United States
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark one)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2021

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number: 001-37716

STRATUS®

Stratus Properties Inc.

(Exact name of registrant as specified in its charter)

Delaware	**72-1211572**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

212 Lavaca Street, Suite 300 **Austin TX**	**78701**
(Address of principal executive offices)	(Zip Code)

(**512**) **478-5788**
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.01 per share	STRS	The NASDAQ Stock Market

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
☑ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). ☑ Yes ☐ No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

	☐		☐
Large accelerated filer		Accelerated filer	
Non-accelerated filer	☑	Smaller reporting company	☑
		Emerging growth company	☐

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. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). ☐ Yes ☑ No

On October 29, 2021, there were issued and outstanding 8,245,203 shares of the registrant's common stock, par value $0.01 per share.

STRATUS PROPERTIES INC.
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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements.

STRATUS PROPERTIES INC.
CONSOLIDATED BALANCE SHEETS (Unaudited)
(In Thousands)

	September 30, 2021	December 31, 2020
ASSETS		
Cash and cash equivalents	$ 23,169	$ 12,434
Restricted cash	36,452	21,749
Real estate held for sale	1,773	4,204
Real estate under development	144,666	98,137
Land available for development	42,564	53,432
Real estate held for investment, net	211,972	217,369
Lease right-of-use assets	10,634	10,871
Other assets	20,606	20,093
Assets held for sale	67,264	105,727
Total assets	$ 559,100	$ 544,016
LIABILITIES AND EQUITY		
Liabilities:		
Accounts payable	$ 10,541	$ 8,047
Accrued liabilities, including taxes	10,066	12,698
Debt	295,394	276,712
Lease liabilities	13,888	13,269
Deferred gain	5,253	6,173
Other liabilities	21,382	16,709
Liabilities held for sale	75,174	100,644
Total liabilities	431,698	434,252
Commitments and contingencies		
Equity:		
Stockholders' equity:		
Common stock	94	94
Capital in excess of par value of common stock	188,553	186,777
Accumulated deficit	(71,340)	(66,357)
Common stock held in treasury	(21,753)	(21,600)
Total stockholders' equity	95,554	98,914
Noncontrolling interests in subsidiaries	31,848	10,850
Total equity	127,402	109,764
Total liabilities and equity	$ 559,100	$ 544,016

The accompanying Notes to Consolidated Financial Statements (Unaudited) are an integral part of these consolidated financial statements.

STRATUS PROPERTIES INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS (Unaudited)
(In Thousands, Except Per Share Amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Revenues:				
Real estate operations	$ 900	$ 5,025	$ 8,296	$ 19,254
Leasing operations	5,723	5,807	16,098	17,257
Hotel	5,198	1,596	11,251	8,537
Entertainment	3,659	373	5,926	4,818
Total revenues	15,480	12,801	41,571	49,866
Cost of sales:				
Real estate operations	1,845	3,578	7,824	15,754
Leasing operations	2,667	2,789	7,443	9,941
Hotel	4,312	3,318	11,076	10,983
Entertainment	2,781	1,143	5,646	5,449
Depreciation	2,832	3,329	8,758	10,339
Total cost of sales	14,437	14,157	40,747	52,466
General and administrative expenses	5,422	2,868	16,365	8,786
Impairment of real estate	625	—	625	—
Income from forfeited earnest money	—	—	—	(15,000)
Gain on sale of assets	—	—	(22,931)	—
Total	20,484	17,025	34,806	46,252
Operating (loss) income	(5,004)	(4,224)	6,765	3,614
Interest expense, net	(2,859)	(3,587)	(8,666)	(11,168)
Net gain on extinguishment of debt	3,680	—	3,454	—
Other income, net	70	85	74	114
(Loss) income before income taxes and equity in unconsolidated affiliates' loss	(4,113)	(7,726)	1,627	(7,440)
Provision for income taxes	(82)	(7,536)	(351)	(6,166)
Equity in unconsolidated affiliates' loss	(2)	(9)	(11)	(9)
Net (loss) income and total comprehensive (loss) income	(4,197)	(15,271)	1,265	(13,615)
Total comprehensive loss (income) attributable to noncontrolling interests in subsidiaries	433	193	(6,248)	1,601
Net loss and total comprehensive loss attributable to common stockholders	$ (3,764)	$ (15,078)	$ (4,983)	$ (12,014)
Basic and diluted net loss per share attributable to common stockholders	$ (0.46)	$ (1.84)	$ (0.61)	$ (1.46)
Basic and diluted weighted-average common shares outstanding	8,239	8,214	8,232	8,208

The accompanying Notes to Consolidated Financial Statements (Unaudited) are an integral part of these consolidated financial statements.

STRATUS PROPERTIES INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)
(In Thousands)

	Nine Months Ended September 30,	
	2021	2020
Cash flow from operating activities:		
Net income (loss)	$ 1,265	$ (13,615)
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:		
Depreciation	8,758	10,339
Cost of real estate sold	4,028	10,692
Impairment of real estate	625	—
Gain on sale of assets	(22,931)	—
Net gain on extinguishment of debt	(3,454)	—
Amortization of debt issuance costs and stock-based compensation	1,468	1,601
Equity in unconsolidated affiliates' loss	11	9
Deferred income taxes	—	12,277
Purchases and development of real estate properties	(30,841)	(11,607)
Increase in other assets	(997)	(2,974)
Increase (decrease) in accounts payable, accrued liabilities, deposits and other	5,699	(6,263)
Net cash (used in) provided by operating activities	(36,369)	459
Cash flow from investing activities:		
Capital expenditures	(6,708)	(5,328)
Proceeds from sale of assets	59,488	—
Payments on master lease obligations	(1,019)	(1,093)
Other, net	36	(9)
Net cash provided by (used in) investing activities	51,797	(6,430)
Cash flow from financing activities:		
Borrowings from credit facility	37,700	18,800
Payments on credit facility	(26,778)	(25,975)
Borrowings from project loans	39,445	15,690
Payments on project and term loans	(53,330)	(7,584)
Stock-based awards net payments	(132)	(79)
Distributions to noncontrolling interests	(13,227)	—
Noncontrolling interests' contributions	27,977	—
Financing costs	(1,645)	(423)
Net cash provided by financing activities	10,010	429
Net increase (decrease) in cash, cash equivalents and restricted cash	25,438	(5,542)
Cash, cash equivalents and restricted cash at beginning of year	34,183	38,591
Cash, cash equivalents and restricted cash at end of period	$ 59,621	$ 33,049

The accompanying Notes to Consolidated Financial Statements (Unaudited), which include information regarding noncash transactions, are an integral part of these consolidated financial statements.

STRATUS PROPERTIES INC.
CONSOLIDATED STATEMENTS OF EQUITY (Unaudited)
(In Thousands)

THREE MONTHS ENDED SEPTEMBER 30

	Stockholders' Equity								
	Common Stock				Common Stock Held in Treasury				
	Number of Shares	At Par Value	Capital in Excess of Par Value	Accum-ulated Deficit	Number of Shares	At Cost	Total	Noncontrolling Interests in Subsidiaries	Total Equity
Balance at June 30, 2021	9,377	$ 94	$ 188,323	$ (67,576)	1,143	$ (21,753)	$ 99,088	$ 4,444	$ 103,532
Exercised and vested stock-based awards	11	—	25	—	—	—	25	—	25
Stock-based compensation	—	—	205	—	—	—	205	—	205
Distributions to noncontrolling interests	—	—	—	—	—	—	—	(140)	(140)
Noncontrolling interests' contributions	—	—	—	—	—	—	—	27,977	27,977
Total comprehensive loss	—	—	—	(3,764)	—	—	(3,764)	(433)	(4,197)
Balance at September 30, 2021	9,388	$ 94	$ 188,553	$ (71,340)	1,143	$ (21,753)	$ 95,554	$ 31,848	$ 127,402
Balance at June 30, 2020	9,347	$ 93	$ 186,422	$ (40,503)	1,137	$ (21,600)	$ 124,412	$ 11,575	$ 135,987
Exercised and vested stock-based awards	11	—	22	—	—	—	22	—	22
Stock-based compensation	—	—	176	—	—	—	176	—	176
Total comprehensive loss	—	—	—	(15,078)	—	—	(15,078)	(193)	(15,271)
Balance at September 30, 2020	9,358	$ 93	$ 186,620	$ (55,581)	1,137	$ (21,600)	$ 109,532	$ 11,382	$ 120,914

STRATUS PROPERTIES INC.
CONSOLIDATED STATEMENTS OF EQUITY (Unaudited)
(In Thousands)

NINE MONTHS ENDED SEPTEMBER 30

	Stockholders' Equity								
	Common Stock				Common Stock Held in Treasury				
	Number of Shares	At Par Value	Capital in Excess of Par Value	Accum-ulated Deficit	Number of Shares	At Cost	Total	Noncontrolling Interests in Subsidiaries	Total Equity
Balance at December 31, 2020	9,358	$ 94	$ 186,777	$ (66,357)	1,137	$ (21,600)	$ 98,914	$ 10,850	$ 109,764
Exercised and vested stock-based awards	30	—	25	—	—	—	25	—	25
Stock-based compensation	—	—	589	—	—	—	589	—	589
Grant of restricted stock units under the Profit Participation Incentive Plan	—	—	1,162	—	—	—	1,162	—	1,162
Tender of shares for stock-based awards	—	—	—	—	6	(153)	(153)	—	(153)
Distributions to noncontrolling interests	—	—	—	—	—	—	—	(13,227)	(13,227)
Noncontrolling interests' contributions	—	—	—	—	—	—	—	27,977	27,977
Total comprehensive (loss) income	—	—	—	(4,983)	—	—	(4,983)	6,248	1,265
Balance at September 30, 2021	9,388	$ 94	$ 188,553	$ (71,340)	1,143	$ (21,753)	$ 95,554	$ 31,848	$ 127,402
Balance at December 31, 2019	9,330	$ 93	$ 186,082	$ (43,567)	1,133	$ (21,509)	$ 121,099	$ 12,983	$ 134,082
Exercised and vested stock-based awards	28	—	22	—	—	—	22	—	22
Stock-based compensation	—	—	516	—	—	—	516	—	516
Tender of shares for stock-based awards	—	—	—	—	4	(91)	(91)	—	(91)
Total comprehensive loss	—	—	—	(12,014)	—	—	(12,014)	(1,601)	(13,615)
Balance at September 30, 2020	9,358	$ 93	$ 186,620	$ (55,581)	1,137	$ (21,600)	$ 109,532	$ 11,382	$ 120,914

The accompanying Notes to Consolidated Financial Statements (Unaudited) are an integral part of these consolidated financial statements.

STRATUS PROPERTIES INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

1. GENERAL

The unaudited consolidated financial statements, and the accompanying notes, are prepared in accordance with generally accepted accounting principles in the United States (GAAP) and should be read in conjunction with the consolidated financial statements and notes thereto for the year ended December 31, 2020, included in Stratus Properties Inc.'s (Stratus) Annual Report on Form 10-K for the year ended December 31, 2020 (Stratus 2020 Form 10-K) filed with the United States (U.S.) Securities and Exchange Commission. The information furnished herein reflects all adjustments that are, in the opinion of management, necessary for a fair statement of the results for the interim periods reported and consist of normal recurring adjustments.

Operating results for the third quarter of 2021 are not necessarily indicative of the results that may be expected for the year ending December 31, 2021. In particular, the COVID-19 pandemic continued to affect Stratus' operations. As a result, this interim period, as well as future interim periods while the COVID-19 pandemic is ongoing, will not be comparable to past performance or indicative of future performance. Also, in September and October 2021, Stratus entered into agreements to sell The Santal and Block 21, respectively. Refer to Note 4 for further discussion.

The preparation of Stratus' consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions, including those related to the potential impacts arising from the COVID-19 pandemic and related government actions, that affect the amounts reported in these financial statements and accompanying notes. Actual results could differ materially from those estimates. As the impact of the COVID-19 pandemic continues to evolve, and the extent of its impact cannot be determined with certainty, estimates and assumptions about future events and their effects require increased judgement. Stratus' assessment of the future magnitude and duration of the COVID-19 pandemic and related economic disruption, as well as other factors could result in material changes to the estimates used in and material impacts to Stratus' consolidated financial statements in future reporting periods.

COVID-19 Pandemic Impact. Since January 2020, the COVID-19 pandemic has caused substantial disruption in international and U.S. economies and markets. The impacts of the pandemic are continuing during 2021 but began to lessen as vaccines became widely available in the U.S. during the first quarter of 2021, although there have been periodic increases in the number of cases in the U.S. as a result of vaccine hesitancy and the spread of COVID-19 variants. The pandemic has resulted in government restrictions of various degrees and effective at various times, including stay-at-home orders, bans on travel, limitations on the size of gatherings, limitations on the operations of businesses deemed non-essential, closures of work facilities, schools, public buildings and businesses, cancellation of events (including entertainment events, conferences and meetings), quarantines, mask mandates and social distancing measures. Effective March 10, 2021, the Governor of Texas issued an executive order lifting the mask mandate in Texas and increasing the capacity of all businesses and facilities in the state to 100 percent. Businesses in Texas may still limit capacity or implement additional safety protocols at their own discretion. As a result of the spread of the COVID-19 variants and resurgence in infections, on July 27, 2021, the U.S. Centers for Disease Control and Prevention (CDC) changed its mask guidance to, among other things, recommend that fully vaccinated individuals wear masks indoors in areas of "substantial" or "high transmission," which according to the CDC, as of November 12, 2021, includes much of Texas, although Austin and Houston are currently areas of "moderate" transmission. Stratus cannot predict the extent to which individuals may decide to restrict their activities as a result of these developments nor what impact these developments may have on its business.

As a result, the pandemic has had, and is expected to continue to have, an impact on Stratus' business and operations, particularly on its Hotel and Entertainment segments. Because the pandemic is unprecedented in recent history, and its severity, duration and future economic consequences are difficult to predict, Stratus cannot predict its future impact on Stratus' business and operations with any certainty.

Stratus' revenue, operating income and cash flow in its Hotel and Entertainment segments were adversely impacted beginning late in the first quarter of 2020 and through the first nine months of 2021, and are expected to continue to be adversely impacted during the remainder of 2021, although the adverse impacts began to lessen during the first quarter of 2021. The hotel has remained open throughout the pandemic and the 40 percent average occupancy in the third quarter of 2021 was higher than the 16 percent average occupancy in the third quarter of 2020 and the 33 percent average occupancy in the second quarter of 2021. While Stratus' entertainment venues, ACL Live and 3TEN ACL Live, were able to host events during third-quarter 2021 and the first nine months of 2021, capacity remained limited until opening up to full capacity in August 2021.

