Safe Harbor guidance. The Partnership is also authorized to take such actions as are necessary to achieve, under the Safe Harbor, the effect that the election and compliance with all requirements of the Safe Harbor referred to above would be intended to achieve under Proposed Treasury Regulation § 1.83-3, including amending this Agreement. In the event the Safe Harbor Election is rendered moot or obsolete by future legislation that amends Section 83 of the Code, this Section 10.2(b) shall have no effect. The liquidation value of each LTIP Unit shall be zero upon grant as provided in Section 4.6(c)(i).

(c) Each Limited Partner shall be required to provide such information as reasonably requested by the Partnership in order to determine whether such Limited Partner (i) owns, directly or constructively (within the meaning of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code and Section 7704(d)(3) of the Code), 5% or more of the value of the Partnership or (ii) owns, directly or constructively (within the meaning of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code and Section 7704(d)(3) of the Code), 10% or more of (x) the stock, by voting power or value, of a tenant (other than a TRS) of the Partnership that is a corporation or (y) the assets or net profits of a tenant of the Partnership that is a non-corporate entity.

#### Section 10.3. Tax Matters Representative.

(a) The General Partner or its designee shall be designated the “tax matters partner,” “partnership representative” or any similar role, as applicable, within the meaning of the Code and applicable state, local or foreign tax law, and shall have all the rights, authority and power and shall be subject to all of the obligations associated therewith to the extent provided in the Code, Regulations and applicable state, local or foreign tax law (the “Tax Matters Representative”) with respect to operations conducted by the Partnership pursuant to this Agreement. In all other cases, the Tax Matters Representative is authorized to represent the Partnership (at the expense of the Partnership) in connection with all tax matters to the extent allowed by law, and to expend funds of the Partnership for professional services and costs associated therewith. The Tax Matters

Representative shall at the expense of the Partnership furnish the Partners with timely status reports regarding any material tax contest involving the Partnership, including any negotiation between the IRS (or any relevant state or local taxing authority) and the Partnership. As the Tax Matters Representative, the General Partner may cause the Partnership to make all elections required or permitted to be made by the Partnership under the Code or any state, local or foreign tax law (except as otherwise provided herein). In exercising its responsibilities as Tax Matters Representative, the General Partner shall have authority and final decision-making authority with respect to all federal, state, local, and foreign tax matters involving the Partnership. Any person who serves as Tax Matters Representative shall not be liable to the Partnership or any Partner for any action it takes or fails to take in such capacity, unless such action or failure to act constitutes bad faith, willful misconduct, gross negligence, fraud or a material breach of this Agreement. Any expenses incurred by the Tax Matters Representative, or in a similar capacity as set forth in this Section 10.3, shall be allocated to and charged to the Partnership as an expense of the Partnership for which the Tax Matters Representative shall be reimbursed. Such expenses shall include, without limitation, fees of attorneys and other tax professionals, accountants, appraisers and experts, filing fees and reasonable out-of-pocket costs.

(b) Each Partner shall give prompt notice to the Tax Matters Representative of any and all notices it receives from the IRS or any relevant state or local taxing authority concerning the Partnership and its federal, state or local income tax return. If any administrative proceeding contemplated under Code Section 6223 has begun, the Partners shall, upon request by the Tax Matters Representative, notify the Tax Matters Representative of their treatment of any Partnership item on their U.S. federal income tax return, if applicable, which is or may be inconsistent with the treatment of that item on the Partnership's return. Any Partner who enters into a settlement agreement with the IRS with respect to Partnership items shall notify the General Partner of such settlement agreement and its terms within thirty (30) days after the date of such settlement.

(c) No Partner shall file a notice with the IRS under the Code in connection with such Partner's intention to treat an item on such Partner's U.S. federal income tax return in a manner that is inconsistent with the treatment of such item on the Partnership's U.S. federal income tax return, unless such Partner has, not less than thirty (30) days prior to the filing of such notice, provided the Tax Matters Representative with a copy of the notice and thereafter in a timely manner provides such other information related thereto as the Tax Matters Representative shall reasonably request.

(d) Each Partner and former Partner agrees to indemnify and hold harmless the Partnership and the General Partner from and against any liability for any "imputed underpayment" as defined in Code Section 6225 (including any interest and penalties) imposed on the Partnership and attributable to such Partner's allocable share of any adjustment to any item of Partnership income, gain, loss, deduction or credit, or the allocation of all or a portion of any such item among the Partners, in any Partnership Year in which such Partner or former Partner was a partner in the Partnership, as determined by the General Partner in its discretion.

(e) The obligations of this Section 10.3 shall survive the Transfer of a Partnership Unit, the withdrawal of any Partner, and the termination of the Partnership and this Agreement.

(f) The taking of any action and the incurring of any expense by the Tax Matters Representative in connection with any tax proceeding, except to the extent otherwise provided in this Agreement or required by law, is a matter in the sole and absolute discretion of the Tax Matters Representative and the provisions relating to indemnification of the General Partner set forth in Section 7.7 hereof shall be fully applicable to the Tax Matters Representative in its capacity as such. Any decision made by the Tax Matters Representative, including, without limitation, whether or not to settle or contest any tax matter, whether or not to extend the period of limitations for the assessment or collection of any tax and the choice of forum for such contest shall be made in the Tax Matters Representative's discretion, including in cases where the IRS, in connection with a Tax Audit governed by the Partnership Tax Audit Rules, proposes a Covered Audit Adjustment, determining, in its sole and absolute discretion, whether, to the extent that such election is available under the Partnership Tax Audit Rules, to make a Push-Out Election.

(g) If the Tax Matters Representative makes a Push-Out Election with respect to a Covered Audit Adjustment, each Partner (including transferees or successors of any Partner) covenants and agrees that it shall (1) pay any and all resulting taxes, additions to tax, penalties and interest in a timely fashion and (2) cooperate with the Partnership and the Tax Matters Representative in good faith. Notwithstanding the foregoing, if the Partnership is required to pay any tax, addition to tax, penalty, or interest following a Push-Out Election because any portion of the applicable Covered Audit Adjustment would otherwise be subject to withholding by the Partnership under Chapters 3 or 4 of Subtitle A of the Code, any such amounts shall be considered Partnership Level Taxes with respect to the applicable Partners subject to the provisions of Section 10.4.

(h) To the extent that the Tax Matters Representative does not make a Push-Out Election with respect to a Covered Audit Adjustment, the Tax Matters Representative may make Imputed Underpayment Modifications (taking into account whether the Tax Matters Representative has received all requisite information on a timely basis from the Partners), and each Partner shall, as reasonably requested by the Tax Matters Representative, take such actions as may be necessary or prudent for the Tax Matters Representative to seek an Imputed Underpayment Modification. To the extent that the Tax Matters Representative does not make a Push-Out Election with respect to a Covered Audit Adjustment, the Tax Matters Representative is authorized, pursuant to Section 4.4, to obtain a loan on behalf of the Partnership to pay any Partnership Level Taxes.

(i) Each Partner agrees to cooperate with the Tax Matters Representative and to do or refrain from doing any or all things reasonably requested by the Tax Matters Representative in connection with any Tax Audit. If reasonably requested by the Tax Matters Representative, each Partner shall deliver to the Tax Matters Representative: (i) any certificates, forms, affidavits, or instruments reasonably requested by the Tax Matters Representative relating to such Partner's status under any tax laws (including, but not limited to, evidence of the filing of tax returns and/or payment of tax), and (ii) any information reasonably requested by the Tax Matters Representative in connection with the Partnership Tax Audit Rules (including, but not limited to,

upper-tier shareholder specific information if a Partner is or becomes an S corporation for U.S. federal income tax purposes, upper-tier partner specific information if a Partner is or becomes a partnership for U.S. federal income tax purposes, tax returns, information regarding the character of income as capital gain or qualified dividend income, and information regarding passive activity losses).

#### Section 10.4. Tax Payments and Obligations.

(a) Each Limited Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Limited Partner any amount of federal, state, local or foreign taxes that the General Partner determines that the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Limited Partner pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Partnership pursuant to Code Sections 1441, 1442, 1445, 1446, or 1471-1474 and the Treasury Regulations thereunder. Neither the Partnership nor the General Partner shall be liable for any excess taxes withheld or paid in respect of any Limited Partner's Partnership Interest, and, in the event of any such overwithholding, a Limited Partner's sole recourse shall be to apply for a refund from the appropriate governmental authority. Any amount paid on behalf of or with respect to a Limited Partner, in excess of any withheld amounts shall constitute a loan by the Partnership to such Limited Partner, which loan shall be repaid by such Limited Partner within fifteen (15) days after notice from the General Partner that such payment must be made unless (i) the Partnership withholds such payment from a distribution that would otherwise be made to the Limited Partner or (ii) the General Partner determines, in its sole and absolute discretion, that such payment may be satisfied out of the Available Cash of the Partnership that would, but for such payment, be distributed to the Limited Partner. Each Limited Partner hereby unconditionally and irrevocably grants to the Partnership a security interest in such Limited Partner's Partnership Interest to secure such Limited Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to this Section 10.4. In the event that a Limited Partner fails to pay any amounts owed to the Partnership pursuant to this Section 10.4 when due, the General Partner may, in its sole and absolute discretion, elect to make the payment to the Partnership on behalf of such defaulting Limited Partner, and in such event shall be deemed to have loaned such amount to such defaulting Limited Partner and shall succeed to all rights and remedies of the Partnership as against such defaulting Limited Partner (including, without limitation, the right to receive distributions). Any amounts payable by a Limited Partner hereunder shall bear interest at the base rate on corporate loans at large United States money center commercial banks, as published from time to time in The Wall Street Journal, plus four percentage points (but not higher than the maximum lawful rate) from the date such amount is due (*i.e.*, fifteen (15) days after demand) until such amount is paid in full. Each Limited Partner shall take such actions as the Partnership or the General Partner shall reasonably request in order to perfect or enforce the security interest created hereunder.