Refer to Note 1 of the Stratus 2020 Form 10-K for further discussion of the pandemic's impacts on Stratus' business.

Related Party Transactions. Refer to Note 3 for discussion of LCHM Holdings, LLC (LCHM), its manager, and JBM Trust, which are related parties as a result of LCHM's greater than 5 percent beneficial ownership of Stratus' common stock and representation on Stratus' Board of Directors. LCHM and JBM Trust have invested in certain of Stratus' limited partnerships.

Stratus has an arrangement with Austin Retail Partners for services provided by a consultant of Austin Retail Partners who is the son of Stratus' President and Chief Executive Officer. Payments to Austin Retail Partners for the consultant's consulting services and expense reimbursements totaled $27 thousand in third-quarter 2021, $28 thousand in third-quarter 2020 and $93 thousand for the first nine months of 2021 and the first nine months of 2020.

2. EARNINGS PER SHARE

Stratus' net loss per share of common stock was calculated by dividing the net loss attributable to common stockholders by the weighted-average shares of common stock outstanding during the period. The weighted-average shares of common stock exclude approximately 145 thousand shares for third-quarter 2021, 90 thousand shares for third-quarter 2020, 134 thousand shares for the first nine months of 2021 and 86 thousand shares for the first nine months of 2020 associated with restricted stock units (RSUs) and outstanding stock options that were anti-dilutive as a result of the net losses for the periods.

3. LIMITED PARTNERSHIPS

The Saint June, L.P. In June 2021, The Saint June, L.P., a Texas limited partnership and a subsidiary of Stratus, entered into a construction loan to develop The Saint June, a 182-unit, multi-family luxury garden-style apartment project within the Amarra subdivision of the Barton Creek community in Austin, Texas. Refer to Note 6 for further discussion of this loan. In July 2021, an unrelated equity investor contributed $16.3 million to The Saint June, L.P. partnership for a 65.87 percent interest. Stratus has a 34.13 percent interest in The Saint June, L.P. following its contribution of land, development to date and $1.1 million of cash.

The Saint June, L.P. is governed by a limited partnership agreement between Stratus and the equity investor, and a wholly owned subsidiary of Stratus serves as the general partner. The general partner will manage The Saint June, L.P. in exchange for an asset management fee of $210 thousand per year beginning two years after construction of The Saint June, which began in July 2021, and will earn a development management fee of 4 percent of certain construction costs for The Saint June. The partnership agreement also contains a buy-sell option pursuant to which at any time either party will have the right to initiate a buy-sell of the other party's interests.

Stratus Block 150, L.P. In September 2021, Stratus Block 150, L.P., a Texas limited partnership and a subsidiary of Stratus, completed financing transactions from which a portion of the proceeds were used to purchase the land for Block 150, now known as The Annie B, a proposed luxury multi-family high-rise development with ground-level retail in downtown Austin, Texas. The proceeds will also be used to fund predevelopment costs of the project. These financing transactions included (i) a $14.0 million land loan and (ii) $11.7 million from the sale of Class B limited partnership interests in a private placement offering, along with $3.9 million in cash and pursuit costs contributed by wholly owned subsidiaries of Stratus. Refer to Note 6 for further discussion of the land loan.

Upon completion of the private placement offering, Stratus holds, in the aggregate, a 25 percent indirect equity interest in Stratus Block 150, L.P. No individual Class B limited partner has an equity interest greater than 25 percent. One of the participants in the private placement offering, JBM Trust, which purchased a limited partnership interest initially representing a 6.4 percent equity interest in Stratus Block 150, L.P., has a trustee who also serves as sole manager of LCHM.

Stratus Block 150, L.P. is governed by a limited partnership agreement between Stratus and the equity investors, and a wholly owned subsidiary of Stratus serves as the general partner. Stratus plans to capitalize The Annie B in a two-phase process consisting of the initial land partnership phase and potentially followed by a development partnership phase. No asset management fee will be paid to the general partner during the land partnership phase. If the general partner determines to proceed with the development partnership phase, the general partner would continue to manage Stratus Block 150, L.P. and would begin to receive an asset management fee to be agreed on at that time. During the development partnership phase, the general partner would receive a development management fee of approximately 4 percent of certain construction costs for The Annie B.

The Saint Mary, L.P. In June 2018, The Saint Mary, L.P., a Texas limited partnership and a subsidiary of Stratus, completed a series of financing transactions to develop The Saint Mary, a 240-unit luxury, garden-style apartment project in the Circle C community in Austin, Texas. The financing transactions included a $26.0 million construction loan with Texas Capital Bank, National Association and an $8.0 million private placement. Two of the participants in the private placement offering, LCHM and JBM Trust, each purchased limited partnership interests initially representing a 6.1 percent equity interest in The Saint Mary, L.P. Refer to Note 2 of the Stratus 2020 Form 10-K for further discussion.

The Saint Mary, L.P. sold The Saint Mary property in January 2021. In connection with the sale, The Saint Mary, L.P. distributed $1.8 million each to LCHM and JBM Trust. Refer to Note 4 for further discussion.

Stratus Kingwood Place, L.P. In August 2018, Stratus Kingwood Place, L.P., a Texas limited partnership and a subsidiary of Stratus (Kingwood, L.P.), completed a $10.7 million private placement, approximately $7 million of which, combined with a $6.8 million loan from Comerica Bank, was used to purchase a 54-acre tract of land located in Kingwood, Texas for $13.5 million, for the development of Kingwood Place, a H-E-B, LP-anchored, mixed-use development project. Two of the participants in the private placement offering, LCHM and JBM Trust, each purchased limited partnership interests initially representing an 8.8 percent equity interest in Kingwood, L.P. Refer to Note 2 of the Stratus 2020 Form 10-K for further discussion.

Accounting for Limited Partnerships. Stratus has performed evaluations and concluded that The Saint June, L.P., Stratus Block 150, L.P., The Saint Mary, L.P. and Kingwood, L.P. are variable interest entities and that Stratus is the primary beneficiary. Accordingly, the partnerships' results are consolidated in Stratus' financial statements. Stratus will continue to evaluate which entity is the primary beneficiary of these partnerships in accordance with applicable accounting guidance.

Stratus' consolidated balance sheets include the following assets and liabilities of the partnerships (in thousands), except those related to The Saint Mary. The assets and liabilities of The Saint Mary (primarily the real estate held for investment and the related debt) are presented as held for sale in Stratus' consolidated balance sheet as of December 31, 2020.

	September 30, 2021	December 31, 2020
Assets:		
Cash and cash equivalents	$ 6,454	$ 745
Restricted cash	15,511	—
Real estate under development	35,413	2,380
Land available for development	7,627	8,143
Real estate held for investment	31,615	31,962
Other assets	3,181	2,195
Total assets	99,801	45,425
Liabilities:		
Accounts payable and accrued liabilities	2,451	850
Debt	45,669	31,215
Total liabilities	48,120	32,065
Net assets	$ 51,681	$ 13,360

4. DISPOSITIONS

Block 21. In December 2019, Stratus entered into agreements to sell Block 21, a mixed-use development in downtown Austin, Texas, that contains the W Austin Hotel and office, retail and entertainment space, to Ryman Hospitality Properties, Inc. (Ryman) for $275 million. Ryman deposited $15.0 million in earnest money to secure its performance under the agreements governing the sales. As a result of the negative impact on capital markets and the overall economic environment caused by the COVID-19 pandemic, in May 2020, Ryman delivered a termination letter, which was agreed to and accepted by Stratus, terminating the agreements to purchase Block 21 and authorizing the release of Ryman's $15.0 million in earnest money to Stratus. During the second quarter of 2020, Stratus recorded the $15.0 million as operating income.

In October 2021, Stratus entered into new agreements to sell Block 21 to Ryman for $260.0 million. The purchase price includes Ryman's assumption of approximately $138 million of existing Block 21 mortgage debt and is subject to downward adjustments up to $5.0 million. The remainder of the purchase price will be paid in cash. The transaction is targeted to close near year-end 2021, subject to the timely satisfaction or waiver of various closing

conditions, including the consent of the loan servicer to the purchaser's assumption of the existing mortgage loan; the consent of the hotel operator, an affiliate of Marriott, to the purchaser's assumption of the hotel operating agreement; the absence of a material adverse effect; and other customary closing conditions. The Block 21 purchase agreement will terminate if all conditions to closing are not satisfied or waived by the parties. Ryman has deposited $5.0 million in earnest money to secure its performance under the agreements governing the sale. Of the total purchase price, $6.9 million will be held in escrow for 12 months after the closing, subject to a longer retention period with respect to any required reserve for pending claims.

The carrying amounts of Block 21's major classes of assets and liabilities in the consolidated balance sheets follow (in thousands):

	September 30, 2021	December 31, 2020
Assets:		
Cash and cash equivalents	$ 8,338	$ 3,125
Restricted cash	16,225 [a]	12,850
Real estate held for investment, net	121,010	124,669
Other assets	2,184	2,165
Total assets	$ 147,757	$ 142,809
Liabilities:		
Accounts payable and accrued liabilities, including taxes	$ 4,943	$ 5,296
Debt	137,284	139,013
Other liabilities	9,887	7,183
Total liabilities	$ 152,114	$ 151,492

a. Most restricted cash would be received by Ryman upon the closing of the sale.

Block 21's results of operations in the consolidated statements of comprehensive loss consists of the following (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Revenues:				
Hotel	$ 5,198	$ 1,596	$ 11,251	$ 8,537
Entertainment	3,658	373	5,923	4,816
Leasing operations and other	356	347	1,124	1,193
Total revenue	9,212	2,316	18,298	14,546
Cost of sales:				
Hotel	4,312	3,318	11,076	10,983
Entertainment	2,749	1,112	5,559	5,369
Leasing operations and other	196	350	871	1,137
Depreciation	1,360	1,423	4,134	4,671
Total cost of sales	8,617	6,203	21,640	22,160
General and administrative expenses	170	133	568	1,181
Income from forfeited earnest money	—	—	—	(15,000)
Operating income (loss)	425	(4,020)	(3,910)	6,205
Interest expense, net	(2,005)	(2,039)	(5,976)	(6,099)
Other income, net	—	—	—	27
Provision for income taxes	(52)	(111)	(106)	(109)
Net (loss) income	$ (1,632)	$ (6,170)	$ (9,992)	$ 24

The Santal. In September 2021, Stratus entered into an agreement to sell The Santal for $152.0 million, which was subsequently amended to provide the purchaser a $0.7 million repair credit and to extend the closing date to no later than December 10, 2021. The Santal is Stratus' wholly owned 448-unit garden-style, multi-family luxury apartment complex located in Section N of Austin's upscale Barton Creek community. In connection with entering into the agreement to sell The Santal, Stratus amended the loan agreement with the project lender to enable prepayment of the loan, subject to a prepayment fee.

The sale is expected to close in December 2021, subject to the satisfaction or waiver of customary closing conditions. The transaction will terminate if all conditions to closing are not satisfied or waived by the parties. The purchaser has deposited $3.5 million in earnest money toward the purchase price of The Santal. Stratus guaranteed the obligations of its subsidiary under the purchase agreement, up to a liability cap of $2.3 million for any claims related thereto up to a period of two years after the transaction closes.

Stratus reported the assets and liabilities of The Santal as held for sale in its consolidated balance sheets. The carrying amounts of the major classes of assets and liabilities for The Santal follow (in thousands):

	September 30, 2021	December 31, 2020
Assets:		
Real estate held for investment, net	$ 67,236	$ 69,160
Other assets	28	51
Total assets held for sale	$ 67,264	$ 69,211
Liabilities:		
Accrued liabilities	$ 113	$ 170
Debt	74,523	74,343
Other liabilities	538	524
Total liabilities held for sale	$ 75,174	$ 75,037

The Santal had rental revenue of $2.3 million in third-quarter 2021, $2.2 million in third-quarter 2020, $6.8 million for the first nine months of 2021 and $6.5 million for the first nine months of 2020. Interest expense related to The Santal loan was $0.7 million in third-quarter 2021, $1.0 million in third-quarter 2020, $2.4 million for the first nine months of 2021 and $3.0 million for the first nine months of 2020.

The Saint Mary. In January 2021, The Saint Mary, L.P. sold The Saint Mary for $60.0 million. After closing costs and payment of the outstanding construction loan, the sale generated net proceeds of approximately $34 million. After establishing a reserve for remaining costs of the partnership, Stratus received $20.9 million from the subsidiary in connection with the sale and $12.9 million of the net proceeds were distributed to the noncontrolling interest owners. Stratus recognized a gain on the sale of $22.9 million ($16.2 million net of noncontrolling interests) for the first nine months of 2021. Stratus also recognized a $63 thousand loss on extinguishment of debt for the first nine months of 2021 related to the repayment of The Saint Mary construction loan.

Stratus reported the assets and liabilities of The Saint Mary as held for sale in its December 31, 2020, consolidated balance sheet. The carrying amounts of the major classes of assets and liabilities for The Saint Mary as of December 31, 2020, follow (in thousands):

Assets:	
Real estate held for investment, net	$ 36,341
Other assets	175
Total assets held for sale	$ 36,516
Liabilities:	
Accrued liabilities	$ 68
Debt	25,319
Other liabilities	220
Total liabilities held for sale	$ 25,607

The Saint Mary had rental revenue prior to the sale of $0.1 million in first-quarter 2021, $0.9 million in third-quarter 2020, and $2.3 million for the first nine months of 2020. Interest expense, net of capitalized amounts, related to The Saint Mary construction loan was less than $0.1 million in first-quarter 2021, $0.2 million in third-quarter 2020 and $0.8 million for the first nine months of 2020.

Kingwood Place Land. In September 2021, Stratus entered into a contract to sell the multi-family tract of land at Kingwood Place, which was planned for approximately 275 multi-family units, for $5.5 million. The sale, if consummated, is expected to close by mid-2022. Upon entering into the contract, Stratus recorded a $625 thousand impairment charge in the third quarter of 2021 to reduce the carrying value of the land to its fair value based on the contractual sale price less estimated selling costs.

5. FAIR VALUE MEASUREMENTS

Fair value accounting guidance includes a hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 inputs) and the lowest priority to unobservable inputs (Level 3 inputs).

The carrying value for certain Stratus financial instruments (i.e., cash and cash equivalents, restricted cash, accounts payable and accrued liabilities) approximates fair value because of their short-term nature and generally negligible credit losses.

A summary of the carrying amount and fair value of Stratus' debt follows (in thousands):

	September 30, 2021		December 31, 2020	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Liabilities:				
Debt	$ 295,394	$ 297,997	$ 276,712	$ 279,328

Stratus' debt is recorded at cost and is not actively traded. Fair value is estimated based on discounted future expected cash flows at estimated current market interest rates. Accordingly, Stratus' debt is classified within Level 2 of the fair value hierarchy. The fair value of debt does not represent the amounts that will ultimately be paid upon the maturities of the loans.

6. DEBT

The components of Stratus' debt follow (in thousands):

	September 30, 2021	December 31, 2020
Block 21 loan[a]	$ 137,284	$ 139,013
Comerica Bank credit facility	54,226	43,304
Jones Crossing loan	24,016	—
The Annie B land loan	13,816	—
New Caney land loan	4,492	4,949
Paycheck Protection Program loan	272	3,987
Construction loans:		
Kingwood Place	31,853	31,215
Lantana Place	21,726	24,051
West Killeen Market	6,116	6,707
Amarra Villas credit facility	1,593	1,109
Jones Crossing	—	22,377
Total debt[b]	$ 295,394	$ 276,712

a. The Block 21 loan is expected to be assumed by Ryman as part of the sale of Block 21. Refer to Note 4 for further discussion of the pending Block 21 sale.

b. Includes net reductions for unamortized debt issuance costs of $1.6 million at September 30, 2021, and $1.5 million at December 31, 2020. Total debt does not include debt associated with The Santal or The Saint Mary, which is reflected in liabilities held for sale. Refer to Note 4 for further discussion.

As of September 30, 2021, Stratus had $5.6 million available under its $60.0 million Comerica Bank credit facility, with a $150 thousand letter of credit committed against the credit facility.

Jones Crossing Loan. In June 2021, a Stratus subsidiary entered into a $24.5 million loan with Regions Bank (the Jones Crossing loan). Of the proceeds from the Jones Crossing loan, $22.2 million was used to repay in full the original Jones Crossing construction loan. The repayment of the Jones Crossing construction loan resulted in Stratus recognizing a $163 thousand loss on the early extinguishment of debt representing the write-off of unamortized debt issuance costs related to the construction loan.

The Jones Crossing loan has a maturity date of June 17, 2026, and bears interest at the London Interbank Offered Rate (LIBOR) plus 2.25 percent, provided LIBOR shall not be less than 0.15 percent. Payments of interest only on the Jones Crossing loan are due monthly through the term of the loan with the outstanding principal due at maturity.

If the debt service coverage ratio falls below 1.15 to 1.00 for any fiscal quarter beginning with the quarter ending September 30, 2022, a “Cash Sweep Period” (as defined in the Jones Crossing loan) results, which limits Stratus’ ability to receive cash from its Jones Crossing subsidiary. The Jones Crossing loan is secured by the Jones Crossing project, and Stratus has provided a guaranty limited to non-recourse carve-out obligations and environmental indemnification. In addition, any default under the ground leases, which grant Stratus the right to occupy the Jones Crossing property, would trigger the carve-out guaranty. The Jones Crossing loan contains certain financial covenants, including a requirement that Stratus maintain liquid assets of at least $2.0 million.

The Annie B Land Loan. In September 2021, a Stratus subsidiary entered into an 18-month, $14.0 million land loan with Comerica Bank to acquire The Annie B (The Annie B land loan). The loan matures on March 1, 2023, and bears interest at LIBOR plus 3.0 percent, provided LIBOR shall not be less than 0.5 percent. Payments of interest only on the loan are due monthly through February 2023, with the outstanding principal due at maturity.

The Annie B land loan is guaranteed by Stratus and secured by The Annie B project. The loan agreement contains financial covenants, including a requirement that Stratus maintain a net asset value, as defined in the agreement, of $125.0 million and an aggregate debt-to-gross asset value of less than 50 percent. The Annie B land loan requires Comerica Banks’ prior written consent for any Stratus common stock repurchases in excess of $1.0 million.

New Caney Land Loan. In March 2021, Stratus exercised its option to extend the New Caney land loan for an additional 12 months from March 8, 2021, to March 8, 2022, which required a principal payment of $0.5 million.

PPP Loan. In April 2020, Stratus received a $4.0 million loan under the Paycheck Protection Program (PPP loan) of the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), which was signed into law on March 27, 2020. The PPP loan accrues interest at 1 percent and will mature on April 15, 2022, except for the portion that was forgiven. Stratus' PPP loan forgiveness application was accepted and approved in August 2021 and the outstanding balance and accrued interest were forgiven with the exception of $0.3 million. As such, Stratus recognized a gain on extinguishment of debt of $3.7 million during third-quarter 2021.

Lantana Place Construction Loan. In January 2021, a Stratus subsidiary entered into an amendment to the Lantana Place construction loan in which Stratus' Lantana Place subsidiary was granted a waiver of the debt service coverage ratio covenant until September 30, 2021, at which point the ratio is measured by reference to the three-month period then ended, and subsequently builds each quarter until measured by reference to the 12-month period ending June 30, 2022, and then on a trailing 12-month period for each quarter thereafter. As part of the January 2021 amendment, Stratus repaid $2.0 million in principal on the Lantana Place construction loan.

The Saint June Construction Loan. In June 2021, The Saint June, L.P. entered into a construction loan with Texas Capital Bank to finance approximately 55 percent of the estimated $55 million cost of the development and construction of The Saint June. Available borrowings under the loan total the least of (i) $30.3 million, (ii) 60 percent of the total construction costs, or (iii) 55 percent of the as-stabilized appraised value of the property. As of September 30, 2021, no amounts were outstanding under this loan.

The loan matures on October 2, 2024, with two options to extend the maturity for an additional 12 months, subject to satisfying specified conditions and the payment of an extension fee for each extension. The loan bears interest at 30-day LIBOR plus 2.75 percent, with a floor of 3.50 percent. Payments of interest only on the loan are due monthly through October 2, 2024, with the outstanding principal due at maturity.

The loan is secured by The Saint June project and is fully guaranteed by Stratus. However, the guaranty will convert to a 50 percent repayment guaranty upon completion of construction of The Saint June. Further, once The Saint June, L.P. is able to maintain a debt service coverage ratio of 1.25 to 1.00, the repayment guaranty will be eliminated. Notwithstanding the foregoing, Stratus will remain liable for customary carve-out obligations and environmental indemnity. Stratus is also required to maintain a net asset value, as defined by the guaranty, of $125.0 million and liquid assets of at least $10.0 million. The Saint June, L.P. is not permitted to make distributions to its partners until completion of The Saint June project and after the project achieves a debt service coverage ratio of at least 1.00 for three consecutive months.

Magnolia Place Construction Loan. In August 2021, a Stratus subsidiary entered into a $14.8 million construction loan with Veritex Community Bank secured by the Magnolia Place project. The loan matures on August 12, 2024, with two options to extend the maturity for an additional 12 months, subject to satisfying specified conditions and the payment of an extension fee. The loan bears interest at 30-day LIBOR plus 3.25 percent (or, if applicable, a

replacement rate), with a floor of 3.50 percent. Payments of interest only are due monthly through August 12, 2024, with the outstanding principal due at maturity. As of September 30, 2021, no amounts were outstanding under this loan.

Stratus provided a completion guaranty and 25-percent-limited-payment guaranty. The loan agreement contains financial covenants, including that Stratus is required to maintain a net asset value, as defined in the loan agreement, of $125.0 million and liquid assets of at least $7.5 million.

For additional information regarding Stratus' debt, refer to Note 6 in the Stratus 2020 Form 10-K.

Interest Expense and Capitalization. Interest costs (before capitalized interest) totaled $4.2 million in third-quarter 2021, $4.7 million in third-quarter 2020, $12.5 million for the first nine months of 2021 and $14.8 million for the first nine months of 2020. Stratus' capitalized interest totaled $1.3 million in third-quarter 2021, $1.1 million in third-quarter 2020, $3.8 million for the first nine months of 2021, and $3.6 million for the first nine months of 2020. Capitalized interest is primarily related to development activities at Barton Creek.

7. PROFIT PARTICIPATION INCENTIVE PLAN

In July 2018, the Compensation Committee of Stratus' Board of Directors (the Committee) unanimously adopted the Stratus Profit Participation Incentive Plan (PPIP), which provides participants with economic incentives tied to the success of the development projects designated by the Committee as approved projects under the PPIP. Estimates related to the awards may change over time as a result of differences between projected and actual development progress and costs, market conditions and the timing of capital transactions or valuation events. Refer to Note 8 of the Stratus 2020 Form 10-K for further discussion.

In March 2021, Stratus granted 53,411 stock-settled RSUs with a grant-date value of $1.5 million, based on Stratus' stock price on the date of issuance, under the PPIP for West Killeen Market, which reached a valuation event under the PPIP in October 2020. Stratus transferred the $1.2 million accrued liability balance under the PPIP for West Killeen Market to capital in excess of par value and will amortize the $0.3 million balance of the grant date value with a charge to general and administrative expenses and a credit to capital in excess of par value over the three-year vesting period of the RSUs.

The sale of The Saint Mary in January 2021, was a capital transaction under the PPIP. The accrued liability under the PPIP related to The Saint Mary project totaled $2.1 million at September 30, 2021, and is expected to be paid in cash to eligible participants no later than March 15, 2022.

In September 2021, Lantana Place reached a valuation event under the PPIP and Stratus plans to obtain an appraisal of the property to determine the payout under the PPIP. The accrued liability under the PPIP related to Lantana Place totaled $1.5 million at September 30, 2021, and, subject to adjustment based on the appraisal, is expected to be settled in RSUs awarded to eligible participants in the first half of 2022.

The expected sale of The Santal in December 2021 will be a capital transaction under the PPIP. The accrued liability under the PPIP related to The Santal totaled $2.8 million at September 30, 2021, but may increase by as much as approximately $4 million upon a sale closing. The award is expected to be paid in cash to eligible participants no later than March 15, 2022, subject to the PPIP's limits on cash compensation paid to certain officers. Specifically, if the total cash payments made with respect to development projects under the PPIP for 2021 to an executive officer exceed four times the executive officer's base salary, any amounts due under the PPIP in excess of that amount will be converted to an equivalent number of RSUs with a one-year vesting period. Any such RSUs would be awarded in the first half of 2022.

A summary of PPIP costs (credits) follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Charged to general and administrative expense	$ 2,751	$ 190	$ 3,495	$ 401
Capitalized to project development costs	(60)	134	367	315
Total PPIP costs	$ 2,691	$ 324	$ 3,862	$ 716

The accrued liability for the PPIP totaled $8.9 million at September 30, 2021, and $6.2 million at December 31, 2020 (included in other liabilities). As of September 30, 2021, no amounts had been paid in cash to participants under the PPIP.

8. INCOME TAXES

Stratus' accounting policy for and other information regarding its income taxes are further described in Notes 1 and 7 in the Stratus 2020 Form 10-K.

Stratus had deferred tax assets (net of deferred tax liabilities and valuation allowances) totaling $44 thousand at September 30, 2021, and December 31, 2020. Stratus' deferred tax assets had valuation allowances totaling $12.9 million at September 30, 2021, and $10.7 million at December 31, 2020. In the third quarter of 2020, Stratus recorded a valuation allowance on its deferred tax assets of $9.6 million. In evaluating the recoverability of the deferred tax assets, management considered available positive and negative evidence, giving greater weight to the recent current cumulative losses and uncertainty regarding projected future financial results. Upon a change in facts and circumstances, management may conclude that sufficient positive evidence exists to support a reversal of, or decrease in, the valuation allowance in the future, which would favorably impact Stratus' results of operations. Stratus' future results of operations may be negatively impacted by an inability to realize a tax benefit for future tax losses or for items that will generate additional deferred tax assets that are not more likely than not to be realized.

Stratus' consolidated effective income tax rate of 22 percent for the first nine months of 2021 approximates the U.S. Federal statutory income tax rate of 21 percent. The difference was primarily attributable to a full valuation allowance against U.S. Federal deferred tax assets, and the Texas state margin tax. The difference between Stratus' consolidated effective income tax rate of (83) percent for the first nine months of 2020 and the U.S. Federal statutory income tax rate of 21 percent, was primarily attributable to a discrete tax charge of $9.6 million to record a valuation allowance on Stratus' deferred tax assets; the CARES Act, which allowed Stratus to carryback losses to 2017 when the U.S. corporate tax rate was 35 percent, among other impacts, resulting in a discrete tax benefit of $1.4 million; and the Texas state margin tax.

9. BUSINESS SEGMENTS

Stratus has four operating segments: Real Estate Operations, Leasing Operations, Hotel and Entertainment.

The Real Estate Operations segment is comprised of Stratus' real estate assets (developed for sale, under development and available for development), which consists of its properties in Austin, Texas (including the Barton Creek community; the Circle C community; and the Lantana community, including a portion of Lantana Place planned for a future multi-family phase); in Lakeway, Texas, located in the greater Austin area (Lakeway); in College Station, Texas (a portion of Jones Crossing and vacant pad sites); in Killeen, Texas (a vacant pad site at West Killeen Market); and in Magnolia, Texas (Magnolia Place), Kingwood, Texas (land for future multi-family development and vacant pad sites) and New Caney, Texas (New Caney), located in the greater Houston area.

The Leasing Operations segment is comprised of Stratus' real estate assets, both residential and commercial, that are leased or available for lease and includes The Santal, West Killeen Market, office and retail space at Block 21 and completed portions of Lantana Place, Jones Crossing and Kingwood Place. In September 2021, Stratus entered into an agreement to sell The Santal for $152.0 million. The sale is expected to close in December 2021, subject to the satisfaction or waiver of customary closing conditions.

The Hotel segment includes the W Austin Hotel located at Block 21 in downtown Austin, Texas.

The Entertainment segment includes ACL Live, a live music and entertainment venue, and 3TEN ACL Live, both located at Block 21. In addition to hosting concerts and private events, ACL Live is the home of Austin City Limits, the longest running music series in American television history.

In October 2021, Stratus entered into new agreements to sell Block 21 for $260.0 million. The transaction is targeted to close near year-end 2021, subject to the timely satisfaction or waiver of various closing conditions. The sale of Block 21 will include the W Austin Hotel, ACL Live, 3TEN ACL Live and the office and retail space at Block 21.

Stratus uses operating income or loss to measure the performance of each segment. General and administrative expenses, which primarily consist of employee salaries, wages and other costs, are managed on a consolidated basis and are not allocated to Stratus' operating segments. The following segment information reflects management determinations that may not be indicative of what the actual financial performance of each segment would be if it were an independent entity.