(b) If the Partnership or the General Partner, as determined by the General Partner in its discretion, becomes liable as a result of (i) a failure to withhold and remit taxes in respect of any Partner or (ii) any assessment against the Partnership that is allocable to any Partner, as reasonably determined by the General Partner, then such Partner shall, unless agreed to in writing with the General Partner, at the discretion of the General Partner, either (x) to the fullest extent permitted by law, directly indemnify and hold harmless the Partnership and the General

Partner in respect of all such taxes, including interest and, other than in the case of negligence by the Partnership or the General Partner, penalties, and any reasonable expenses incurred in any examination, determination, resolution and payment of such liability or (y) make a payment to the Partnership or the General Partner in an amount equal to the cost of the taxes, interest, penalties and other reasonable expenses described in clause (x) above.

(c) The obligations of this Section 10.4 shall survive the Transfer of a Partnership Unit, the withdrawal of any Limited Partner, and the termination of the Partnership and this Agreement.

## ARTICLE XI

### TRANSFERS AND WITHDRAWALS

#### Section 11.1. Transfer

(a) No part of the interest of a Partner shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

(b) No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article XI. Any Transfer or purported Transfer of a Partnership Interest not made in accordance with this Article XI shall be null and void *ab initio* unless consented to by the General Partner in its sole and absolute discretion.

(c) Except in accordance with the terms and conditions set forth in this Article XI, no Transfer of any Partnership Interest may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the consent of the General Partner in its sole and absolute discretion; provided, that, as a condition to such consent, the lender will be required to enter into an arrangement with the Partnership and the General Partner to redeem any Partnership Units in which a security interest is held by such lender concurrently with such time as such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Code Section 752.

#### Section 11.2. Transfer of General Partner's Partnership Interest

(a) The General Partner may not Transfer any of its Partnership Interests except in connection with (i) a transaction permitted under Section 11.2(b), (ii) any merger (including, without limitation, a triangular merger), consolidation or other combination of the General Partner with or into another Person following the consummation of which the equity holders of the surviving entity are substantially identical to the stockholders of the General Partner immediately prior to such transaction, (iii) a transfer to any Subsidiary of the General Partner or (iv) as otherwise permitted under this Agreement, nor shall the General Partner withdraw as General Partner except in connection with a transaction permitted under Section 11.2(b) or any merger, consolidation, or other combination permitted under clause (ii) of this Section 11.2(a).

(b) The General Partner shall not engage in any merger (including, without limitation, a triangular merger), consolidation or other combination with or into another Person (other than any transaction permitted by Section 11.2(a)), any sale of all or substantially all of its assets or any reclassification or recapitalization of outstanding REIT Shares (other than a change in par value, or from par value to no par value, or as a result of a subdivision or combination as described in the definition of “Adjustment Factor”) (“Termination Transaction”), unless (i) it receives the consent of a Majority in Interest of the Outside Limited Partners, (ii) immediately following such merger, consolidation, combination, sale, reclassification or recapitalization (and any subsequent contribution of property and assets from the General Partner to the Partnership), substantially all of the assets of the surviving entity consist of OP Units and such surviving entity shall have expressly assumed all of the General Partner’s obligations hereunder, including without limitation the obligations set forth in Section 8.6, or (iii) in connection with which all Partners (other than the General Partner and any Subsidiary of the General Partner) who hold OP Units either will receive, or will have the right to receive, for each OP Unit an amount of cash, securities, or other property equal to the product of the Adjustment Factor and the greatest amount of cash, securities or other property paid in the Termination Transaction to or received by a holder of REIT Shares in consideration of one such REIT Share at any time during the period from and after the date on which the Termination Transaction is consummated; provided, however, that, if in connection with the Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the percentage required for the approval of mergers under the organizational documents of the General Partner, each holder of OP Units shall receive, or shall have the right to receive without any right of Consent set forth above in this Section 11.2(b), the greatest amount of cash, securities, or other property which such holder would have received had it exercised the Redemption right and received REIT Shares in exchange for its OP Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon sold, tendered or exchanged such REIT Shares pursuant to such purchase, tender or exchange offer immediately prior to the expiration thereof.

(c) The General Partner shall not enter into an agreement or other arrangement or transaction (including any transaction permitted under Sections 11.2(a) or 11.2(b)) providing for or facilitating the creation of a General Partner other than the General Partner, unless the successor General Partner executes and delivers a counterpart to this Agreement in which such General Partner agrees to be fully bound by all of the terms and conditions contained herein that are applicable to a General Partner.

### Section 11.3. Transfer of Limited Partners’ Partnership Interests

(a) Except as permitted in Section 11.2 for Transfers by the General Partner, no Limited Partner shall Transfer all or any portion of its Partnership Interest to any transferee without the written consent of the General Partner, which consent may be withheld in its sole and absolute discretion; provided, however, that any Limited Partner may, at any time, without the consent or approval of the General Partner, (i) Transfer all or part of its Partnership Interest to any Family Member (including a Transfer by a Family Member that is an *inter vivos* or testamentary trust (whether revocable or irrevocable) to a Family Member that is a beneficiary of such trust), any Charity, any Controlled Entity or any Affiliate of such Limited Partner or (ii) pledge all or any portion of its Partnership Interest to a lending institution as collateral or security for a bona fide

loan or other extension of credit, and Transfer such pledged Partnership Interest to such lending institution in connection with the exercise of remedies under such loan or extension of credit. To the extent such a Transfer is made to a Controlled Entity or any Affiliate and such Transferee thereafter ceases to be a Controlled Entity or Affiliate of the Transferor, then a Transfer (to the original Transferor) shall be deemed to occur at such time as such Transferee ceases to be a Controlled Entity or any Affiliate of the Transferor. If a married couple owns a Partnership Interest as quasi-community or community property under the laws of any state, regardless of which of the spouses is named as a Partner in the register, and in the event of a division of such community property between the spouses pursuant to a decree of divorce or dissolution, property settlement agreement or otherwise, such division shall be deemed to be a permitted Transfer. Upon any such division, any spouse or other Person who is not the named Partner in the register shall be entitled only to payments provided in any such decree of divorce or dissolution, property settlement or otherwise, and nothing in this Section 11.3 or any other part of this Agreement shall be construed at any time as permitting any spouse or Person who is not the named Partner in the register to have any of a Partner's rights to act under this Agreement or to participate as a partner of the Partnership. A spouse or any other Person who is entitled to any such payments from the Partnership may not Transfer the right to receive any of such payments without the consent of the General Partner, and neither the General Partner nor the Partnership shall have any liability whatsoever, under any theory of law or equity in any jurisdiction, to any spouse, former spouse, or the estate, heirs, beneficiaries or assigns of such spouse or former spouse, with respect to payments made to the named Partner. The Partnership may purchase all or part of any such right to receive payments if authorized to do so by the General Partner.

(b) Without limiting the generality of Section 11.3(a), it is expressly understood and agreed that, to the extent the General Partner has the right to consent to any Transfer pursuant to Section 11.3(a), the General Partner will not consent to any Transfer of all or any portion of any Partnership Interest pursuant to Section 11.3(a) unless such Transfer meets each of the following conditions:

(i) Such Transfer is made only to a single Qualified Transferee; provided, however, that for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee.

(ii) The transferee in such Transfer assumes by operation of law or express agreement all of the obligations of the transferor Limited Partner under this Agreement with respect to such Transferred Partnership Interest; provided, that no such Transfer (unless made pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Partner are assumed by a successor corporation by operation of law) shall relieve the transferor Partner of its obligations under this Agreement without the approval of the General Partner, in its sole and absolute discretion. Notwithstanding the foregoing, any transferee of any Transferred Partnership Interest shall be subject to any and all ownership limitations of REIT Shares contained in Section 8.6(c) that may limit or restrict such transferee's ability to exercise its Redemption rights. Unless admitted as a Substituted Limited Partner, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 11.5.



(iii) Such Transfer is effective as of the first day of a fiscal quarter of the Partnership.

(c) If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all the rights of a Limited Partner, but not more rights than other Limited Partners, for the purpose of settling or managing the estate, and such power as the Incapacitated Limited Partner possessed to Transfer all or any part of its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

(d) In connection with any proposed Transfer of a Limited Partner Interest, the General Partner shall have the right to receive (i) an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests Transferred, and (ii) such other opinions, certificates and other documents as the General Partner shall reasonably request in connection with such Transfer. Notwithstanding the foregoing, the General Partner may impose restrictions on the Transfer of a Limited Partner Interest if it receives an opinion of counsel reasonably to the effect that such restrictions are necessary in order to comply with any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests. The General Partner may impose such restrictions by amending this Agreement without the approval of the Partners.

(e) Notwithstanding anything in this Agreement to the contrary (including, for the avoidance of doubt, Section 8.6), no Transfer by a Limited Partner of its Partnership Interests, in whole or in part, may be made to or by any Person (including an acquisition of Partnership Units by the Partnership or the General Partner) to the extent that (i) in the opinion of legal counsel for the Partnership, there is a significant risk that the Transfer would result in the Partnership being treated as an association taxable as a corporation for U.S. federal income tax purposes (other than a Qualified REIT Subsidiary), (ii) in the opinion of legal counsel for the Partnership, there is a significant risk that such Transfer, alone or in connection with other Transfers, would cause the Partnership Units to be treated as readily tradable on "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Section 7704 of the Code and, by reason thereof, taxable as a corporation for U.S. federal income tax purposes or (iii) if the General Partner then seeks to qualify as a REIT, in the opinion of legal counsel for the Partnership, there is a significant risk that such Transfer would adversely affect the ability of the General Partner to qualify as or continue to qualify as a REIT or subject the General Partner to any additional taxes under Code Section 857 or Code Section 4981.

(f) Any Transfer by a Limited Partner of its Partnership Interest, in whole or in part, that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Partnership a duly executed certificate substantially in the form of Exhibit D or Exhibit E, as applicable, attached to this Agreement or such other information as required by applicable tax law.

(g) Any purported Transfer in contravention of any of the provisions of this Article XI shall be void ab initio and ineffectual and shall not be binding upon, or recognized by, the General Partner of the Partnership.

Section 11.4. Substituted Limited Partners.

(a) A transferee of the interest of a Limited Partner in accordance with Section 11.3(a) may be admitted as a Substituted Limited Partner only with the consent of the General Partner, which consent may be given or withheld by the General Partner in its sole and absolute discretion. The failure or refusal by the General Partner to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or the General Partner. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Limited Partner until and unless it furnishes to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all the terms, conditions and applicable obligations of this Agreement, including, without limitation, the power of attorney granted in Section 2.4, (ii) a counterpart signature page to this Agreement executed by such Assignee, and (iii) such other documents and instruments as may be required or advisable, in the sole and absolute discretion of the General Partner, to effect such Assignee's admission as a Substituted Limited Partner.

(b) A transferee who has been admitted as a Substituted Limited Partner in accordance with this Article XI shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

(c) Upon the admission of a Substituted Limited Partner, the General Partner shall cause the Substituted Limited Partner to be registered on the books and records of the Transfer Agent or otherwise cause the Partnership to amend its books and records to reflect the name, address and number of Partnership Units of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and number of Partnership Units of the predecessor of such Substituted Limited Partner.

Section 11.5. Assignees. If the General Partner, in its sole and absolute discretion, does not consent to the admission of any transferee of any Partnership Interest as a Substituted Limited Partner in connection with a transfer required to be consented to by the General Partner pursuant to Section 11.3(a), such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited partnership interest under the Act, including the right to receive distributions from the Partnership and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Partnership attributable to the Partnership Units assigned to such transferee, including the rights granted to the Limited Partners under Section 8.6 and the rights to Transfer the Partnership Units in accordance with the provisions of this Article XI, but shall not be deemed to be a holder of Partnership Units for any other purpose under this Agreement, and shall not be entitled to effect a Consent or vote on any matter presented to the Limited Partners for approval (such Partnership Units being deemed to have been voted on such matter in the same proportion as all other Partnership Units held by Limited Partners are voted on such matter). In the event that any such Assignee desires to effect a subsequent Transfer of any such Partnership Units, such Assignee shall

be subject to all the provisions of this Article XI to the same extent and in the same manner as any Limited Partner desiring to effect a Transfer of Partnership Units.

Section 11.6. General Provisions.

(a) No Limited Partner may withdraw from the Partnership other than as a result of a permitted Transfer of all of such Limited Partner's Partnership Units in accordance with this Article XI or pursuant to a redemption (or acquisition by the General Partner) of all of its Partnership Units pursuant to a Redemption under Section 8.6 and/or pursuant to any Partnership Unit Designation.

(b) Any Limited Partner who shall Transfer all of its Partnership Units in a Transfer (i) consented to by the General Partner or otherwise permitted pursuant to this Article XI where such transferee was admitted as a Substituted Limited Partner, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Partnership Units pursuant to a Redemption under Section 8.6 and/or pursuant to any Partnership Unit Designation, or (iii) to the General Partner, whether or not pursuant to Section 8.6(b), shall cease to be a Limited Partner.

(c) Subject to Section 6.4, if any Partnership Unit is Transferred in compliance with the provisions of this Article XI, or is redeemed by the Partnership, or acquired by the General Partner pursuant to Section 8.6, on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Partnership Unit for such Partnership Year shall be allocated to the transferor Partner or the Tendering Partner, as the case may be, and, in the case of a Transfer or assignment other than a Redemption, to the transferee Partner, by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d) and the corresponding Regulations, using the "interim closing of the books" method or another permissible method selected by the General Partner in its sole and absolute discretion. All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Partner or the Tendering Partner, as the case may be, and, in the case of a Transfer other than a Redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

**ARTICLE XII**  
**ADMISSION OF PARTNERS**

Section 12.1. Admission of Successor General Partner. A successor to all of the General Partner Interest pursuant to Section 11.2 who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective immediately prior to such Transfer. Any such successor shall carry on the business of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required or advisable to effect the admission.

Section 12.2. Admission of Additional Limited Partners.

(a) After the date hereof, and subject to the satisfaction of all the conditions set forth in this Section 12.2, a Person (other than an existing Partner) who makes a Capital Contribution to the Partnership in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.4, (ii) a counterpart signature page to this Agreement executed by such Person, and (iii) such other documents or instruments as may be required or advisable in the sole and absolute discretion of the General Partner in order to effect such Person's admission as an Additional Limited Partner.

(b) Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Limited Partner without the consent of the General Partner, which consent may be given or withheld in the General Partner's sole and absolute discretion. The admission of any Person as an Additional Limited Partner shall become effective on the date upon which the name of such Person is recorded on the books and records of the Partnership, following the consent of the General Partner to such admission.

(c) Subject to Section 6.4, if any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Partners and Assignees for such Partnership Year shall be allocated *pro rata* among such Additional Limited Partner and all other Partners and Assignees by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner in its sole and absolute discretion. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Limited Partner occurs shall be allocated among all the Partners and Assignees including such Additional Limited Partner, in accordance with the principles described in Section 11.6(c). All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such admission shall be made solely to Partners and Assignees other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all the Partners and Assignees including such Additional Limited Partner.

Section 12.3. Amendment of Agreement and Certificate of Limited Partnership. For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the books and records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement and, if required by law, shall prepare and file an amendment to the Certificate of Limited Partnership and may for this purpose exercise the power of attorney granted pursuant to Section 2.4.

Section 12.4. Admission. A Person shall be admitted to the Partnership as a Limited Partner only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Partnership as an Additional Limited Partner. Concurrently with, and as evidence of, the admission of an Additional Limited Partner, the General Partner shall cause the Partnership or the Transfer Agent to amend its books and records to reflect the name, address and number of Partnership Units of such Additional Limited Partner.

Section 12.5. Certificates. Notwithstanding anything otherwise to the contrary herein, unless the General Partner shall determine otherwise in respect of some or all of any or all classes of Partnership Interests, Partnership Interests shall not be evidenced by physical certificates. To the extent physical certificates are issued, such certificates shall be executed on behalf of the Partnership by the General Partner (and by any appropriate officer of the General Partner on behalf of the General Partner).

### ARTICLE XIII

#### DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.1. Dissolution. The Partnership shall not be dissolved by the admission of Additional Limited Partners or Substituted Limited Partners or by the admission of a successor General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business of the Partnership without dissolution. However, the Partnership shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a "Liquidating Event"):

(a) a final and nonappealable judgment is entered by a court of competent jurisdiction ruling that the General Partner is bankrupt or insolvent, or a final and nonappealable order for relief is entered by a court with appropriate jurisdiction against the General Partner, in each case under any federal or state bankruptcy or insolvency laws as now or hereafter in effect, unless, prior to the entry of such order or judgment, a Majority in Interest of the Outside Limited Partners agree in writing to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such order or judgment, of a successor General Partner;

(b) an election to dissolve the Partnership made by the General Partner in its sole and absolute discretion;

(c) entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;

(d) the occurrence of a Terminating Capital Transaction; or

(e) the Redemption (or acquisition by the General Partner) of all Partnership Units other than Partnership Units held by the General Partner; or

(f) the Incapacity or withdrawal of the General Partner, unless all of the remaining Partners in their sole and absolute discretion agree in writing to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such Incapacity, of a substitute General Partner.

#### Section 13.2. Winding Up.

(a) Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and Partners. After the occurrence of a Liquidating Event, no Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the

winding up of the Partnership's business and affairs. The General Partner or, in the event that there is no remaining General Partner or the General Partner has dissolved, become bankrupt within the meaning of the Act or ceased to operate, any Person elected by a Majority in Interest of the Outside Limited Partners (the General Partner or such other Person being referred to herein as the "Liquidator") shall be responsible for overseeing the winding up and dissolution of the Partnership and shall take full account of the Partnership's liabilities and property, and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the General Partner, include shares of stock in the General Partner) shall be applied and distributed in the following order:

(i) *First*, to the satisfaction of all of the Partnership's Debts and liabilities to creditors other than the Partners and their Assignees (whether by payment or the making of reasonable provision for payment thereof);

(ii) *Second*, to the satisfaction of all of the Partnership's Debts and liabilities to the General Partner (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts due as reimbursements under Section 7.4;

(iii) *Third*, to the satisfaction of all of the Partnership's Debts and liabilities to the other Partners and any Assignees (whether by payment or the making of reasonable provision for payment thereof); and

(iv) *The balance*, if any, to the General Partner, the Limited Partners and any Assignees with positive Capital Account balances in accordance with their respective positive Capital Account balances, after giving effect to all contributions, distributions and allocations for all periods.

The General Partner shall not receive any additional compensation for any services performed pursuant to this Article XIII.

(b) Notwithstanding the provisions of Section 13.2(a) that require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors) and/or distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2(a), undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Partners, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

(c) If the General Partner has a deficit balance in its Capital Account at such time as the Partnership (or the General Partner's interest therein, including its interest as a Limited Partner) is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g) (after giving effect to all contributions, distributions and allocations for the Partnership Years, including the year during which such liquidation occurs), the General Partner shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(3). If any Limited Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for the Partnership Years, including the year during which such liquidation occurs), such Limited Partner shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit at any time shall not be considered a Debt owed to the Partnership or to any other Person for any purpose whatsoever, except to the extent otherwise expressly agreed to by such Partner and the Partnership.

(d) In the sole and absolute discretion of the General Partner or the Liquidator, a *pro rata* portion of the distributions that would otherwise be made to the Partners pursuant to this Article XIII may be:

(i) distributed to a trust established for the benefit of the General Partner and the Limited Partners for the purpose of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership and/or Partnership activities. The assets of any such trust shall be distributed to the General Partner and the Limited Partners, from time to time, in the reasonable discretion of the General Partner or the Liquidator, in the same proportions and amounts as would otherwise have been distributed to the General Partner and the Limited Partners pursuant to this Agreement; or

(ii) withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided, that such withheld or escrowed amounts shall be distributed to the General Partner and Limited Partners in the manner and order of priority set forth in Section 13.2(a) hereof as soon as practicable.