Revenues from Contracts with Customers. Stratus' revenues from contracts with customers follow (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Real Estate Operations:				
Developed property sales	$ —	$ 5,001	$ 4,615	$ 19,141
Undeveloped property sales	750	—	3,250	—
Commissions and other	150	24	431	113
	900	5,025	8,296	19,254
Leasing Operations:				
Rental revenue	5,723	5,807	16,098	17,257
Hotel:				
Rooms, food and beverage	4,748	1,504	9,978	7,511
Other	450	92	1,273	1,026
	5,198	1,596	11,251	8,537
Entertainment:				
Event revenue	2,865	373	4,515	4,224
Other	794	—	1,411	594
	3,659	373	5,926	4,818
Total revenues from contracts with customers	$ 15,480	$ 12,801	$ 41,571	$ 49,866

Financial Information by Business Segment. The following segment information was prepared on the same basis as Stratus' consolidated financial statements (in thousands).

	Real Estate Operations[a]	Leasing Operations	Hotel	Entertainment	Corporate, Eliminations and Other[b]	Total
Three Months Ended September 30, 2021:						
Revenues:						
Unaffiliated customers	$ 900	$ 5,723	$ 5,198	$ 3,659	$ —	$ 15,480
Intersegment	55	247	38	1	(341)	—
Cost of sales, excluding depreciation	1,945	2,547	4,312	2,905	(104)	11,605
Depreciation	46	1,600	878	346	(38)	2,832
General and administrative expenses	—	—	—	—	5,422 [c]	5,422
Impairment of real estate	625 [d]	—	—	—	—	625
Operating (loss) income	$ (1,661)	$ 1,823	$ 46	$ 409	$ (5,621)	$ (5,004)
Capital expenditures and purchases and development of real estate properties	$ 25,962 [e]	$ 4,138	$ 177	$ 15	$ —	$ 30,292
Total assets at September 30, 2021	211,405	194,143 [f]	91,779	35,222	26,551	559,100

	Real Estate Operations[a]	Leasing Operations	Hotel	Entertainment	Corporate, Eliminations and Other[b]	Total
Three Months Ended September 30, 2020:						
Revenues:						
Unaffiliated customers	$ 5,025	$ 5,807	$ 1,596	$ 373	$ —	$ 12,801
Intersegment	5	223	18	(6)	(240)	—
Cost of sales, excluding depreciation	3,585	2,793	3,317	1,242	(109)	10,828
Depreciation	57	2,051	891	392	(62)	3,329
General and administrative expenses	—	—	—	—	2,868	2,868
Operating income (loss)	$ 1,388	$ 1,186	$ (2,594)	$ (1,267)	$ (2,937)	$ (4,224)
Capital expenditures and purchases and development of real estate properties	$ 2,952	$ 716	$ 213	$ 2	$ —	$ 3,883
Total assets at September 30, 2020	160,890	236,970 [f]	93,666	35,495	16,198	543,219
Nine Months Ended September 30, 2021:						
Revenues:						
Unaffiliated customers	$ 8,296	$ 16,098	$ 11,251	$ 5,926	$ —	$ 41,571
Intersegment	64	723	98	1	(886)	—
Cost of sales, excluding depreciation	7,781	7,456	11,076	6,000	(324)	31,989
Depreciation	149	5,003	2,635	1,094	(123)	8,758
General and administrative expenses	—	—	—	—	16,365 [c]	16,365
Impairment of real estate	625 [d]	—	—	—	—	625
Gain on sale of assets	—	(22,931) [g]	—	—	—	(22,931)
Operating (loss) income	$ (195)	$ 27,293	$ (2,362)	$ (1,167)	$ (16,804)	$ 6,765
Capital expenditures and purchases and development of real estate properties	$ 30,841 [e]	$ 6,273	$ 392	$ 43	$ —	$ 37,549
Nine Months Ended September 30, 2020:						
Revenues:						
Unaffiliated customers	$ 19,254	$ 17,257	$ 8,537	$ 4,818	$ —	$ 49,866
Intersegment	13	666	82	8	(769)	—
Cost of sales, excluding depreciation	15,653	9,955 [h]	10,992 [i]	5,773	(246)	42,127
Depreciation	173	6,132	2,927 [j]	1,279 [j]	(172)	10,339
General and administrative expenses	—	—	—	—	8,786	8,786
Income from forfeited earnest money	—	—	—	—	(15,000) [k]	(15,000)
Operating income (loss)	$ 3,441	$ 1,836	$ (5,300)	$ (2,226)	$ 5,863	$ 3,614
Capital expenditures and purchases and development of real estate properties	$ 11,607	$ 4,681	$ 523	$ 124	$ —	$ 16,935

a. Includes sales commissions and other revenues together with related expenses.

b. Includes consolidated general and administrative expenses and eliminations of intersegment amounts.

c. The increase in third-quarter 2021, compared to third-quarter 2020, is primarily the result of a $2.6 million increase in employee incentive compensation costs associated with the PPIP resulting primarily from an increased valuation for The Santal. The increase for the first nine months of 2021, compared to the first nine months of 2020, is primarily the result of a $4.0 million increase in employee incentive compensation costs, including those associated with the PPIP, and increased consulting, legal and public relation costs for Stratus' successful proxy contest and the real estate investment trust exploration process totaling $3.8 million.

d. Represents the difference by which the fair value of the multi-family tract of land at Kingwood Place, based on the contractual sale price less estimated selling costs, was less than Stratus' carrying value of the land.

e. Includes the purchase of The Annie B land for $22.5 million.

f. Includes assets held for sale at The Santal totaling $67.3 million at September 30, 2021, and The Santal and The Saint Mary, totaling $106.1 million at September 30, 2020.

g. Represents the gain on the January 2021 sale of The Saint Mary.

h. Includes a $1.4 million charge for estimated uncollectible rents receivable and unrealizable deferred costs.

i. Includes a $0.8 million credit related to a business interruption insurance claim filed as a result of water and smoke damage in the W Austin Hotel in January 2018.

j. Includes a $202 thousand adjustment in the Hotel segment and an $89 thousand adjustment in the Entertainment segment for the period in December 2019 when the hotel and entertainment venues were held for sale and, therefore, not depreciated.

k. Represents income from earnest money received as a result of Ryman's termination in May 2020 of the 2019 agreements to purchase Block 21.

10. SUBSEQUENT EVENTS

Stratus evaluated events after September 30, 2021, and through the date the financial statements were issued, and determined any events or transactions occurring during this period that would require recognition or disclosure are appropriately addressed in these financial statements.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

In Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A), "we," "us," "our" and "Stratus" refer to Stratus Properties Inc. and all entities owned or controlled by Stratus Properties Inc. You should read the following discussion in conjunction with our consolidated financial statements and accompanying notes, related MD&A and discussion of our business and properties included in our Annual Report on Form 10-K for the year ended December 31, 2020 (2020 Form 10-K) filed with the United States (U.S.) Securities and Exchange Commission (SEC) and the unaudited consolidated financial statements and accompanying notes included in this Form 10-Q. The results of operations reported and summarized below are not necessarily indicative of future operating results, and future results could differ materially from those anticipated in forward-looking statements (refer to "Cautionary Statement" herein, Part II, Item 1A. "Risk Factors" herein and Part I, Item 1A. "Risk Factors" of our 2020 Form 10-K for further discussion). In particular, the impacts of the COVID-19 pandemic continue to affect our operations. As a result, our performance during this interim period, as well as future interim periods while the COVID-19 pandemic is ongoing, will not be comparable to past performance or indicative of future performance. We expect continued uncertainty in our business and the global economy as a result of the duration and intensity of the COVID-19 pandemic and its related effects. All subsequent references to "Notes" refer to Notes to Consolidated Financial Statements (Unaudited) located in Part I, Item 1. "Financial Statements" herein, unless otherwise stated.

We are a diversified real estate company with headquarters in Austin, Texas. We are engaged primarily in the acquisition, entitlement, development, management and sale of commercial, and multi-family and single-family residential real estate properties, real estate leasing, and the operation of hotel and entertainment businesses located in the Austin, Texas area, and other select, fast-growing markets in Texas. We generate revenues and cash flows from the sale of our developed properties, rental income from our leased properties and from our hotel and entertainment operations.

In September 2021, we entered into an agreement to sell The Santal, our wholly owned 448-unit garden-style, multi-family luxury apartment complex located in Barton Creek, for $152.0 million. In October 2021, we entered into new agreements to sell Block 21, our wholly owned mixed-use development in downtown Austin, Texas, that contains the W Austin Hotel and office, retail and entertainment space, for $260.0 million. As discussed further below, these sales, if completed, would result in significant after-tax cash proceeds to us. In addition, the sale of Block 21 would eliminate our Hotel and Entertainment segments. Refer to Note 9 for further discussion of our operating segments and "Business Strategy" below for a discussion of our business strategy.

BUSINESS STRATEGY

Our portfolio consists of approximately 1,700 acres of undeveloped acreage and acreage under development for commercial and multi-family and single-family residential projects, as well as several completed commercial and residential projects. Our W Austin Hotel and our ACL Live and 3TEN ACL Live entertainment venues are located in downtown Austin at our Block 21 property and are central to the city's world-renowned, vibrant music scene.

Our primary business objective is to create value for stockholders by methodically developing and enhancing the value of our properties and then selling them or holding them for lease. Our full cycle development program of acquiring properties, securing and maintaining development entitlements, developing and stabilizing properties, and selling them or holding them as part of our leasing operations is a key element of our strategy. We may also seek to

refinance properties, in order to benefit from the increased value of the property, from lower interest rates or for other reasons.

We believe that Austin and other select, fast-growing markets in Texas continue to be attractive locations. Many of our developments are in locations where development approvals have historically been subject to regulatory constraints, which has made it difficult to obtain or change entitlements. Our Austin properties, which are located in desirable areas with significant regulatory constraints, are entitled and have utility capacity for full buildout. As a result, we believe that through strategic planning, development and marketing, we can maximize and fully realize their value.

Our development plans require significant additional capital, which we may pursue through joint ventures or other arrangements. Our business strategy requires us to rely on cash flow from operations and debt financing as our primary sources of funding for our liquidity needs. We have also, from time to time, relied on project-level equity financing of our subsidiaries. We have formed strategic relationships as part of our overall strategy for particular development projects and may enter into other similar arrangements in the future.

In October 2021, we entered into new agreements to sell Block 21 to Ryman Hospitality Properties, Inc. (Ryman) for $260.0 million. The purchase price includes Ryman's assumption of approximately $138 million of existing mortgage debt and is subject to downward adjustments up to $5.0 million. The transaction is targeted to close near year-end 2021, subject to the timely satisfaction or waiver of various closing conditions. After closing costs and assumption of the outstanding Block 21 loan, the sale is expected to generate net pre-tax proceeds of approximately $115 million before prorations and including $6.9 million to be escrowed for 12 months after closing. We expect to record a pre-tax gain of approximately $110 million upon the closing of the sale.

In September 2021, we entered into an agreement to sell The Santal for $152.0 million. The sale is expected to close in December 2021, subject to the satisfaction or waiver of customary closing conditions. After closing costs and payment of the outstanding Santal loan, the sale is expected to generate net pre-tax proceeds of approximately $70 million. We expect to record a pre-tax gain on the sale of approximately $80 million in the fourth quarter of 2021.

In January 2021, we sold The Saint Mary, a 240-unit luxury garden-style apartment project in the Circle C community, for $60.0 million. After closing costs and payment of the outstanding construction loan, the sale generated net proceeds of approximately $34 million. After establishing a reserve for remaining costs of the partnership, we received $20.9 million from the subsidiary in connection with the sale and $12.9 million of the net proceeds were distributed to the noncontrolling interest owners. We recognized a gain on the sale of $22.9 million ($16.2 million net of noncontrolling interests) for the first nine months of 2021.

Refer to Note 4 for further discussion of our property dispositions. Refer to Note 3 and Note 6 for a discussion of financing transactions we entered into during 2021, including for the construction and development of The Saint June and Magnolia Place, and the refinancing of The Santal and Jones Crossing projects.

If completed, the sales of The Santal and Block 21 will result in us receiving substantial cash proceeds, estimated to be approximately $145 million after tax (approximately $50 million relating to The Santal and $95 million relating to Block 21, including $6.9 million to be escrowed). Our Board of Directors (Board) and management team are engaged in a strategic planning process, which includes consideration of the uses of proceeds from the sales and of our long-term business strategy. Potential uses of proceeds may include a combination of further deleveraging, returning cash to shareholders and reinvesting in our robust project pipeline. These factors may impact our evaluation of a potential conversion to a real estate investment trust (REIT).

OVERVIEW OF THE IMPACTS OF THE COVID-19 PANDEMIC

Since January 2020, the COVID-19 pandemic has caused substantial disruption in international and U.S. economies and markets. The impacts of the pandemic are continuing during 2021 but began to lessen as vaccines became widely available in the U.S. during the first quarter of 2021, although there have been periodic increases in the number of cases in the U.S. as a result of vaccine hesitancy and the spread of COVID-19 variants. The pandemic resulted in government restrictions of various degrees and effective at various times, resulting in limitations on normal daily activities for individuals and capacity restrictions and, in some cases, closures for many businesses. Effective March 10, 2021, the Governor of Texas issued an executive order lifting the mask mandate in Texas and increasing the capacity of all businesses and facilities in the state to 100 percent. Businesses in Texas

may still limit capacity or implement additional safety protocols at their own discretion. As a result of the spread of the COVID-19 variants and resurgence in infections, on July 27, 2021, the U.S. Centers for Disease Control and Prevention (CDC) changed its mask guidance to, among other things, recommend that fully vaccinated individuals wear masks indoors in areas of “substantial” or “high transmission,” which according to the CDC, as of November 12, 2021, includes much of Texas, although Austin and Houston are currently areas of “moderate” transmission. We cannot predict the extent to which individuals may decide to restrict their activities as a result of these developments nor what impact these developments may have on our business.

We are optimistic about a post-pandemic recovery and are encouraged by indications that the vaccines are effective and by the rising levels of economic activity in our markets. Although the pandemic has had an adverse impact on our hotel and entertainment operations, which have seen improvements over the last two quarters, our residential properties and opportunities have been positively impacted, as discussed in more detail throughout this report.

Impacts on our Business

The COVID-19 pandemic has had, and is expected to continue to have, an impact on our business and operations, particularly on our Hotel and Entertainment segments which were adversely impacted beginning late in the first quarter of 2020 and to date in 2021, and are expected to continue to be adversely impacted during the remainder of 2021, although the impacts continued to lessen during third-quarter 2021. The hotel has remained open throughout the pandemic and the 40 percent average occupancy in the third quarter of 2021 was higher than the 16 percent average occupancy in the third quarter of 2020 and the 33 percent average occupancy in the second quarter of 2021. While our entertainment venues, ACL Live and 3TEN ACL Live, were able to host events during third-quarter 2021 and the first nine months of 2021, capacity remained limited at our entertainment venues until opening up to full capacity in August 2021. The extent to which the adverse impacts of the pandemic continue depends on numerous evolving factors that we cannot predict. Moreover, even as travel advisories and restrictions are lifted, travel and entertainment demand may remain weak for a significant length of time.