Section 13.3. Deemed Distribution and Recontribution. Notwithstanding any other provision of this Article XIII, in the event that the Partnership is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Partnership's Property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged and the Partnership's affairs shall not be wound up. Instead, for U.S. federal income tax purposes the Partnership shall be deemed to have contributed all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, distributed interests in the new partnership to the Partners in accordance with their respective Capital Accounts in liquidation of the Partnership, and the new partnership is deemed to continue the business of the Partnership. Nothing in this Section 13.3 shall be deemed to have constituted any Assignee as a Substituted Limited Partner without compliance with the provisions of Section 11.4.

Section 13.4. Rights of Limited Partners. Except as otherwise provided in this Agreement, (a) each Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution, (b) no Limited Partner shall have the right or power to demand or receive property other than cash from the Partnership, and (c) no Limited Partner (other than any Limited Partner who holds Preferred Units, to the extent specifically set forth herein and in the applicable Partnership Unit Designation) shall have priority over any other Limited Partner as to the return of its Capital Contributions, distributions or allocations. Each Partner further waives any right to partition of the Partnership assets.

Section 13.5. Notice of Dissolution. In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Partners pursuant to Section 13.1 hereof, result in a dissolution of the Partnership, the General Partner shall, within thirty (30) days thereafter, provide written notice thereof to each of the Partners and, in the General Partner's sole and absolute discretion or as required by the Act, to all other parties with whom the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner), and the General Partner may, or, if required by the Act, shall, publish notice thereof in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner).

Section 13.6. Cancellation of Certificate of Limited Partnership Upon the completion of the liquidation of the Partnership cash and property as provided in Section 13.2, the Partnership shall be terminated, a certificate of cancellation shall be filed with the State of Delaware, all qualifications of the Partnership as a foreign limited partnership or association in jurisdictions other than the State of Delaware shall be cancelled, and such other actions as may be necessary to terminate the Partnership shall be taken.

Section 13.7. Reasonable Time for Winding-Up A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to Section 13.2, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect among the Partners during the period of liquidation.

#### **ARTICLE XIV PROCEDURES FOR ACTIONS AND CONSENTS OF PARTNERS; AMENDMENTS; MEETINGS**

Section 14.1. Procedures for Actions and Consents of Partners. The actions requiring consent or approval of Limited Partners pursuant to this Agreement, including Section 7.3, or otherwise pursuant to applicable law, rule or regulation, are subject to the procedures set forth in this Article XIV.

Section 14.2. Amendments. Amendments to this Agreement requiring Consent of the Limited Partners may be proposed only by the General Partner. Following such proposal, the General Partner shall submit any proposed amendment to the Limited Partners. The General Partner shall seek the written consent of the Limited Partners on the proposed amendment or shall call a meeting to vote thereon and to transact any other business that the General Partner may deem appropriate in accordance with the procedures described in Section 14.3. Notwithstanding



anything to the contrary in this Agreement, the General Partner shall have the power, without the consent of the Limited Partners, to amend this Agreement as permitted by Section 7.3(c) or as is otherwise permitted by this Agreement.

Section 14.3. Meetings of the Partners.

(a) Meetings of the Partners may be called by the General Partner. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners not less than ten (10) days nor more than ninety (90) days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Unless approval by a different number or proportion of Partners is required by this Agreement, the affirmative vote of a majority of the Percentage Interests of the Partners entitled to act on any proposal shall be sufficient to approve such proposal at a meeting of the Partners. Whenever the vote or Consent of Partners is permitted or required under this Agreement, such vote or Consent may be given at a meeting of Partners or may be given in accordance with the procedure prescribed in Section 14.3(b).

(b) Any action required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a written consent setting forth the action so taken or consented to is signed by Partners whose affirmative vote would be sufficient to approve such action or provide such consent at a meeting of the Partners. Such consent may be in one instrument or in several instruments, and shall have the same force and effect as the affirmative vote of such Partners at a meeting of the Partners. Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified. For purposes of obtaining a written consent, the General Partner may require a response within a reasonable specified time, but not less than fifteen (15) days, and failure to respond in such time period shall constitute a consent that is consistent with the General Partner's recommendation with respect to the proposal; provided, however, that an action shall become effective at such time as requisite consents are received even if prior to such specified time.

(c) Each Limited Partner may authorize any Person or Persons to act for it by proxy on all matters in which a Limited Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Limited Partner or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Limited Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Limited Partner executing such proxy. The use of proxies will be governed in the same manner as in the case of corporations organized under the Delaware General Corporation Law (including Section 212 thereof).

(d) The General Partner may set, in advance, a record date for the purpose of determining the Partners (i) entitled to consent to any action, (ii) entitled to receive notice of or vote at any meeting of the Partners or (iii) in order to make a determination of Partners for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than ninety (90) days and, in the case of a meeting of the Partners, not less than five (5) days, before the date on which the meeting is to be held or consent is to be given. If no record date is fixed, the record date for the determination of Partners

entitled to notice of or to vote at a meeting of the Partners shall be at the close of business on the day on which the notice of the meeting is sent, and the record date for any other determination of Partners shall be the effective date of such Partner action, distribution or other event. When a determination of the Partners entitled to vote at any meeting of the Partners has been made as provided in this section, such determination shall apply to any adjournment or postponement thereof.

(e) Each meeting of Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the General Partner's stockholders and may be held at the same time as, and as part of, the meetings of the General Partner's stockholders.

## **SECTION XV GENERAL PROVISIONS**

Section 15.1. Addresses and Notice. Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written or electronic communication (including by telecopy, facsimile, electronic mail or commercial courier service) to the Partner or Assignee at the address set forth in the books and records of the Partnership or the Transfer Agent, or such other address of which the Partner shall notify the General Partner in accordance with this Section 15.1.

Section 15.2. Titles and Captions. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.3. Pronouns and Plurals. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and *vice versa*.

Section 15.4. Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.6. Waiver.

(a) No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy

consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

(b) The restrictions, conditions and other limitations on the rights and benefits of the Limited Partners contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Limited Partners, are for the benefit of the Partnership and, except for an obligation to pay money to the Partnership, may be waived or relinquished by the General Partner, in its sole and absolute discretion, on behalf of the Partnership in one or more instances from time to time and at any time.

Section 15.7. Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.8. Applicable Law; Jurisdiction.

(a) This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

(b) Each Partner hereby (i) submits to the non-exclusive jurisdiction of any state or federal court sitting in the State of New York (collectively, the “New York Courts”), with respect to any dispute arising out of this Agreement or any transaction contemplated hereby to the extent such courts would have subject matter jurisdiction with respect to such dispute, (ii) irrevocably waives, and agrees not to assert by way of motion, defense, or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of any of the New York Courts, that its property is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, or that the venue of the action is improper, (iii) agrees that notice or the service of process in any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be properly served or delivered if delivered to such Partner at such Partner’s last known address as set forth in the Partnership’s books and records, and (iv) irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the transactions contemplated hereby.

Section 15.9. Entire Agreement. This Agreement contains all of the understandings and agreements between and among the Partners with respect to the subject matter of this Agreement and the rights, interests and obligations of the Partners with respect to the Partnership. Notwithstanding the immediately preceding sentence, the Partners hereby acknowledge and agree that the General Partner, without the approval of any Limited Partner, may enter into side letters or similar written agreements with Limited Partners that are not Affiliates of the General Partner, executed contemporaneously with the admission of such Limited Partner to the Partnership, affecting the terms hereof, as negotiated with such Limited Partner and which the General Partner in its sole and absolute discretion deems necessary, desirable or appropriate. The parties hereto agree that any terms, conditions or provisions contained in such side letters or similar written

agreements with a Limited Partner shall govern with respect to such Limited Partner notwithstanding the provisions of this Agreement.

Section 15.10. Invalidity of Provisions. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.11. Limitation to Preserve REIT Qualification. Notwithstanding anything else in this Agreement, if the General Partner then seeks to qualify or continue to qualify as a REIT, to the extent that the amount paid, credited, distributed or reimbursed by the Partnership to the General Partner or its officers, directors, employees or agents, whether as a reimbursement, fee, expense or indemnity (a "REIT Payment"), would constitute gross income to the General Partner for purposes of Code Section 856(c)(2) or Code Section 856(c)(3), then, notwithstanding any other provision of this Agreement, the amount of such REIT Payments, as selected by the General Partner in its sole and absolute discretion from among items of potential distribution, reimbursement, fees, expenses and indemnities, shall be reduced for any Partnership Year so that the REIT Payments, as so reduced, for or with respect to the General Partner shall not exceed the lesser of:

(i) an amount equal to the excess, if any, of (a) four point nine percent (4.9%) of the General Partner's total gross income (but excluding the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code) for the Partnership Year that is described in subsections (A) through (H) of Code Section 856(c)(2) over (b) the amount of gross income (within the meaning of Code Section 856(c)(2)) derived by the General Partner from sources other than those described in subsections (A) through (H) of Code Section 856(c)(2) (but excluding the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code); or

(ii) an amount equal to the excess, if any, of (a) twenty-four percent (24%) of the General Partner's total gross income (but excluding the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code) for the Partnership Year that is described in subsections (A) through (I) of Code Section 856(c)(3) over (b) the amount of gross income (within the meaning of Code Section 856(c)(3)) derived by the General Partner from sources other than those described in subsections (A) through (I) of Code Section 856(c)(3) (but excluding the amount of any REIT Payments and amounts excluded from gross income pursuant to Section 856(c)(5)(G) of the Code); provided, however, that REIT Payments in excess of the amounts set forth in clauses (i) and (ii) above may be made if the General Partner, as a condition precedent, obtains an opinion of tax counsel that the receipt of such excess amounts shall not adversely affect the General Partner's ability to qualify as a REIT. To the extent that REIT Payments may not be made in a Partnership Year as a consequence of the limitations set forth in this Section 15.11, such REIT Payments shall carry over and shall be treated as arising in the following Partnership Year if such carry over does not adversely affect the General Partner's ability to qualify as a REIT; provided, however, that any such REIT Payment shall not be carried over more than three Partnership Years, and any such remaining payments shall no longer due and payable. The purpose of the limitations contained in this Section 15.11 is to prevent the General Partner from failing to qualify as a REIT under the Code by reason of its

share of items, including distributions, payments, reimbursements, fees, expenses or indemnities, receivable directly or indirectly from the Partnership, and this Section 15.11 shall be interpreted and applied to effectuate such purpose.

Section 15.12. No Partition. No Partner nor any successor-in-interest to a Partner shall have the right while this Agreement remains in effect to have any property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Partnership partitioned, and each Partner, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Partners that the rights of the parties hereto and their successors-in-interest to Partnership property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Partners and their successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.13. No Third-Party Rights Created Hereby. The provisions of this Agreement are solely for the purpose of defining the interests of the Partners, *inter se*; and no other person, firm or entity (*i.e.*, a party who is not a signatory hereto or a permitted successor to such signatory hereto) shall have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement. No creditor or other third party having dealings with the Partnership (other than as expressly set forth herein with respect to Indemnitees) shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans to the Partnership or to pursue any other right or remedy hereunder or at law or in equity. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or any of the Partners.

Section 15.14. No Rights as Stockholders of General Partner. Nothing contained in this Agreement shall be construed as conferring upon the Holders any rights whatsoever as stockholders of the General Partner, including, without limitation, any right to receive dividends or other distributions made to stockholders of the General Partner or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the General Partner or any other matter.

Section 15.15. Creditors. Other than as expressly set forth herein with respect to Indemnitees, none of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Partnership.

[signature page follows]

IN WITNESS WHEREOF, this Agreement of Limited Partnership has been executed as of the date first written above.

GENERAL PARTNER:

RAYONIER INC.

By: /s/ Mark R. Bridwell

Name: Mark R. Bridwell

Title: Vice President, General Counsel and Corporate Secretary

[ALL LIMITED PARTNERS NAMED IN THE BOOKS AND RECORDS  
OF THE PARTNERSHIP OR THE TRANSFER AGENT]

*[Signature Page to the Amended and Restated Limited Partnership Agreement of Rayonier, L.P.]*

## EXHIBIT A

### NOTICE OF REDEMPTION

To: Rayonier Inc.  
1 Rayonier Way  
Wildlight, Florida 32097  
Attn: General Counsel

The undersigned Limited Partner or Assignee hereby irrevocably tenders for Redemption [●] OP Units (the “OP Units”) in Rayonier, L.P. in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of Rayonier, L.P., dated as of May 8, 2020 (the “Agreement”), and the Redemption rights referred to therein. The undersigned Limited Partner or Assignee:

(a) undertakes (i) to surrender such OP Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the General Partner, prior to the Specified Redemption Date, the documentation, instruments and information required under Section 8.6 and Section 11.3(f) of the Agreement;

(b) directs that the certified check representing the Cash Amount, or the REIT Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;

(c) represents, warrants, certifies and agrees that:

(i) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such OP Units, free and clear of the rights or interests of any other person or entity,

(ii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Partnership Units as provided herein, and

(iii) the undersigned Limited Partner or Assignee has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and

(d) acknowledges that he, she or it will continue to own such OP Units until and unless either (1) such OP Units are acquired by the General Partner pursuant to Section 8.6(b) of the Agreement or (2) such redemption transaction closes.

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the Agreement.

Dated:

Name of Limited Partner or Assignee:

\_\_\_\_\_

\_\_\_\_\_  
(Signature of Limited Partner or Assignee)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(City) (State) (Zip Code)

Signature Medallion Guaranteed by:

\_\_\_\_\_

Issue Check Payable/REIT Shares to: \_

Name: \_

Please insert social security or identifying number: \_



**EXHIBIT B**

**NOTICE OF ELECTION BY PARTNER TO  
CONVERT LTIP UNITS INTO OP UNITS**

The undersigned Holder of LTIP Units hereby irrevocably (i) elects to convert the number of LTIP Units in Rayonier, L.P. (the “Partnership”) set forth below into OP Units in accordance with the terms of the Agreement of Limited Partnership of the Partnership, as amended; and (ii) directs that any cash in lieu of OP Units that may be deliverable upon such conversion be delivered to the address specified below. The undersigned hereby represents, warrants, and certifies that the undersigned (a) has title to such LTIP Units, free and clear of the rights of interests of any other person or entity other than the Partnership; (b) has the full right, power, and authority to cause the conversion of such LTIP Units as provided herein; and (c) has obtained the consent or approval of all persons or entities, if any, having the right to consent or approve such conversion.

Name of Holder: \_\_\_\_\_

(Please Print: Exact Name as Registered with Partnership)

Number of LTIP Units to be Converted: \_\_\_\_\_

Date of this Notice: \_\_\_\_\_

(Signature of Holder: Sign Exact Name as Registered with Partnership)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City) (State) (Zip Code)

Signature Medallion Guaranteed  
by: \_\_\_\_\_

**EXHIBIT C**

**NOTICE OF ELECTION BY PARTNERSHIP TO  
FORCE CONVERSION OF LTIP UNITS INTO OP UNITS**

Rayonier, L.P. (the "Partnership") hereby irrevocably elects to cause the number of LTIP Units held by the Holder of LTIP Units set forth below to be converted into OP Units in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of the Partnership, as amended.

Name of Holder: \_\_\_\_\_  
(Please Print: Exact Name as Registered with Partnership)

Number of LTIP Units to be Converted: \_\_\_\_\_

Date of this Notice: \_\_\_\_\_

**EXHIBIT D**

**CERTIFICATION OF NON-FOREIGN STATUS  
(FOR TENDERING PARTNERS THAT ARE ENTITIES)**

Under Sections 1445(e) and 1446(f) of the Internal Revenue Code of 1986, as amended (the “**Code**”), in the event of a disposition by a non-U.S. person of a partnership interest in a partnership (A) in which (i) 50% or more of the value of the gross assets consists of United States real property interests (“**USRPIs**”), as defined in Section 897(c) of the Code, and (ii) 90% or more of the value of the gross assets consists of USRPIs, cash, and cash equivalents or (B) for which any portion of the gain on disposition of such partnership interest would be treated as effectively connected with the conduct of a trade or business within the United States under Section 864(c)(8) of the Code, the transferee will be required to withhold a portion of the amount realized by the non-U.S. person upon the disposition. To inform Rayonier Inc. (the “**General Partner**”) and Rayonier, L.P. (the “**Partnership**”) that no withholding is required with respect to the redemption by \_\_\_\_\_ (“**Partner**”) of its OP Units in the Partnership, the undersigned hereby certifies the following on behalf of Partner:

1. Partner is not a foreign corporation, foreign partnership, foreign trust, or foreign estate, as those terms are defined in the Code and the Treasury regulations thereunder.
2. Partner is not a disregarded entity as defined in Treasury Regulation Section 1.1445-2(b)(2)(iii).
3. The U.S. employer identification number of Partner is \_\_\_\_\_.
4. The principal business address of Partner is: \_\_\_\_\_, \_\_\_\_\_  
and Partner’s place of incorporation is \_\_\_\_\_.
5. Partner agrees to inform the General Partner if it becomes a foreign person at any time during the three-year period immediately following the date of this notice.
6. Partner understands that this certification may be disclosed to the Internal Revenue Service by the General Partner and that any false statement contained herein could be punished by fine, imprisonment, or both.

PARTNER: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Under penalties of perjury, I declare that I have examined this certification and, to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Partner.

Date: \_\_\_\_\_

Name:

Title:

**EXHIBIT E**

**CERTIFICATION OF NON-FOREIGN STATUS  
(FOR TENDERING PARTNERS THAT ARE INDIVIDUALS)**

Under Sections 1445(e) and 1446(f) of the Internal Revenue Code of 1986, as amended (the “**Code**”), in the event of a disposition by a non-U.S. person of a partnership interest in a partnership (A) in which (i) 50% or more of the value of the gross assets consists of United States real property interests (“**USRPIs**”), as defined in Section 897(c) of the Code, and (ii) 90% or more of the value of the gross assets consists of USRPIs, cash, and cash equivalents or (B) for which any portion of the gain on disposition of such partnership interest would be treated as effectively connected with the conduct of a trade or business within the United States under Section 864(c)(8) of the Code, the transferee will be required to withhold a portion of the amount realized by the non-U.S. person upon the disposition. To inform Rayonier Inc. (the “**General Partner**”) and Rayonier, L.P. (the “**Partnership**”) that no withholding is required with respect to my redemption of my OP Units in the Partnership, I, \_\_\_\_\_, hereby certify the following:

1. I am not a nonresident alien for purposes of U.S. federal income taxation.
2. My U.S. taxpayer identification number (Social Security number) is \_\_\_\_\_.
3. My home address is: \_\_\_\_\_.
4. I agree to inform the General Partner promptly if I become a nonresident alien at any time during the three-year period immediately following the date of this notice.
5. I understand that this certification may be disclosed to the Internal Revenue Service by the General Partner and that any false statement contained herein could be punished by fine, imprisonment, or both.

\_\_\_\_\_  
Name:

Under penalties of perjury, I declare that I have examined this certification and, to the best of my knowledge and belief, it is true, correct, and complete.

Date: \_\_\_\_\_

Name:  
Title:

## THIRD SUPPLEMENTAL INDENTURE

This Third Supplemental Indenture, dated as of May 7, 2020 (this “Third Supplemental Indenture”), is entered into by and among Rayonier Inc., a North Carolina corporation (the “Company”), the Guarantors party hereto, Rayonier, L.P., a Delaware limited partnership (the “Successor Company”), and The Bank of New York Mellon Trust Company, N.A., a national banking association, as Trustee (the “Trustee”).