The Austin market, as well as the other Texas markets where we operate, continue to rebound from pandemic lows. Our residential properties have been positively impacted by home-centric trends resulting from the pandemic and from the increased attractiveness of Austin, Texas as a desirable place to live. Demand for residential properties is strong in our markets, currently exceeding available supply. For example, we have sold almost all of our single-family lot inventory at Barton Creek at attractive prices, and we have been able to increase rents on apartments at The Santal. After the successful sale of The Saint Mary multi-family project in the first quarter of 2021, we began construction on The Saint June, a 182-unit multi-family project in Barton Creek, and closed on a construction loan for the project (refer to Note 6). In April 2021, we announced development plans for Holden Hills, a new residential development formerly known as Section KLO, in the Barton Creek community. The project consists of 495 acres and the community is designed to feature 475 unique residences to be developed in multiple phases with a focus on sustainability and energy conservation. We also purchased the land for Block 150, now known as The Annie B, a proposed luxury multi-family high-rise development with ground-level retail in downtown Austin, Texas. We believe we have attractive opportunities to develop or sell residential components of our projects at Magnolia Place, Lantana Place, Jones Crossing and our remaining land in Lakeway. Our multi-family tract of land at Kingwood Place is currently under contract to sell for $5.5 million. However, with increased demand and construction activity in our markets, and industry-wide material and labor supply constraints, we have also experienced certain cost increases. We continue to actively manage and monitor these costs. In addition, the ongoing trend toward online shopping has accelerated during the COVID-19 pandemic. We have been adjusting to these retail trends by incorporating more multi-family residential space and more food and beverage and entertainment space into our development plans.

Despite the COVID-19 pandemic, we have continued to advance our land planning, engineering, permitting and development activities. In addition to the projects discussed above, in August 2021, we closed on a construction loan and began construction on the first phase of development of Magnolia Place, an H-E-B, LP (H-E-B) grocery shadow-anchored, mixed-use project in Magnolia, Texas (refer to Note 6). In July 2021, an unrelated equity investor acquired a 65.87 percent interest in The Saint June partnership for $16.3 million (refer to Note 3).

As a result of the COVID-19 pandemic, and beginning in April 2020, we agreed, generally, to 90-day base rent deferrals with a majority of our retail leasing tenants, which had closed or were operating at significantly reduced capacities. Rent deferrals with our retail tenants resulted in a reduction of scheduled base rent collections of 10 percent during the period from April through December 2020. The deferred rents are scheduled to be collected over a 12-month or 24-month period that started in January 2021. During the first quarter of 2021, we began collecting these rent deferrals. Further, we have retained substantially all of our pre-pandemic retail tenants, added new tenants, and all of our tenants are currently paying rent per their leases, as well as monthly payments pursuant to

previously disclosed base rent deferral arrangements as applicable. At our multi-family properties, we have granted rent deferral accommodations on a case-by-case basis, with no material decline in rent collections or occupancy.

Our 2019 agreements to sell Block 21 for $275 million were terminated by Ryman in May 2020 as a result of the negative impact on capital markets and the overall economic environment caused by the COVID-19 pandemic. As a result of Ryman's termination of the transaction, it forfeited to us $15.0 million of earnest money. We recorded the $15.0 million as operating income during the second quarter of 2020. As discussed above, in October 2021, we entered into new agreements to sell Block 21 to Ryman for $260.0 million.

Impacts on our Liquidity and Capital Resources
As of September 30, 2021, we had $5.6 million available under our $60.0 million Comerica Bank credit facility, with a $150 thousand letter of credit committed against the credit facility. During the pandemic we have proactively engaged with our project lenders in connection with formulating rent deferral arrangements for our tenants, receiving waivers of and amendments to certain financial covenants for specific project loans and extending maturity dates on project loans with near-term maturities. Refer to Note 6 for further discussion.

With respect to our Block 21 loan, Stratus Block 21, LLC, our wholly owned subsidiary that owns Block 21 (the Block 21 subsidiary) continues to not meet the quarterly debt service coverage ratio test resulting in a "Trigger Period," which is not a default but restricts our ability to receive cash distributions from the project. Although the Block 21 loan agreement is a non-recourse loan, we may contribute cash to our Block 21 subsidiary in order to prevent it from defaulting under the Block 21 loan agreement. Additionally, under our subsidiary's hotel operating agreement, the hotel operator has and may continue to request funds from us if it reasonably determines that such funds are required in order to fund the operation of the hotel and specified reserves. Pursuant to such provisions, we contributed $6.3 million during 2020 and $13.0 million during the first nine months of 2021, including $3.9 million during the third quarter. Depending on the timing of the sale of Block 21, we expect additional contributions to total as much as $1.1 million through early 2022.

We project that we will be able to meet our debt service and other cash obligations for at least the next 12 months. No assurances can be given that the results anticipated by our projections will occur. Refer to Note 6 and "Capital Resources and Liquidity" below for further discussion.

We are continuing to closely monitor health and market conditions and are prepared to make further adjustments to our business strategy if and when appropriate.

OVERVIEW OF FINANCIAL RESULTS FOR THIRD-QUARTER 2021

Our net loss attributable to common stockholders totaled $3.8 million, or $0.46 per share, in third-quarter 2021, compared to $15.1 million, or $1.84 per share, in third-quarter 2020. During the first nine months of 2021 our net loss attributable to common stockholders totaled $5.0 million, or $0.61 per share, compared to $12.0 million, or $1.46 per share, during the first nine months of 2020. Our results for the first nine months of 2021 were positively impacted by the $22.9 million gain on the sale of The Saint Mary in January 2021 ($16.2 million net of noncontrolling interests). Our net losses attributable to common stockholders in the 2021 periods include (i) increases in charges to general and administrative expenses for incentive compensation costs associated with our Profit Participation Incentive Plan (PPIP) resulting primarily from an increased valuation for The Santal (third-quarter and nine-month period), and for consulting, legal and public relation costs incurred in connection with our successful proxy contest and our REIT exploration process (nine month period), partly offset by (ii) a $3.7 million gain related to forgiveness of substantially all of our Paycheck Protection Program (PPP) loan (third-quarter and nine-month period). The net losses in the 2020 periods include a non-cash tax charge of $9.6 million in third-quarter 2020 to record a valuation allowance on our deferred tax assets. The net loss for the first nine months of 2020 is net of $15.0 million in income from forfeited earnest money received as a result of the termination of the 2019 Block 21 transaction in second-quarter 2020.

Our revenues totaled $15.5 million in third-quarter 2021 and $41.6 million for the first nine months of 2021, compared with $12.8 million in third-quarter 2020 and $49.9 million for the first nine months of 2020. The increase in revenues in third-quarter 2021, compared to third-quarter 2020, primarily reflects increases in revenue from our Hotel and Entertainment segments as the negative impacts from the COVID-19 pandemic continued to lessen during third-quarter 2021. The decrease in revenue for the first nine months of 2021, compared to the first nine months of 2020, primarily reflects a decrease in the number of developed residential lots and homes sold as available inventory decreased. Refer to "Results of Operations" below for further discussion of our segments.

UPDATE ON PROJECT AND DEVELOPMENT ACTIVITIES

Current Residential Activities
During the first nine months of 2021, we sold three Amarra Drive Phase III lots, a five-acre multi-family tract of land in Amarra Drive and our last remaining condominium unit at the W Austin Residences for a total of $7.1 million. For further discussion, refer to "Results of Operations — Real Estate Operations." As of September 30, 2021, two developed Amarra Drive Phase III lots remained unsold.

The Villas at Amarra Drive (Amarra Villas) project is a 20-unit development in the Barton Creek community for which we completed construction of the first seven homes during 2017 and 2018. We sold the last two completed homes in 2019. We began construction of the next two Amarra Villas homes during the first quarter of 2020, which are expected to be completed in early 2022. As of November 12, 2021, one of these homes was under contract. In addition, a contract had been signed to sell a second home on which we began construction in second-quarter 2021. As of November 12, 2021, a total of 11 units (1 of which is under construction and 10 of which construction has not started) remain available of the initial 20-unit development.

The Santal, a garden-style luxury apartment complex consisting of 448 units in Section N in the Barton Creek community, is fully leased and stabilized. In September 2021, we entered into an agreement to sell The Santal for $152.0 million. The sale is expected to close in December 2021, subject to the satisfaction or waiver of customary closing conditions.

In third-quarter 2021, after completion of financing, we began construction on The Saint June. The Saint June is a 182-unit multi-family project within the Amarra subdivision in the Barton Creek community. Refer to Notes 3 and 6 for a discussion of project financing. The first units of The Saint June are currently expected to be completed in third-quarter 2022 with completion of the project expected in first-quarter 2023. We also expect this property to achieve an Austin Energy Green Building rating.

For further discussion of our multi-family and single-family residential properties, refer to MD&A in our 2020 Form 10-K.

Current Commercial Activities
In August 2021, we announced new development plans for Magnolia Place, an H-E-B grocery shadow-anchored, mixed-use project in Magnolia, Texas that is wholly owned by Stratus. We began construction on the first phase of development of Magnolia Place in August 2021. Magnolia Place is currently planned to consist of 4 retail buildings totaling approximately 35,000 square feet, 5 retail pad sites to be sold or ground leased, 194 single-family lots and approximately 500 multi-family units. The first phase of development is expected to consist of 2 retail buildings totaling approximately 19,000 square feet, all 5 pad sites, and the road, utility and drainage infrastructure necessary to support the entire development. H-E-B recently began construction on its 95,000-square-foot grocery store on an adjoining 18-acre site owned by H-E-B. We are evaluating a sale of the land for the single-family residential component.

We have constructed approximately 152,000 square feet of retail space at Kingwood Place, including an H-E-B grocery store, and we have signed ground leases on two of the retail pads. Three pad sites remain available for lease. As of September 30, 2021, we had signed leases for approximately 85 percent of the retail space, including the H-E-B grocery store. In September 2021, we entered into a contract to sell a multi-family tract of land at Kingwood Place, which is currently planned for approximately 275 multi-family units, for $5.5 million. We recorded a $625 thousand impairment charge in third-quarter 2021 to reduce the land's carrying value to its fair value based on the contractual sale price less estimated selling costs. If consummated, the sale is expected to close in mid-2022.

Lantana Place is a partially developed, mixed-use development project located in southwest Austin. As of September 30, 2021, we had signed leases for approximately 85 percent of the retail space in the first phase, including the anchor tenant, Moviehouse & Eatery (Moviehouse). In July 2020, we entered into a new six-month lease agreement, which was further extended through July 31, 2021, with Moviehouse in which rent was based on a percentage of Moviehouse's revenue. The lease agreement provided Moviehouse the right to extend the lease to the original 20-year term through October 31, 2039, at the original rent schedule, which Moviehouse exercised effective August 1, 2021. The lease is secured by a $1.4 million letter of credit. We also have a ground lease for an AC Hotel by Marriott. Construction of the hotel began in May 2019, and it is expected to open in fourth-quarter 2021. We rezoned a portion of the Lantana property for a potential multi-family development of up to 320 units and expect to begin construction in second-quarter 2022.

As of September 30, 2021, we had signed leases for substantially all of the retail space at the first phase of Jones Crossing, an H-E-B-anchored, mixed-use development located in College Station, Texas, and approximately 70 percent of the retail space at West Killeen Market, our retail project located in Killeen, Texas, shadow-anchored by an adjacent H-E-B grocery store. During third-quarter 2021, we sold a pad site at West Killeen Market for $750 thousand and only one unsold pad site remains at West Killeen Market. During second-quarter 2021, we refinanced the Jones Crossing project to improve loan terms and take advantage of the low-interest-rate market. Block 21's Class A leasable office space was approximately 60 percent leased as of September 30, 2021, including 9,000 square feet occupied by our corporate office, and the retail space was substantially fully leased as of September 30, 2021.

For further discussion of our commercial properties, refer to MD&A in our 2020 Form 10-K.

Projects in Planning

In September 2021, we announced plans for The Annie B, a proposed luxury high-rise rental project in downtown Austin. Based on preliminary plans, The Annie B would be developed as a 400-foot tower, consisting of approximately 420,000 square feet with 300 luxury multi-family units for lease and ground level retail. The project includes the historic AO Watson house, which will be renovated and expanded to offer amenities that may include a restaurant, pool and garden, while preserving the property’s historic and architectural features. We closed the land purchase on September 1, 2021, and we expect to finalize development plans over the next 12 to 18 months. The Annie B is expected to achieve an Austin Energy Green Building rating.

We are advancing the planning and permitting process for development of future phases of Barton Creek, including Holden Hills, a new residential development formerly known as Section KLO, and commercial and multi-family Section N.

Holden Hills, our final large residential development within the Barton Creek community, consists of 495 acres and the community is designed to feature 475 unique residences to be developed in multiple phases with a focus on health and wellness, sustainability and energy conservation. The city of Austin and Travis County approved initial subdivision permit applications for Holden Hills in October 2019 and the engineering for roads and utilities for the initial phase has been completed. We anticipate securing final permits to start construction in the first quarter of 2022. We currently expect to complete site work for phase one, including the construction of road, utility, drainage and other required infrastructure, approximately 17 months from the issuance of our final permits. Accordingly, our projections anticipate that we would begin sales in Holden Hills in late 2022 or early 2023. Phases one and two of the Holden Hills development plan encompass the development of the home sites. We may sell the developed home sites, or may elect to build and sell, or build and lease, homes on some or all of the home sites, depending on financing and market conditions.

Using a conceptual approach similar to that used for Holden Hills, we are also evaluating a redesign of Section N, our approximately 570-acre tract located along Southwest Parkway in the southern portion of the Barton Creek community. If successful, this new project would be designed as a dense, mid-rise, mixed-use project surrounded by an extensive greenspace amenity, resulting in a significant potential increase in development density, as compared to our prior plans.

These potential development projects require extensive additional permitting and will be dependent on market conditions and financing. Because of the nature and cost of the approval and development process and uncertainty regarding market demand for a particular use, there is uncertainty regarding the nature of the final development plans and whether we will be able to successfully execute the plans. In addition, our development plans for Holden Hills and Section N will require significant additional capital, which we currently intend to pursue through bank debt and third-party equity capital arrangements.

RESULTS OF OPERATIONS

We are continually evaluating the development and sale potential of our properties and will continue to consider opportunities to enter into transactions involving our properties, including possible sales, joint ventures or other arrangements. As a result, and because of the COVID-19 pandemic and numerous other factors affecting our business activities as described herein and in our 2020 Form 10-K, our past operating results are not necessarily indicative of our future results. We use operating income or loss to measure the performance of each operating segment. Corporate, eliminations and other includes consolidated general and administrative expenses, which primarily consist of employee compensation and other costs described herein.

The following table summarizes our operating results (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Operating (loss) income:				
Real Estate Operations[a]	$ (1,661) [b]	$ 1,388	$ (195) [b]	$ 3,441
Leasing Operations	1,823	1,186	27,293 [c]	1,836 [d]
Hotel	46	(2,594)	(2,362)	(5,300)
Entertainment	409	(1,267)	(1,167)	(2,226)
Corporate, eliminations and other[e]	(5,621)	(2,937)	(16,804)	5,863 [f]
Operating (loss) income	$ (5,004)	$ (4,224)	$ 6,765	$ 3,614
Interest expense, net	$ (2,859)	$ (3,587)	$ (8,666)	$ (11,168)
Net loss (income) attributable to noncontrolling interests in subsidiaries	$ 433	$ 193	$ (6,248)	$ 1,601
Net loss attributable to common stockholders	$ (3,764) [g]	$ (15,078) [h]	$ (4,983) [g]	$ (12,014) [h]

a. Includes sales commissions and other revenues together with related expenses.

b. Includes a $625 thousand impairment charge for the multi-family tract of land at Kingwood Place that is under contract to sell for $5.5 million.

c. Includes a $22.9 million gain on the January 2021 sale of The Saint Mary.

d. Includes a $1.4 million charge for estimated uncollectible rents receivable and unrealizable deferred costs.

e. The increase in third-quarter 2021, compared to third-quarter 2020, is primarily the result of a $2.6 million increase in employee incentive compensation costs associated with our PPIP resulting primarily from an increased valuation for The Santal. The increase for the first nine months of 2021, compared to the first nine months of 2020, is primarily the result of a $4.0 million increase in employee incentive compensation costs, including those associated with our PPIP, and increased consulting, legal and public relation costs for Stratus' successful proxy contest and the REIT exploration process totaling $3.8 million.

f. Includes $15.0 million in income from earnest money received as a result of Ryman's termination in May 2020 of the 2019 agreements to purchase Block 21.

g. Includes a $3.7 million gain related to forgiveness of our PPP loan.

h. Includes a $9.6 million tax charge to record a valuation allowance on our deferred tax assets.

We have four operating segments: Real Estate Operations, Leasing Operations, Hotel and Entertainment (refer to Note 9). The following is a discussion of our operating results by segment.

Real Estate Operations

The following table summarizes our Real Estate Operations results (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Revenues:				
Developed property sales	$ —	$ 5,001	$ 4,615	$ 19,141
Undeveloped property sales	750	—	3,250	—
Commissions and other	205	29	495	126
Total revenues	955	5,030	8,360	19,267
Cost of sales, including depreciation	1,991	3,642	7,930	15,826
Impairment of real estate	625	—	625	—
Operating (loss) income	$ (1,661)	$ 1,388	$ (195)	$ 3,441

Developed Property Sales. The following table summarizes our developed property sales (dollars in thousands):

	Three Months Ended September 30,					
	2021			2020		
	Lots	Revenues	Average Cost Per Lot	Lots	Revenues	Average Cost Per Lot
Barton Creek						
Amarra Drive:						
Phase III lots	—	—	—	4	$ 5,001	$ 535
Total Residential	—	—		4	$ 5,001	

	Nine Months Ended September 30,					
	2021			2020		
	Lots/Units	Revenues	Average Cost Per Lot/Unit	Lots/Homes	Revenues	Average Cost Per Lot/Home
Barton Creek						
Amarra Drive:						
Phase II lots	—	$ —	$ —	4	$ 2,372	$ 193
Phase III lots	3	2,215	299	11	9,591	389
Homes built on Phase III lots	—	—	—	2	7,178	3,273
W Austin Residences at Block 21:						
Condominium unit	1	2,400	1,721	—	—	—
Total Residential	4	$ 4,615		17	$ 19,141	

The decrease in revenues in third-quarter 2021 and for the first nine months of 2021, compared to the 2020 periods, reflects a decrease in the number of lots and homes sold in 2021 as available inventory decreased.

Undeveloped Property Sales. In third-quarter 2021 we sold a pad site at West Killeen Market for $750 thousand. During the first nine months of 2021, we also sold a five-acre multi-family tract of land in Amarra Drive for $2.5 million.

Cost of Sales. Cost of sales includes costs of property sold, project operating and marketing expenses and allocated overhead costs, partly offset by reductions for certain municipal utility district (MUD) reimbursements. Cost of sales decreased to $2.0 million in third-quarter 2021 and $7.9 million for the first nine months of 2021 from $3.6 million in third-quarter 2020 and $15.8 million for the first nine months of 2020, primarily reflecting a decrease in the number of lots and homes sold during the 2021 periods, partly offset by the sale of our last condominium unit at Block 21 during the first nine months of 2021.

Impairment of Real Estate. In September 2021, we entered into a contract to sell the multi-family land at Kingwood Place planned for multi-family units for $5.5 million. At the time of entering into the contract, the fair value of the land based on the contractual sale price less estimated selling costs was less than its carrying value, and we recorded a $625 thousand impairment charge in the third quarter of 2021.

Leasing Operations

The following table summarizes our Leasing Operations results (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Rental revenue	$ 5,970	$ 6,030	$ 16,821	$ 17,923
Rental cost of sales, excluding depreciation	2,547	2,793	7,456	9,955 [a]
Depreciation	1,600	2,051	5,003	6,132
Gain on sale of assets	—	—	(22,931)	—
Operating income	$ 1,823	$ 1,186	$ 27,293	$ 1,836

a. Includes a $1.4 million charge for estimated uncollectible rents receivable and unrealizable deferred costs.

Rental Revenue. Rental revenue primarily includes revenue from The Santal, Lantana Place, Jones Crossing, Kingwood Place, the office and retail space at Block 21, West Killeen Market, and The Saint Mary until its sale in January 2021. The decrease in rental revenue in the 2021 periods, compared with the 2020 periods, primarily reflects the sale of The Saint Mary, partly offset by increased revenue at Lantana Place. The Saint Mary had rental revenue of $0.1 million in first-quarter 2021 prior to the sale compared to $0.9 million in third-quarter 2020 and $2.3 million during the first nine months of 2020.

Rental Cost of Sales and Depreciation. Rental cost of sales and depreciation expense decreased in third-quarter 2021 and for the first nine months of 2021, compared with the 2020 periods, primarily as a result of the sale of The Saint Mary. The decrease during the first nine months of 2021, compared to the first nine months of 2020, was further impacted by a $1.4 million charge in second-quarter 2020 for estimated uncollectible rents receivable and unrealizable deferred costs. During the second quarter of 2020, our lease with Moviehouse, our anchor tenant at Lantana Place, was terminated and we charged $1.3 million to cost of sales to write off uncollectible rents receivable and unrealizable deferred costs associated with this lease. Subsequently, in July 2020, we entered into a new lease agreement with Moviehouse, which was further extended through July 31, 2021. The new lease agreement provided Moviehouse the right to extend the lease to the original 20-year term through October 31, 2039, at the original rent schedule, which Moviehouse exercised effective August 1, 2021. The lease is secured by a $1.4 million letter of credit.

Gain on Sale of Assets. In January 2021, our subsidiary sold The Saint Mary for $60.0 million. After closing costs and payment of the outstanding construction loan, the sale generated net proceeds of approximately $34 million. After establishing a reserve for remaining costs of the partnership, we received $20.9 million from the subsidiary in connection with the sale and $12.9 million of the net proceeds were distributed to the noncontrolling interest owners. We recognized a gain on the sale of $22.9 million ($16.2 million net of noncontrolling interests) for the first nine months of 2021.

The pending sale of Block 21 will include the sale of the office and retail space at Block 21. The pending sale of The Santal will also impact this segment. Refer to Note 4 for further discussion.

Hotel

The following table summarizes our Hotel results (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,		
	2021	2020	2021	2020	
Hotel revenue	$ 5,236	$ 1,614	$ 11,349	$ 8,619	
Hotel cost of sales, excluding depreciation	4,312	3,317	11,076	10,992	a
Depreciation	878	891	2,635	2,927	
Operating income (loss)	$ 46	$ (2,594)	$ (2,362)	$ (5,300)	

a. Includes a $0.8 million credit related to a business interruption insurance claim filed as a result of water and smoke damage in the W Austin Hotel in January 2018.

Hotel Revenue. Hotel revenue primarily includes revenue from W Austin Hotel room reservations and food and beverage sales. The increase in Hotel revenues in the 2021 periods, compared to the 2020 periods, is primarily a result of higher room reservations and food and beverage sales as the impacts of the COVID-19 pandemic continued to lessen during third-quarter 2021.

The hotel's average occupancy in the third quarter of 2021 was 40 percent, compared to the 16 percent average occupancy in the third quarter of 2020 and 33 percent average occupancy in the second quarter of 2021. Revenue per available room (RevPAR), which is calculated by dividing total room revenue by the average total rooms available, was $121 in third-quarter 2021 and $89 for the first nine months of 2021, compared with $36 in third-quarter 2020 and $71 for the first nine months of 2020.

Hotel Cost of Sales. The increase in Hotel cost of sales, excluding depreciation, in third-quarter 2021, compared to third-quarter 2020, is primarily a result of higher room reservations and food and beverage sales as the impacts of the COVID-19 pandemic continued to lessen during third-quarter 2021. The decrease in depreciation during the first nine months of 2021, compared to the first nine months of 2020, is primarily because of a $202 thousand adjustment made in first-quarter 2020 for the period in December 2019 when the hotel was held for sale and, therefore, not depreciated.

The pending sale of Block 21 will include the sale of the W Austin Hotel.

Entertainment

The following table summarizes our Entertainment results (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Entertainment revenue	$ 3,660	$ 367	$ 5,927	$ 4,826
Entertainment cost of sales, excluding depreciation	2,905	1,242	6,000	5,773
Depreciation	346	392	1,094	1,279
Operating income (loss)	$ 409	$ (1,267)	$ (1,167)	$ (2,226)

Entertainment Revenue. Entertainment revenue primarily reflects the results of operations for ACL Live, including ticket sales, revenue from private events, sponsorships, personal seat license sales and suite sales, and sales of concessions and merchandise. Entertainment revenue also reflects revenues associated with events hosted at 3TEN ACL Live. Revenues from the Entertainment segment vary from period to period as a result of factors such as the price of tickets and number of tickets sold, as well as the number and type of events hosted at ACL Live and 3TEN ACL Live. Entertainment revenues increased in third-quarter 2021 and during the first nine months of 2021, compared to the 2020 periods, primarily reflecting an increase in the number of events hosted at ACL Live and 3TEN ACL Live as the impacts of the COVID-19 pandemic continued to lessen during third-quarter 2021. As of August 2021, ACL Live and 3TEN ACL Live are operating at full capacity. In addition, we resumed recognizing revenue from sponsorships and sales of personal seat licenses and suites in second-quarter 2021, which had been suspended during the period in which the entertainment venues were closed. Revenue from sponsorships and sales of personal seat licenses and suites totaled $606 thousand in third-quarter 2021 and $1.1 million during the first nine months of 2021 compared to none in third-quarter 2020 and $521 thousand during the first nine months of 2020. The COVID-19 pandemic prevented a full show schedule in the first nine months of 2020, with government restrictions on gatherings forcing ACL Live to close.

Certain key operating statistics specific to the concert and event hosting industry are included below to provide additional information regarding our ACL Live and 3TEN ACL Live operating performance.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
ACL Live				
Events:				
Events hosted	52	17	106	55
Estimated attendance	37,815	656	52,045	46,102
Ticketing:				
Number of tickets sold	26,047	—	35,817	37,703
Gross value of tickets sold (in thousands)	$ 1,653	$ —	$ 2,328	$ 1,881
3TEN ACL Live				
Events:				
Events hosted	39	19	110	70
Estimated attendance	4,936	1,607	13,537	9,839
Ticketing:				
Number of tickets sold	3,780	—	6,119	5,278
Gross value of tickets sold (in thousands)	$ 93	$ —	$ 133	$ 126

Entertainment Cost of Sales. The increase in Entertainment cost of sales, excluding depreciation, in third-quarter 2021 and for the first nine months of 2021, compared to the 2020 periods, reflects an increase in the number of events hosted. The decrease in depreciation for the first nine months of 2021, compared to the first nine months of 2020, is primarily because of an $89 thousand adjustment made for the period in December 2019 when the entertainment venues were held for sale and, therefore, not depreciated.

The pending sale of Block 21 will include the sale of ACL Live and 3TEN ACL Live.

Corporate, Eliminations and Other

Corporate, eliminations and other (refer to Note 9) includes consolidated general and administrative expenses, which primarily consist of employee compensation and other costs. Consolidated general and administrative expenses increased to $5.4 million in third-quarter 2021 from $2.9 million in third-quarter 2020, primarily reflecting a $2.6 million increase in employee incentive compensation costs associated with our PPIP resulting primarily from an increased valuation for The Santal. Additional expense of up to $4.0 million may be recognized upon the closing of the sale of the property.

Consolidated general and administrative expenses increased to $16.4 million for the first nine months of 2021 from $8.8 million for the first nine months of 2020, primarily reflecting a $4.0 million increase in employee incentive compensation costs, including those associated with our PPIP, and increased consulting, legal and public relation costs for our successful proxy contest and the REIT exploration process totaling $3.8 million. The first nine months of 2020 included $0.6 million in legal fees associated with the 2019 Block 21 sales agreements and subsequent termination.

For the first nine months of 2020, corporate, eliminations and other also included $15.0 million in income from earnest money that was received from Ryman in May 2020 upon its termination of the 2019 agreements to purchase Block 21. Corporate, eliminations and other also includes eliminations of intersegment transactions among the four operating segments.

Non-Operating Results

Interest Expense, Net. Interest costs (before capitalized interest) totaled $4.2 million in third-quarter 2021 and $12.5 million for the first nine months of 2021 compared with $4.7 million in third-quarter 2020 and $14.8 million for the first nine months of 2020. Interest costs in the 2021 periods were lower, compared to the 2020 periods, primarily reflecting decreases in average interest rates and the repayment of The Saint Mary construction loan upon the sale of the property.