## RECITALS OF THE COMPANY AND THE PARENT

WHEREAS, the Company and the Trustee have heretofore executed and delivered an Indenture, dated as of March 5, 2012 (the “Base Indenture”), providing for the issuance by the Company from time to time of its debt securities to be issued in one or more series;

WHEREAS, the Company, the subsidiaries of the Company party thereto as Guarantors (the “Initial Guarantors”) and the Trustee have heretofore executed and delivered the First Supplemental Indenture, dated as of March 5, 2012 (the “First Supplemental Indenture”), providing for the issuance of a series of debt securities under the Indenture designated as the 3.750% Senior Notes due 2022 (the “Notes”) and making the Initial Guarantors party to the Indenture as Guarantors;

WHEREAS, the Company, the subsidiaries of the Company party thereto as Guarantors and the Trustee have heretofore executed and delivered that certain Second Supplemental Indenture, dated as of October 11, 2012 (the “Second Supplemental Indenture” and, together with the Base Indenture and the First Supplemental Indenture, the “Indenture”), releasing certain Initial Guarantors pursuant to the terms of the Indenture;

WHEREAS, on January 14, 2020, Company, the Successor Company and certain of its subsidiaries entered into an Agreement and Plan of Merger (as amended, modified, supplemented or amended from time to time, the “Merger Agreement”) with Pope Resources, a Delaware limited partnership (“Pope”), and its general partners, Pope MGP, Inc., a Delaware corporation (“MGP”), and Pope EGP, Inc., a Delaware corporation (“EGP”), pursuant to which the Company acquired (a) all of the issued and outstanding shares of Pope through a merger of Pope and a wholly owned subsidiary of the Successor Company and (b) all of the issued and outstanding shares of MGP and EGP through a merger of those entities and wholly owned subsidiaries of the Company;

WHEREAS, in connection with the transactions contemplated by the Merger Agreement, on May 7, 2020, the Company will effect certain restructuring transactions pursuant to which the Company will transfer all or substantially all of its assets to the Successor Company (the “Restructuring Transactions”);

WHEREAS, pursuant to Article X of the Indenture, the Successor Company as successor to the Company in connection with the transfer of all or substantially all of the assets of the Company to the Successor Company, is hereby expressly assuming pursuant to this Supplemental Indenture all of the obligations of the Company under the Indenture and the Debt Securities according to their tenor;

WHEREAS, Section 9.1 of the Indenture provides, among other things, that the Company, the Successor Company and the Trustee may enter into an Indenture or Indentures supplemental thereto without the consent of any Holder of a Note to: (a) evidence the succession pursuant to Article X of the Indenture of the Successor Company to the Company and the assumption of the Successor Company of the covenants, agreements and obligations of the Company in the Indenture and in the Debt Securities, including, without limitation, the Notes, (b) add Guarantors with respect to any or all of the Debt Securities or (c) make any change that does not adversely affect the legal rights hereunder of any Holder of the Debt Securities;

WHEREAS, the terms hereof provide for (a) the assumption by the Successor Company of the covenants, agreements and obligations of the Company under Section 10.1 of the Indenture, and (b) the Company to be an additional Guarantor of the Notes, both of which do not adversely affect the legal rights of any Holders of the Notes;

WHEREAS, pursuant to Section 9.1(g) of the Indenture, the Company has agreed to fully and unconditionally guarantee the Successor Company's obligations under the Indenture and the Notes;

WHEREAS, the Company has requested that the Trustee execute and deliver this Third Supplemental Indenture; and

WHEREAS, the execution and delivery of this Third Supplemental Indenture has been duly authorized by the parties hereto, and all other acts and requirements necessary to make this Third Supplemental Indenture a valid and binding supplement to the Indenture effectively amending the Indenture as set forth herein have been duly taken.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company, the Guarantors party hereto, the Successor Company and the Trustee covenant and agree with each other, for the benefit of the respective Holders from time to time of the Debt Securities or any series thereof, as follows:

Section 1. *Definitions.*

As used in this Third Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Third Supplemental Indenture refer to this Third Supplemental Indenture as a whole and not to any particular Section hereof.

Section 2. *Amendments to the Indenture.*

(a) Section 1.1 of the Indenture is amended to replace the definitions of "Guarantors" and add the new defined terms "Parent" and "Parent Guarantor" in their proper alphabetical locations as follows:

"Guarantors" means, with respect to any series of Debt Securities, any Parent, Subsidiary or Affiliate of the Company who may execute a supplement hereto for the purpose of providing a Guarantee of Debt Securities of such series pursuant to this Indenture until a successor Person

shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Guarantors” shall mean such successor Person; provided that any such Guarantor shall cease to be a Guarantor with respect to such series of Debt Securities if its Guarantee is released in accordance with this Indenture or the terms of such series of Debt Securities. References herein to Guarantors, as they relate to a particular series of Debt Securities, refer only to Guarantors that have provided a Guarantee with respect to such series of Debt Securities, and not to any other series of Debt Securities. If a series of Debt Securities does not have any Guarantors, all references in this Indenture to Guarantors shall have no effect and shall be ignored with respect to such Debt Securities.

“Parent” means Rayonier Inc., a North Carolina corporation, and its successors, in each case together with each direct or indirect Subsidiary of Parent that beneficially owns any Equity Interests of the Company.

“Parent Guarantor” means Rayonier Inc., a North Carolina corporation, and any of its successors which expressly assume the Guarantee of Parent.

(b) Section 14.4(a)(i) of the Indenture is amended by deleting the words “or (E)” and replacing them with the words “(E) in the case of the Parent Guarantor’s Guarantee only, the Company ceases for any reason to be a Subsidiary or (F)”.

### Section 3. *Assumption by Successor Company; Parent Guaranty*

(a) Pursuant to and in accordance with Section 10.1 of the Indenture, the Successor Company hereby expressly assumes all the obligations of the Company under the Indenture and the Debt Securities according to their tenor, including, without limitation, the Notes,

(b) Pursuant to and in accordance with Section 10.2 of the Indenture, the Successor Company hereby succeeds to and is substituted for the Company with the same effect as if the Successor Company had been named in the Base Indenture as the respective party to the Indenture.

(c) The Company, as primary obligor and not merely as surety, hereby irrevocably, unconditionally guarantees, jointly and severally with each other Guarantor, to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, the full and punctual payment when due, whether at Maturity, by redemption, acceleration or otherwise, of the obligations of the Successor Company under the Notes and the other guaranteed obligations of the Successor Company on the terms set forth in, and subject to the limitations and release provisions in, Article X of the Indenture. The terms of each Guarantee are more fully set forth in Article XIV of the Indenture and the Company agrees to be bound by the terms thereof.

### Section 4. *Miscellaneous.*

(a) *Ratification of Indenture.* All the provisions of this Third Supplemental Indenture shall be deemed to be incorporated in, and made a part of, the Indenture; and the Indenture, as supplemented and amended by this Third Supplemental Indenture, shall be read, taken and construed as one and the same instrument.

(b) *Headings.* The headings of the Sections of this Third Supplemental Indenture are inserted for convenience of information and reference and shall not be deemed to be a part thereof.

(c) *Counterparts.* This Third Supplemental Indenture may be executed in any number of counterparts each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

(d) *Conflict with Trust Indenture Act.* If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Third Supplemental Indenture by any of the provisions of the Trust Indenture Act, such required provision shall control.

(e) *Successors and Assigns.* All covenants and agreements in this Third Supplemental Indenture by the Company and the Successor Company shall bind their respective successors and assigns, whether so expressed or not.

(f) *Separability.* In case any one or more of the provisions contained the Indenture or this Third Supplemental Indenture shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of the Indenture or this Third Supplemental Indenture, but the Indenture or this Third Supplemental Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein or therein.

(g) *Benefits of Third Supplemental Indenture.* Nothing in this Third Supplemental Indenture, express or implied, shall give to any person, other than the parties hereto and their successors hereunder and the Holders, any benefit or any legal or equitable right, remedy, or claim under this Third Supplemental Indenture.

(h) *Trustee Not Responsible for Recitals.* The recitals and statements herein contained are made by the Company and the Parent and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Third Supplemental Indenture.

(i) *Governing Law.* This Third Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

[The remainder of this page is left blank intentionally]



IN WITNESS WHEREOF, parties have caused this Third Supplemental Indenture to be duly executed as of the date first above written.

Rayonier INC., as Company and Guarantor

By: /s/ Mark Bridwell  
Name: Mark Bridwell  
Title: Vice President, General Counsel and  
Corporate Secretary

RAYONIER, L.P., as Successor Company

By: /s/ Mark Bridwell  
Name: Mark Bridwell  
Title: Vice President

Rayonier TRS HOLDINGS INC., as Guarantor

By: /s/ Mark Bridwell  
Name: Mark Bridwell  
Title: Vice President

Rayonier OPERATING COMPANY LLC, as Guarantor

By: /s/ Mark Bridwell  
Name: Mark Bridwell  
Title: Vice President

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as  
Trustee

By: /s/ Mitchell L. Brumwell  
Name: Mitchell L. Brumwell  
Title: Vice President

*[Signature Page to Supplemental Indenture]*

**TAX PROTECTION AGREEMENT**

THIS TAX PROTECTION AGREEMENT (this "Agreement") is entered into as of May 8, 2020, by and among Rayonier, L.P., a Delaware limited partnership (the "Partnership"), Rayonier Inc., a North Carolina corporation (the "General Partner") and Pope Resources, A Delaware Limited Partnership ("Pope Resources," and together with the Partnership and General Partner, the "Parties" and each, a "Party").