Capitalized interest totaled $1.3 million in third-quarter 2021 and $3.8 million for the first nine months of 2021 compared to $1.1 million in third-quarter 2020 and $3.6 million for the first nine months of 2020. Capitalized interest is primarily related to development activities at Barton Creek.

Net Gain on Extinguishment of Debt. We recorded a $3.7 million gain on extinguishment of debt in third-quarter 2021 and $3.5 million for the first nine months of 2021 primarily associated with the forgiveness of substantially all of our PPP loan in third quarter 2021. This gain was partly offset by losses on the extinguishment of debt associated with the repayment of The Saint Mary construction loan upon the sale of the property in first-quarter 2021 and the refinancing of the Jones Crossing construction loan in second-quarter 2021, which resulted in the write-off of unamortized deferred financing costs.

Provision for Income Taxes. We recorded a provision for income taxes of $0.1 million in third-quarter 2021 and $0.4 million for the first nine months of 2021, compared to $7.5 million in third-quarter 2020 and $6.2 million for the first nine months of 2020. The third quarter and first nine months of 2020 included a $9.6 million non-cash tax charge to record a valuation allowance on our deferred tax assets. Refer to Note 8 for further discussion of income taxes.

Total Comprehensive Loss (Income) Attributable to Noncontrolling Interests in Subsidiaries. Our partners' share of losses (income) totaled $0.4 million in third-quarter 2021 and $(6.2) million for the first nine months of 2021, compared to $0.2 million in third-quarter 2020 and $1.6 million for the first nine months of 2020. For the first nine months of 2021, our partners were allocated $6.7 million of the gain from the sale of The Saint Mary. For the first nine months of 2020, $0.6 million of the losses were incurred prior to 2020.

CAPITAL RESOURCES AND LIQUIDITY

Volatility in the real estate market, including the markets in which we operate, can impact the timing of and proceeds received from sales of our properties, which may cause uneven cash flows from period to period. However, we believe that the unique nature and location of our assets will provide us positive cash flows over time.

Comparison of Cash Flows for the Nine Months Ended September 30, 2021 and 2020

Operating Activities. Cash (used in) provided by operating activities totaled $(36.4) million for the first nine months of 2021, compared with $0.5 million for the first nine months of 2020. Expenditures for purchases and development of real estate properties totaled $30.8 million for the first nine months of 2021, primarily related to the purchase of the land for The Annie B and the development of our Barton Creek properties, including Amarra Villas, and $11.6 million for the first nine months of 2020, primarily related to the development of our Barton Creek properties, including Amarra Villas, and the purchase of an office building in Austin.

The first nine months of 2020 also includes $15.0 million from earnest money received as a result of Ryman's termination in May 2020 of the 2019 agreements to purchase Block 21. The cash inflow from the increase in accounts payable, accrued liabilities, deposits and other during the first nine months of 2021, compared to the cash outflow from the decrease in accounts payable, accrued liabilities, deposits and other during the first nine months of 2020, is primarily a result of the timing of payments, including contractor retention payments associated with the completion of The Saint Mary and Kingwood Place in 2020.

Investing Activities. Cash provided by (used in) investing activities totaled $51.8 million for the first nine months of 2021 and $(6.4) million for the first nine months of 2020. Capital expenditures totaled $6.7 million for the first nine months of 2021, primarily related to The Saint June, Lantana Place and Magnolia Place projects, and $5.3 million for the first nine months of 2020, primarily related to the Kingwood Place and Lantana Place projects.

During the first nine months of 2021, we received proceeds, net of closing costs, from the sale of The Saint Mary of $59.5 million.

Financing Activities. Cash provided by financing activities totaled $10.0 million for the first nine months of 2021 and $0.4 million for the first nine months of 2020. During the first nine months of 2021, net borrowings on the Comerica Bank credit facility totaled $10.9 million, compared with net repayments of $7.2 million for the first nine months of 2020, reflecting the use of $13.8 million of the $15.0 million earnest money received from Ryman in 2020 to pay down the revolving credit facility. During the first nine months of 2021, net repayments on other project and term loans totaled $13.9 million, primarily reflecting the repayment of The Saint Mary construction loan upon the sale of the project. During the first nine months of 2020, net borrowings on other project and term loans totaled $8.1 million, primarily reflecting borrowings from the PPP loan (refer to Note 6 for further information) and borrowings for the Kingwood Place and The Saint Mary projects, partly offset by repayment of the Amarra Villas credit facility. Refer to “Credit Facility, Other Financing Arrangements and Liquidity Outlook” below for a discussion of our outstanding debt at September 30, 2021.

During the first nine months of 2021, we paid distributions to noncontrolling interest owners of $13.2 million, primarily related to the sale of The Saint Mary, and received contributions from noncontrolling interest owners of $28.0 million, related to The Saint June and Block 150 limited partnerships.

Credit Facility, Other Financing Arrangements and Liquidity Outlook

At September 30, 2021, the total principal amount of our outstanding debt was $297.0 million, compared with $278.2 million at December 31, 2020. Consolidated debt at both dates excluded The Santal loan of approximately $75 million, and at December 31, 2020, also excluded The Saint Mary construction loan of approximately $25 million, as a result of these properties being classified as held for sale at those dates. We had borrowings of $54.2 million under our $60.0 million Comerica Bank revolving credit facility, $5.6 million of which was available at September 30, 2021, net of a $150 thousand letter of credit committed against the credit facility.

During the pandemic we have proactively engaged with our project lenders in connection with formulating rent deferral arrangements for our tenants, receiving waivers of and amendments to certain financial covenants for specific project loans and extending maturity dates on project loans with near-term maturities. Refer to Note 6 in this report and in our 2020 Form 10-K for further discussion. Refer to “Debt Maturities and Other Contractual Obligations” below for a table illustrating the timing of principal payments due on our outstanding debt as of September 30, 2021.

Our debt agreements require compliance with specified financial covenants. The Santal loan and the Magnolia Place construction loan include a requirement that we maintain liquid assets, as defined in the agreements, of not less than $7.5 million. The Jones Crossing loan includes a requirement that we maintain liquid assets, as defined in the agreement, of not less than $2 million. The New Caney land loan and The Saint June construction loan include a requirement that we maintain liquid assets, as defined in the agreements, of not less than $10 million. The Comerica Bank credit facility, the Lantana Place construction loan, the Amarra Villas credit facility, the Kingwood

Place construction loan, the West Killeen Market construction loan, the New Caney land loan, The Saint June construction loan, The Santal loan, the Magnolia Place construction loan, and The Annie B land loan include a requirement that we maintain a net asset value, as defined in each agreement, of $125 million. The Comerica Bank credit facility, the Amarra Villas credit facility, the Kingwood Place construction loan, and The Annie B land loan also include a requirement that we maintain a debt-to-gross asset value, as defined in the agreements, of less than 50 percent. The Santal loan, the West Killeen Market construction loan, the Jones Crossing loan, the Lantana Place construction loan, and The Saint June construction loan each include a financial covenant requiring the applicable Stratus subsidiary to maintain a debt service coverage ratio as defined in each agreement. As of September 30, 2021, we were in compliance with all of our financial covenants; however, for the last three quarters of 2020 and the first three quarters of 2021, our Block 21 subsidiary did not pass the debt service coverage ratio financial test under the Block 21 loan, which, though not a financial covenant, caused the Block 21 subsidiary to enter into a “Trigger Period” as discussed below.

Stratus’ and its subsidiaries’ debt arrangements contain significant limitations that may restrict Stratus’ and its subsidiaries’ ability to, among other things: borrow additional money or issue guarantees; pay dividends, repurchase equity or make other distributions to equityholders; make loans, advances or other investments; create liens on assets; sell assets; enter into sale-leaseback transactions; enter into transactions with affiliates; permit a change of control; sell all or substantially all of its assets; and engage in mergers, consolidations or other business combinations. Our Comerica Bank credit facility and The Annie B land loan require Comerica Bank’s prior written consent for any common stock repurchases in excess of $1.0 million or any dividend payments.

Our project loans are generally secured by all or substantially all of the assets of the project, and our Comerica Bank credit facility is secured by substantially all of our assets other than those encumbered by separate project financing. In addition, we are typically required to guarantee the payment of our project loans, in some cases until certain development milestones and/or financial conditions are met, except for the Block 21 loan, The Santal loan and the Jones Crossing loan guarantees that are generally limited to non-recourse carve-out obligations. Refer to Note 6 in our 2020 Form 10-K for additional discussion.

The Block 21 loan agreement, secured by the Block 21 assets, contains financial tests that we must meet in order to avoid a “Trigger Period.” Specifically, we must maintain (i) a net worth in excess of $125 million and (ii) liquid assets having a market value of at least $10 million, each as defined in the Block 21 loan agreement. Additionally, our Block 21 subsidiary must maintain a trailing-12-month debt service coverage ratio, tested quarterly, as defined in the Block 21 loan agreement. If any of these financial tests are not met, a “Trigger Period,” which is not a default, results. As a result of the pandemic, our Block 21 subsidiary has not met the debt service coverage ratio test each quarter beginning with the June 30, 2020, test date, resulting in a "Trigger Period." During a "Trigger Period," any cash generated from the Block 21 project in excess of amounts necessary to fund loan obligations, budgeted operating expenses and specified reserves would not be available to be distributed to us until after we meet a higher debt service coverage ratio requirement for two consecutive quarters. As the ratio is calculated on a trailing-12-month basis, we currently expect the "Trigger Period" to continue through the end of 2022, or until the earlier closing of the sale of Block 21.

Although the Block 21 loan agreement is a non-recourse loan, we may contribute cash to our Block 21 subsidiary in order to prevent it from defaulting under the Block 21 loan agreement. Additionally, under our subsidiary’s hotel operating agreement, the hotel operator has and may continue to request funds from us if it reasonably determines that such funds are required in order to fund the operation of the hotel and specified reserves. Pursuant to such provisions, we contributed $6.3 million during 2020 and $13.0 million during the first nine months of 2021, including $3.9 million in the third quarter. Depending on the timing of the sale of Block 21, we expect additional contributions to total as much as $1.1 million through early 2022.

As of September 30, 2021, we had $7.8 million of liabilities for deferred income and deposits that primarily related to ticket and sponsorship presales at our venues. We have refunded amounts related to events that have been cancelled, and we may refund additional amounts if more events are cancelled in the future.

We project that we will be able to meet our debt service and other cash obligations for at least the next 12 months. Our projections are based on many assumptions, including that we complete the sales of Block 21 and The Santal or, regardless of completion of such dispositions, that we are able to extend or refinance the Comerica Bank credit facility and loans at West Killeen and New Caney, which we believe we will be able to do. No assurances can be given that the results anticipated by our projections will occur. Refer to Note 6 in our 2020 Form 10-K, “Risk Factors”

included in Part II, Item 1A. herein and “Risk Factors” included in Part I, Item 1A. of our 2020 Form 10-K, for further discussion.

Our ability to meet our cash obligations over the longer term, including our significant debt maturities in 2022, will depend on our future operating and financial performance and cash flows, including our ability to sell or lease properties profitably and extend or refinance debt as it becomes due, which is subject to economic, financial, competitive and other factors beyond our control, including risks related to the COVID-19 pandemic.

DEBT MATURITIES AND OTHER CONTRACTUAL OBLIGATIONS

The following table summarizes our debt maturities based on the principal amounts outstanding as of September 30, 2021 (in thousands):

	2021	2022	2023	2024	2025	Thereafter	Total
Block 21 loan[a]	$ 636	$ 2,613	$ 2,765	$ 2,904	$ 3,094	$ 125,872	$ 137,884
Comerica Bank credit facility	—	54,226	—	—	—	—	54,226
The Annie B land loan	—	—	14,000	—	—	—	14,000
New Caney land loan	—	4,500	—	—	—	—	4,500
PPP loan	116	156	—	—	—	—	272
Construction loans:							
Kingwood Place[b]	—	32,078	—	—	—	—	32,078
Jones Crossing	—	—	—	—	—	24,500	24,500
Lantana Place	203	825	20,788	—	—	—	21,816
West Killeen Market	47	6,099	—	—	—	—	6,146
Amarra Villas credit facility	—	1,593	—	—	—	—	1,593
Total	$ 1,002	$ 102,090	$ 37,553	$ 2,904	$ 3,094	$ 150,372	$ 297,015 [c]

a. The Block 21 loan is expected to be assumed by Ryman as part of the sale of Block 21. Refer to Note 4 for further discussion of the pending Block 21 sale.

b. We have the option to extend the maturity date for two additional 12-month periods, subject to certain debt service coverage conditions.

c. Total does not include $75.0 million of debt at September 30, 2021, associated with The Santal, which is reflected as held for sale.

Other than the debt transactions discussed in Note 4 and Note 6, there have been no material changes in our contractual obligations since December 31, 2020. Refer to Part II, Items 7. and 7A. "Management’s Discussion and Analysis of Financial Condition and Results of Operations and Quantitative and Qualitative Disclosures About Market Risk" in our 2020 Form 10-K for further information regarding our contractual obligations.

CRITICAL ACCOUNTING ESTIMATES

There have been no changes in our critical accounting estimates from those discussed in our 2020 Form 10-K.

NEW ACCOUNTING STANDARDS

No new accounting standards in 2021 have had a material impact on us.

OFF-BALANCE SHEET ARRANGEMENTS

There have been no material changes in our off-balance sheet arrangements since December 31, 2020. Refer to Note 9 in our 2020 Form 10-K for further information.

CAUTIONARY STATEMENT

This Quarterly Report on Form 10-Q contains forward-looking statements in which we discuss factors we believe may affect our future performance. Forward-looking statements are all statements other than statements of historical fact, such as plans, projections or expectations related to whether and when the sale of Block 21 and The Santal will be completed, our estimated gains and net cash proceeds from the sales of Block 21 and The Santal and potential uses of such proceeds, the impacts of the COVID-19 pandemic, our ability to meet our future debt service and other cash obligations, our ability to ramp-up operations at Block 21 according to our currently anticipated timeline, our ability to continue to hold events at our venues, our ability to collect rents timely, future cash flows and liquidity, our ability to comply with or obtain waivers of financial and other covenants in debt agreements, the results of our Board's strategic planning process, our expectations about the Austin and Texas real estate markets, the planning, financing, development, construction, completion and stabilization of our development projects, plans to sell, recapitalize, or refinance properties, future operational and financial performance, MUD reimbursements for infrastructure costs, regulatory matters, leasing activities, tax rates, the impact of interest rate changes, future capital expenditures and financing plans, possible joint ventures, partnerships, or other strategic relationships, our projections with respect to our obligations under the master lease agreements entered into in connection with the 2017 sale of The Oaks at Lakeway, other plans and objectives of management for future operations and development projects, and future dividend payments and share repurchases. The words "anticipate," "may," "can," "plan," "believe," "potential," "estimate," "expect," "project," "target," "intend," "likely," "will," "should," "to be" and any similar expressions and/or statements are intended to identify those assertions as forward-looking statements.