## RECITALS

WHEREAS, the General Partner, the Partnership, Pacific LP Merger Sub III, LLC, a Delaware limited liability company and an indirect wholly owned subsidiary of the Partnership ("Merger Sub 3"), Pope Resources, and certain of their respective Affiliates are parties to an Agreement and Plan of Merger, dated as of January 14, 2020, as amended by Amendment No. 1, dated as of April 1, 2020 (as amended, the "Merger Agreement");

WHEREAS, the Merger Agreement contemplates that (i) Merger Sub 3 would merge with and into Pope Resources, with Pope Resources surviving the merger (the "LP Merger"); and (ii) in the LP Merger, the Partnership will issue units representing limited partnership interests (the "Opco Units") to certain unitholders of Pope Resources, on the terms and subject to the conditions set forth in the Merger Agreement;

WHEREAS, it is intended that, for U.S. federal income tax purposes, from and after the Closing, (i) the Partnership shall be treated as a continuation of the Pope Resources tax partnership, consistent with the principles of Treasury Regulations Section 1.708-1(a), including with respect to the receipt of Opco Units by certain unitholders of Pope Resources, and (ii) the General Partner shall be treated as contributing on the Closing Date (as defined in the Merger Agreement) all of its assets (other than the interests in Pope Resources it acquired directly from certain unitholders of Pope Resources in the taxable exchange) and all of its liabilities to Pope Resources in a transaction described in Section 721 of the Code;

WHEREAS, immediately prior to Closing, Pope Resources was the direct or indirect owner of certain property particularly described on Exhibit A attached hereto (the "Property") that has unrealized built-in gain for U.S. federal income tax purposes;

WHEREAS, in consideration for entering into the Merger Agreement, the Parties desire to enter into this Agreement regarding certain tax matters as set forth herein; and

WHEREAS, the General Partner and the Partnership desire to evidence their agreement regarding amounts that may be payable to certain Protected Partners (as defined below) in the event of certain actions being taken by the Partnership regarding the disposition of the Property;

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and agreements contained herein and in the Merger Agreement, the Parties hereby agree as follows:

ARTICLE I  
DEFINITIONS

Section 1.1. Definitions. As used herein, the following terms have the following meanings (it being understood that if not otherwise defined herein, capitalized terms used in this Agreement have the meanings ascribed to them in the Merger Agreement):

“Agreement” has the meaning provided in the introductory paragraph.

“Applicable Tax Liability” shall mean, with respect to a Protected Partner, an amount equal to the product of (A) the amount of Built-In Gain allocated to such Protected Partner under Section 704(c) of the Code with respect to any Protected Interests as a result of the Partnership’s breach of its obligations set forth in Article II multiplied by (B) the Effective Tax Rate; provided, that, the Partnership shall be entitled to reduce the Applicable Tax Liability by an amount equal to any Taxes actually saved by the Protected Partner as a result of any payments pursuant to this Agreement (for example, due to the allocation by the Partnership of a corresponding deduction for the payment to the Protected Partner).

“Built-In Gain” shall mean, with respect to a Protected Partner, the gain that would be allocable to such Protected Partner by the Partnership pursuant to Section 704(c) of the Code with respect to any Protected Interest if such Protected Interest was disposed of in a taxable disposition at the time of the event requiring a determination of Built-In Gain; provided, that, for the avoidance of doubt, Built-In Gain shall not include any appreciation in the Protected Interests or any other assets of the Partnership after the Closing Date or any amount attributable to any depreciation, depletion, amortization or other reduction in basis of the Protected Interests following the Closing, and shall be reduced as a result of the Protected Partner’s taxable transfer of interests in the Partnership or any other event that causes all or a portion of such Section 704(c) of the Code amount to be recognized, including in accordance with Treasury Regulations Section 1.704-3. For purposes of calculating amounts due pursuant to Section 3.1, the Built-In Gain shall be calculated immediately prior to a breach and with the adjustments stated above. The parties hereto agree that any adjustments under Section 743 or 734 of the Code that are attributable to a Protected Partner with respect to a Protected Interest, including any adjustment resulting from the death of a Protected Partner (or Indirect Owner, to the extent applicable), or that would be available if any applicable intermediate entity classified as a partnership for U.S. federal income tax purposes had made an election under Section 754 of the Code, in each case as determined by the Partnership's accountants, shall be taken into account in determining the amount of Built-In Gain that is allocable to such Protected Partner.

“Closing” has the meaning provided in the Merger Agreement.

“Closing Date” has the meaning provided in the Merger Agreement.

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

“Effective Tax Rate” shall mean with respect to a Protected Partner who is an individual and entitled to receive a payment under this Agreement, the highest combined

individual U.S. federal, state and local income tax rate applicable to individuals resident in such Protected Partner's state of tax residency (provided, that if the Protected Partner has not provided its state of tax residency in a timely manner, the Effective Tax Rate shall be based on the state listed on the Protected Partner's Schedule K-1) in respect of the income or gain that gave rise to such payment, taking into account the character and type of the income recognized in the hands of the Protected Partner for the taxable year in which the transaction giving rise to such taxes occurred, the varying tax rates applicable to different categories of taxable income and gain and to different taxable years in which taxable income or gain is recognized, and taking into account (i) the deductibility of state and local taxes for U.S. federal income tax purposes and (ii) any applicable deduction under Section 199A of the Code, in each case, to the extent permitted; provided, however, that (A) in the case of a Protected Partner that is a C corporation for U.S. federal income tax purposes, the Effective Tax Rate shall be based on the combined U.S. federal, state and local corporate income tax rate applicable in respect of the income or gain that gave rise to such payment, taking into account any of the assumptions described above as are applicable to such entity and (B) in the case of a Protected Partner that is neither a C corporation for U.S. federal income tax purposes nor an individual, the Effective Tax Rate applicable to such Protected Partner shall be based on (x) the characterization of the Protected Partner's Indirect Owner(s) and (y) the combined U.S. federal, state and local income tax rate applicable to residents in such Indirect Owner's state of tax residency (provided, that if the Indirect Owner has not provided its state of tax residency in a timely manner, the Effective Tax Rate shall be based on the state listed on such Indirect Owner's Schedule K-1 (or equivalent)). Such tax rate shall include, if applicable, the Medicare tax on unearned income (currently 3.8%) pursuant to Section 1411 of the Code. For the avoidance of doubt, the Effective Tax Rate with respect to a Protected Partner's Applicable Tax Liability and such Protected Partner's gross-up provided under Section 3.1(a) may differ.

"Exempt Event" means any casualty, condemnation, governmental taking, or other involuntary conversion of all or any portion of the Protected Interests.

"Indirect Owner" means, in the case of a Protected Partner that is an entity that is classified as a partnership, disregarded entity or subchapter S corporation or real estate investment trust for U.S. federal income tax purposes, any person owning an equity interest in such Protected Partner, and in the case of any Indirect Owner that itself is an entity that is classified as a partnership, disregarded entity, subchapter S corporation or real estate investment trust for federal income tax purposes, any person owning an equity interest in such entity.

"Limited Partner" has the meaning provided in the Partnership Agreement.

"LP Merger" has the meaning provided in the recitals.

"Opco Units" has the meaning provided in the recitals.

"Partnership" has the meaning provided in the introductory paragraph.

"Partnership Agreement" means the amended and restated agreement of limited partnership of the Partnership, dated as of May 8, 2020, entered into by and among the General Partner and the Limited Partners.

"Party" has the meaning provided in the introductory paragraph.

“Property” has the meaning provided in the recitals.

“Protected Interest” means the Property, and any other properties or assets hereafter acquired by the Partnership or any direct or indirect Subsidiary of the Partnership that are treated as “substituted basis property” as defined in Section 7701(a)(42) of the Code with respect to the Property.

“Protected Partner” means any Limited Partner of the Partnership holding Opco Units received in the LP Merger that owns, or whose Opco Units are beneficially owned by persons beneficially owning, 525,000 or more Opco Units immediately after the LP Merger. For this purpose, beneficial ownership means beneficial ownership within the meaning of Section 13(d) of the Securities Exchange Act of 1934, as modified to include a person’s spouse and a person’s children living at home.

“Protected Period” means the period beginning on the Closing Date (after the Closing) and ending at 12:01 AM on the day following the fifth (5<sup>th</sup>) anniversary of the Closing Date, provided, however, that with respect to a Protected Partner, the Protected Period shall terminate (i) at such time as such Protected Partner has disposed of eighty percent (80%) or more of the Opco Units received in the LP Merger in one or more taxable transactions or (ii) upon the death of such Protected Partner (or Indirect Owner, to the extent applicable).

“Subsidiary” means any partnership, limited liability company, trust or other Person owned by the Partnership either (a) whose disposition of the Protected Interest or any direct or indirect interest in the Protected Interest or (b) a direct or indirect disposition of an interest in which by the Partnership, in either case, would result in the allocation to the Protected Partner of any portion of its Built-In Gain with respect to the Property pursuant to Section 704(c) of the Code and the Treasury Regulations thereunder; provided, that, for the avoidance of doubt, Subsidiary shall not include any Fund Entities (as defined in the Merger Agreement), ORM, Inc., homeowner’s associations or any of their respective direct or indirect subsidiaries.

“Transfer” means any sale, exchange, transfer or other disposition.

## ARTICLE II

### RESTRICTIONS ON DISPOSITIONS OF PROTECTED INTEREST

Section 2.1. General Prohibition on Disposition. Except as otherwise provided in Section 2.2 or otherwise initiated by the Protected Partner, during the Protected Period, the Partnership agrees for the benefit of the Protected Partner not to cause any Transfer of the Protected Interest (or any interest therein) if such Transfer would result in an allocation to the Protected Partner of all or any portion of its Built-In Gain during the Protected Period with respect to the Property under Section 704(c) of the Code and the Treasury Regulations promulgated thereunder, other than an Exempt Event (any such disposition (other than a disposition or distribution described in Section 2.2 and the immediately following sentence of this Section 2.1), a “Prohibited Transfer”). Notwithstanding the foregoing and for the avoidance of doubt, this Section 2.1 shall not apply to a voluntary, actual disposition by a Protected Partner of Opco Units in connection with a merger or consolidation of the Partnership pursuant to which (1) the Protected Partner is offered as

consideration for the Opco Units either cash or property treated as cash pursuant to Section 731 of the Code (“Cash Consideration”) or partnership interests and the receipt of such partnership interests would not result in the recognition of gain for U.S. federal income tax purposes by the Protected Partner (“Partnership Interest Consideration”); (2) the Protected Partner has the right to elect to receive solely Partnership Interest Consideration in exchange for his Opco Units, and the continuing partnership has agreed in writing to assume the obligations of the Partnership under this Agreement; (3) no Built-In Gain is recognized by the Partnership as a result of any partner of the Partnership receiving Cash Consideration; and (4) the Protected Partner elects or is deemed to elect to receive solely Cash Consideration. For the avoidance of doubt, the Partnership and any Subsidiary may take any action prohibited by the covenants in this Section 2.1 with the express written consent of the Protected Partners releasing the Partnership and any Subsidiary from liability for the specific breach of covenant from which such liability arises.

Section 2.2. Exceptions. Notwithstanding the restriction set forth in Section 2.1, the Partnership or any Subsidiary may Transfer the Protected Interest (or an interest therein), without the consent of the Protected Partner, if such Transfer (i) qualifies as a like-kind exchange under Section 1031 of the Code in which no taxable “boot” is received, (ii) qualifies as an involuntary conversion under Section 1033 of the Code in which no taxable gain is recognized by the Partnership, (iii) is pursuant to a transaction qualifying for non-recognition of gain under Section 721 or Section 351 of the Code in which no taxable gain is recognized by the Partnership, (iv) is any other transaction that does not result in the recognition of any Built-In Gain by the Protected Partner with respect to the Property under Section 704(c) of the Code and the Treasury Regulations promulgated thereunder, and (v) the Transfer of any timber or any other asset in the ordinary course of the Partnership’s trade or business (provided, that the determination of what actions are considered to be in the ordinary course of the Partnership’s trade or business shall take into account the historic practices of the General Partner, Rayonier Operating Company LLC, a Delaware limited liability company and wholly owned subsidiary of the Partnership, and Pope Resources (and their respective subsidiaries) prior to the Closing); provided, however, that:

(a) in the event of a disposition under Section 1031 or Section 1033 of the Code, any property that is acquired in exchange for or as a replacement for the Protected Interest shall thereafter be considered the Protected Interest; and

(b) in the case of a Section 1031 like-kind exchange, if such exchange is with a “related party” within the meaning of Section 1031(f)(3) of the Code, any direct or indirect disposition by such related party of the Protected Interest or any other transaction prior to the expiration of the two (2) year period following such exchange that would cause Section 1031(f)(1) to apply with respect to the Protected Interest (including by reason of the application of Section 1031(f)(4)) shall, for purposes of Section 2.1, be considered a Transfer of the Protected Interest by the Partnership.

### ARTICLE III

#### REMEDIES FOR BREACH

Section 3.1. Monetary Damages. In the event that the Partnership breaches its obligations set forth in Article II during the Protected Period, the Protected Partner’s sole remedy shall be to

receive from the Partnership, and the Partnership shall pay to Protected Partner as damages, an amount equal to (a) the present value (determined based on (w) an annual discount rate equal to 2% compounded annually and (x) a number of years equal to the number of years from the close of the tax year in which such breach occurs until the end of the Protected Period) of the amount of interest that would be earned on an amount equal to the Applicable Tax Liability resulting from the breach (determined based on (y) an interest rate equal to the prime rate as of the close of the tax year in which the breach occurs, as published by the Wall Street Journal *plus* 2% compounded annually and (z) a period from the close of the tax year in which such breach occurs until the end of the Protected Period), *divided by* (b) one hundred percent *minus* the Effective Tax Rate.

Section 3.2. Limitations. Notwithstanding anything to the contrary in this Agreement, the Partnership shall not have any liability under Section 3.1 or otherwise for or with respect to any taxable income or gain recognized by or allocated to the Protected Partner as a result of or in connection with (a) the transactions contemplated by the Merger Agreement, (b) any Transfer of the Protected Interest (or interests therein) consented to by the Protected Partner, (c) any Transfer by the Protected Partner or any other Person of the Opco Units (or any interest therein) consented to by Protected Partner (including as a result of any Redemption (as defined in the Partnership Agreement)), (d) if the Partnership merges into another entity treated as a partnership for U.S. federal income tax purposes or the Protected Partner accepts an offer to exchange its Opco Units for equity interests in another entity treated as a partnership for U.S. federal income tax purposes so long as, in either case, such successor entity assumes or agrees to assume the Partnership's obligations pursuant to this Agreement, including with respect to any portion of the Built-In Gain recognized in such transaction, (e) any transaction involving the sale of a license for purposes of hunting, fishing, trapping or any other similar activity or (f) any transaction until the aggregate amount of sales proceeds from transactions that would, absent this clause (f), result in a payment obligation of the Partnership to any Protected Partner under Section 3.1 exceeds \$70,000,000.

Section 3.3. Procedural Matters. In the event that the Partnership breaches its obligations set forth in Article II (or a Protected Partner in good faith asserts that the Partnership has breached any of the covenants set forth in Article II), the Partnership and the Protected Partner agree to negotiate in good faith to resolve any disagreements regarding any such breach and the amount of damages, if any, payable to such Protected Partner under Section 3.1. If any such disagreement cannot be resolved by the Partnership and such Protected Partner within 60 days after the receipt by the Protected Partner of notice from the Partnership of such breach and the amount of income to be recognized by reason thereof (or, if applicable, receipt by the Partnership of an assertion by a Protected Partner that the Partnership has breached any of the covenants set forth in Article II), the Partnership and the Protected Partner shall jointly retain a nationally recognized independent public accounting firm (an "Accounting Firm") to act as an arbitrator to resolve as expeditiously as possible all points of any such disagreement (including, without limitation, whether a breach of any of the covenants set forth in Article II, has occurred and, if so, the amount of damages to which the Protected Partner is entitled as a result thereof, determined as set forth in Section 3.1). All determinations made by the Accounting Firm with respect to the resolution of any breach of any of the covenants set forth in Article II and the amount of damages payable to the Protected Partner under Section 3.1 shall be final, conclusive and binding on the Partnership and the Protected Partner. The fees and expenses of any Accounting Firm incurred in connection with

any such determination shall be shared equally by the Partnership, on the one hand, and the Protected Partner on the other hand.

Section 3.4. Remedies. Notwithstanding any provision of this Agreement to the contrary, the sole and exclusive rights and remedies of the Protected Partner with respect to any breach by the Partnership of any of its obligations under Article II shall be a claim against the Partnership for the monetary damages as set forth in Section 3.1, and neither the Protected Partner, the Partnership nor any other Person shall be entitled to (a) specific performance of this Agreement by the Partnership (including by means of any injunction or other temporary restraining order enjoining the Partnership from any violation or threatened violation of Article II) or (b) recover any consequential or special damages (other than the monetary damages set forth in Section 3.1). Nothing herein shall be interpreted as prohibiting or limiting the consummation by the Partnership, General Partner or any Subsidiary of a transaction described in Article II, and payment by the Partnership of the monetary damages set forth in Section 3.1 shall constitute full and complete liquidated and agreed damages in respect of any breach by the Partnership of its obligations under Article II and the Partnership shall be released from any further liability to the Protected Partner or any other Person hereunder on account thereof.

Section 3.5. Required Notices; Time for Payment. In the event that there has been a breach of Article II, the Partnership shall provide to the Protected Partner notice of the transaction or event giving rise to such breach no later than 30 days following the date that the Partnership becomes aware that such transaction or event constitutes a breach of this Agreement. All payments required under this Article III to a Protected Partner shall be made to the Protected Partner no later than 60 days following the close of the calendar quarter in which the gain recognition event giving rise to such payment took place; provided, that, in the event that any amount has not been fully resolved by the Accounting Firm pursuant to Section 3.3 by such date, the disputed amount shall not be required to be paid by such deadline and shall instead paid (if applicable) within 15 days following its final resolution. For the avoidance of doubt, no payment shall be required to be made hereunder unless the person requesting such payment has provided the Partnership with documentation supporting such claim in reasonable detail and each notice or payment to a Protected Partner shall include such calculations and information as is reasonably necessary to enable such Protected Partner to determine the amount due to it hereunder.

#### ARTICLE IV

##### ADDITIONAL COVENANTS

Section 4.1. Built-In Gain Information. The Protected Partners shall, following the Closing, provide to the Partnership such supporting tax information and documentation as the Partnership may reasonably request in connection with the proper administration of this Agreement.

##### Section 4.2. Miscellaneous.

(a) The covenants, agreements, terms and conditions contained in this Agreement shall bind and inure to the benefit of the Parties, the Protected Partners, and their respective successors and/or assigns.



(b) This Agreement may not be amended or modified unless such amendment or modification shall be in writing and signed by each Party.

(c) Notwithstanding the foregoing, upon written request by the Partnership, each Protected Partner, in its sole discretion, may waive the payment of any damages or indemnification amount that is otherwise payable to such Protected Partner pursuant to this Agreement.

(d) If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those as to which this Agreement is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

(e) Headings at the beginning of each Section are solely for the convenience of the Parties and are not a part of this Agreement. This Agreement will not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared the same.

**(f) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO A CONTRACT EXECUTED AND PERFORMED IN THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAW PRINCIPLES THEREOF. ANY ACTION ARISING OUT OF THIS AGREEMENT MUST BE COMMENCED BY THE INITIATING PARTY IN THE STATE COURTS OF THE STATE OF NEW YORK AND EACH PARTY HEREBY CONSENTS TO THE JURISDICTION OF SUCH COURTS IN ANY SUCH ACTION AND TO THE LAYING OF VENUE THEREIN. VENUE SHALL BE EITHER IN THE CITY, COUNTY AND STATE OF NEW YORK. EACH PARTY HEREBY KNOWINGLY AND UNCONDITIONALLY WAIVES ANY AND ALL RIGHT TO DEMAND A JURY TRIAL IN ANY ACTION FOR THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT.**

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

*[Signature pages follow]*

IN WITNESS WHEREOF, General Partner, the Partnership and Pope Resources have respectively executed this Agreement as of the date hereof.

**Rayonier Inc.**

By: /s/ Mark R. Bridwell  
Name: Mark R. Bridwell  
Title: Vice President, General Counsel and  
Corporate Secretary

**Rayonier, L.P.**

By: /s/ Mark R. Bridwell  
Name: Mark R. Bridwell  
Title: Vice President, General Counsel and  
Corporate Secretary

**Pope Resources**

By: /s/ Mark R. Bridwell  
Name: Mark R. Bridwell  
Title: Vice President, General Counsel and  
Corporate Secretary