Under our Comerica Bank credit facility, we are not permitted to repurchase our common stock in excess of $1.0 million or pay dividends on our common stock without Comerica Bank's prior written consent. The declaration of dividends or decision to repurchase our common stock is at the discretion of our Board, subject to restrictions under our Comerica Bank credit facility, and will depend on our financial results, cash requirements, projected compliance with covenants in our debt agreements, outlook and other factors deemed relevant by the Board.

We caution readers that forward-looking statements are not guarantees of future performance, and our actual results may differ materially from those anticipated, expected, projected or assumed in the forward-looking statements. Important factors that can cause our actual results to differ materially from those anticipated in the forward-looking statements include, but are not limited to, the occurrence of any event, change or other circumstance that could delay the closing of the sale of Block 21 or The Santal, or result in the termination of the agreements to sell Block 21 or The Santal, risks relative to the COVID-19 pandemic (including any resurgences related to the spread of COVID-19 variants) and its economic effects, the results of our Board's strategic planning process, our ability to pay or refinance our debt or comply with or obtain waivers of financial and other covenants in debt agreements and to meet other cash obligations, our ability to ramp up operations at Block 21, collect anticipated rental payments and close projected asset sales, the availability and terms of financing for development projects and other corporate purposes, the implementation, operational, financing and tax complexities to be evaluated and addressed before our Board decides whether to recommend a REIT conversion to shareholders, our ability to qualify as a REIT, which involves the application of highly technical and complex provisions of the Internal Revenue Code of 1986, as amended, our ability to complete the steps that must be taken in order to convert to a REIT and the timing thereof, the potential costs of converting to and operating as a REIT, whether our Board will determine that conversion to a REIT is in the best interests of our shareholders, whether shareholders will approve changes to our organizational documents consistent with a public REIT structure, our ability to enter into and maintain joint ventures, partnerships, or other strategic relationships, our ability to implement our business strategy successfully, including our ability to develop, construct and sell or lease properties on terms our Board considers acceptable, market conditions or corporate developments that could preclude, impair or delay any opportunities with respect to plans to sell, recapitalize or refinance properties, our ability to obtain various entitlements and permits, a decrease in the demand for real estate in select markets in Texas where we operate, changes in economic, market and business conditions, reductions in discretionary spending by consumers and businesses, competition from other real estate developers, hotel operators and/or entertainment venue operators and promoters, our ability to increase and/or maintain attendance at our venues, challenges associated with booking events and selling tickets and event cancellations at our entertainment venues, which may result in refunds to customers, the termination of sales contracts or letters of intent because of, among other factors, the failure of one or more closing conditions or market changes, our ability to secure qualifying tenants for the space subject to the master lease agreements entered into in connection with the 2017 sale of The Oaks at Lakeway and to assign such leases to the purchaser and remove the corresponding property from the master leases, the failure to attract customers or tenants for our developments or such customers' or tenants' failure to satisfy their purchase commitments or leasing obligations, increases in interest rates and the phase out of the London Interbank Offered Rate, declines in the market value of

our assets, increases in operating costs, including real estate taxes and the cost of building materials and labor, changes in external perception of the W Austin Hotel, unanticipated issues experienced by the third-party operator of the W Austin Hotel, changes in consumer preferences, industry risks, changes in laws, regulations or the regulatory environment affecting the development of real estate, opposition from special interest groups or local governments with respect to development projects, weather-related risks, loss of key personnel, cybersecurity incidents and other factors described in more detail under the heading “Risk Factors” in Part I, Item 1A. of our 2020 Form 10-K, filed with the SEC, and “Risk Factors” included in Part II, Item 1A. herein.

We can provide no assurance as to when, if at all, we will convert to a REIT. We can give no assurance that our Board will approve a conversion to a REIT, even if there are no impediments to such conversion. Our exploration of a potential REIT conversion may divert management's attention from traditional business concerns. If we determine to convert to a REIT, we cannot give assurance that we will qualify or remain qualified as a REIT.

Investors are cautioned that many of the assumptions upon which our forward-looking statements are based are likely to change after the date the forward-looking statements are made. Further, we may make changes to our business plans that could affect our results. We caution investors that we undertake no obligation to update our forward-looking statements, which speak only as of the date made, notwithstanding any changes in our assumptions, business plans, actual experience, or other changes.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Not applicable.

Item 4. Controls and Procedures.

(a) Evaluation of disclosure controls and procedures. Our Chief Executive Officer and Chief Financial Officer, with the participation of management, have evaluated the effectiveness of our “disclosure controls and procedures” (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of the end of the period covered by this quarterly report on Form 10-Q. Based on this evaluation, they have concluded that our disclosure controls and procedures were effective as of September 30, 2021.

(b) Changes in internal control over financial reporting. There was no change in our internal control over financial reporting that occurred during the quarter ended September 30, 2021, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1A. Risk Factors.

We are supplementing the risk factors described under “Item 1A. Risk Factors” in our 2020 Form 10-K with the additional risk factors set forth below, which should be read in conjunction with the risk factors and other disclosures in this report and in our 2020 Form 10-K.

Risks Relating to the Pending Sales of Block 21 and The Santal

The closings of the pending sales of Block 21 and The Santal are subject to various risks and uncertainties, may not be completed in accordance with expected plans, on the currently contemplated timelines, or at all, and the pending sales may be disruptive to the operations and profitability of our leasing, hotel and entertainment businesses.

As previously announced and discussed elsewhere in this report, on October 26, 2021, we entered into new agreements to sell Block 21 to Ryman for $260.0 million, subject to downward adjustments up to $5.0 million. In addition, we previously announced on September 20, 2021, that we entered into an agreement to sell The Santal for $152.0 million in cash, which was subsequently amended to provide the purchaser a $0.7 million repair credit. The properties and operations of Block 21 constitute all of the properties and operations of our hotel and entertainment businesses. During 2020 and the nine months ended September 30, 2021, approximately 45 percent and 50 percent, respectively, of the revenue from our leasing operations were from The Santal and Block 21’s office and retail space.

The Block 21 transaction is currently targeted to close in the fourth quarter of 2021, subject to the timely satisfaction or waiver of various closing conditions, including, the consent of the loan servicer to Ryman's assumption of the existing mortgage loan; the consent of the hotel operator, an affiliate of Marriott, to Ryman's assumption of the hotel operating agreement; the absence of a material adverse effect; and other customary closing conditions. The Santal transaction is expected to close no later than December 10, 2021, subject to the satisfaction or waiver of customary closing conditions. Ryman has deposited $5.0 million and The Santal purchaser has deposited $3.5 million in earnest money to secure their performance under the agreements governing the sales. If the conditions to the closing of the sales of Block 21 or The Santal are neither timely satisfied nor, where permissible, waived on a timely basis or at all, we may be unable to complete the sales of Block 21 or The Santal or such completions may be delayed beyond our expected timeline for each sale.

Whether or not the proposed sales of Block 21 and The Santal are completed, the prior announcements and current pendency of the sales may be disruptive to Block 21 and The Santal's businesses and may adversely affect current or prospective relationships with guests, customers, employees, suppliers and tenants. Uncertainties related to the pending sales could divert the attention of management and other employees from the day-to-day operations of Block 21 and The Santal in preparation for and during the completion of the sales. If we are unable to effectively manage these risks, Block 21 and The Santal's businesses, results of operations, financial condition and prospects could be adversely affected.

If the proposed sales of Block 21 or The Santal are delayed or not completed for any reason, we will have expended significant management resources in an effort to complete the sales and will have incurred significant transaction costs. Accordingly, if the proposed sales of Block 21 or The Santal are not completed on the terms set forth in the definitive agreements governing the sales, or at all, our business, results of operations, financial condition, cash flows and stock price may be adversely affected.

We cannot provide assurances that the sales of Block 21 or The Santal will result in additional value being realized by our shareholders.

If completed, the sales of Block 21 and The Santal are anticipated to provide us with substantial net cash proceeds. Our remaining businesses would consist of our traditional real estate operations segment and the remainder of our Leasing Operations segment. We are evaluating options for the use of the net proceeds of the sales and for our future real estate and leasing operations.

We cannot assure you that we will be able to redeploy the capital we obtain from the sales of Block 21 and The Santal in a way that would result in additional value to our shareholders, or that we will engage in any transaction or transactions that will result in our shareholders realizing additional value from the sales.

Further, in order to secure our subsidiaries' responsibilities for the accuracy of certain representations and warranties in the agreements governing the sale of Block 21, $6.9 million will be held in escrow for 12 months after the closing, subject to a longer retention period with respect to any required reserve for pending claims. We cannot assure you that we will eventually receive all or any of the amounts held in escrow.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

There were no unregistered sales of equity securities and no repurchases of common stock during the three months ended September 30, 2021.

Item 6. Exhibits.

Exhibit Number	Exhibit Title	Filed with this Form 10-Q	Incorporated by Reference		
			Form	File No.	Date Filed
2.1	Agreement of Sale and Purchase, dated February 15, 2017, between Stratus Lakeway Center, LLC and FHF I Oaks at Lakeway, LLC.		8-K	001-37716	2/21/2017
2.2	Agreement of Sale and Purchase, by and between Santal, L.L.C., as seller, and BG-QR GP, LLC, as purchaser, dated as of September 20, 2021.	X			
2.3	First Amendment to Agreement of Sale and Purchase, by and between Santal, L.L.C., as seller, and BG-QR GP, LLC, as purchaser, effective as of October 13, 2021.	X			
2.4	Second Amendment to Agreement of Sale and Purchase, by and between Santal, L.L.C., as seller, and Berkshire Multifamily Income Realty-OP, L.P., as purchaser, dated as of November 3, 2021.	X			
3.1	Composite Certificate of Incorporation of Stratus Properties Inc.		8-A/A	001-37716	8/13/2021
3.2	Second Amended and Restated By-Laws of Stratus Properties Inc., as amended effective August 3, 2017.		10-Q	001-37716	8/9/2017
3.3	Certificate of Elimination of the Series D Participating Cumulative Preferred Stock of the Company, dated August 12, 2021.		8-K	001-37716	8/13/2021
4.1	Investor Rights Agreement by and between Stratus Properties Inc. and Moffett Holdings, LLC dated as of March 15, 2012.		8-K	000-19989	3/20/2012
4.2	Assignment and Assumption Agreement by and among Moffett Holdings, LLC, LCHM Holdings, LLC and Stratus Properties Inc., dated as of March 3, 2014.		13D	005-42652	3/5/2014
4.3	Stockholder Rights Agreement, dated as of September 22, 2020, by and between Stratus Properties Inc. and Computershare Inc., as rights agent (which includes the Form of Rights Certificate as Exhibit C thereto).		8-A	001-37716	9/22/2020
4.4	Amendment to Stockholder Rights Agreement, dated as of March 12, 2021, by and between Stratus Properties Inc. and Computershare Inc., as rights agent.		8-K	001-37716	3/15/2021
4.5	Amendment No. 2 to Stockholder Rights Agreement, dated as of August 12, 2021, by and between Stratus Properties Inc. and Computershare Inc., as rights agent.		8-K	001-37716	8/13/2021
10.1	Loan and Security Agreement by and between Santal, L.L.C., as borrower and ACRC Lender LLC, as lender, dated September 30, 2019.		8-K	001-37716	10/4/2019
10.2	Note by and between Santal, L.L.C. and ACRC Lender LLC, dated September 30, 2019.		8-K	001-37716	10/4/2019
10.3	Modification of Loan Agreement, Note, Mortgage and Other Loan Documents by and among Santal, L.L.C., as borrower, Stratus Properties Inc., as guarantor, and ACRE Commercial Mortgage 2017-FL3 Ltd., as lender, dated as of April 1, 2021.		8-K	001-37716	4/6/2021

Exhibit Number	Exhibit Title	Filed with this Form 10-Q	Incorporated by Reference		
			Form	File No.	Date Filed
10.4	Modification of Loan Agreement, Note, Mortgage and Other Loan Documents by and among Santal, L.L.C., as borrower, Stratus Properties Inc., as guarantor, and ACRE Commercial Mortgage 2017-FL3 Ltd., as lender, dated as of September 20, 2021.	X			
10.5†	Amended and Restated Limited Partnership Agreement of Stratus Block 150, L.P. entered into by and among The Stratus Block 150 GP, L.L.C., Stratus Properties Operating Co., L.P., and several Class B Limited Partners.	X			
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a)/15d-14(a).	X			
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a)/15d-14(a).	X			
32.1	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350.	X			
32.2	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350.	X			
101.INS	XBRL Instance Document - the XBRL Instance Document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.	X			
101.SCH	Inline XBRL Taxonomy Extension Schema.	X			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase.	X			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase.	X			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase.	X			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase.	X			
104	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101).	X			

† Certain identified information has been excluded from this exhibit because it is both not material and is the type that the registrant customarily and actually treats as private or confidential.

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 thereunto duly authorized.

STRATUS PROPERTIES INC.

By: /s/ Erin D. Pickens

Erin D. Pickens
Senior Vice President and
Chief Financial Officer
(authorized signatory and
Principal Financial Officer)

Date: November 15, 2021

AGREEMENT OF SALE AND PURCHASE

This **AGREEMENT OF SALE AND PURCHASE** ("Agreement") is made by and between **SANTAL, L.L.C.**, a Delaware limited liability company, (collectively, "Seller") and **BG-QR GP, LLC**, a Delaware limited liability company ("Purchaser"). Seller and Purchaser are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

W I T N E S S E T H:

I.
Sale and Purchase

1.01 The Property. Seller hereby agrees to sell and convey unto Purchaser, and Purchaser hereby agrees to purchase from Seller, for the price and subject to the terms, covenants, conditions and provisions herein set forth: (a) the land which is described on Exhibit "A" attached to this Agreement and incorporated herein by reference (the "Land"), together with all improvements thereon, including a 448-unit apartment complex located at 7624 Tecoma Circle, Austin, Texas 78735, together with all landscaping, storm water lines and related control structures, detention or retention ponds, fixtures, structures, parking areas, and other improvements located on the Land, but specifically excluding any and all utility lines, utility facilities and other improvements owned by any utility providers or governmental authorities (the "Improvements") and all of Seller's right, title and interest in and to easements, rights, benefits, privileges, tenements, hereditaments, and appurtenances in anywise appertaining to the Land and any development rights, utility capacity rights, and water or mineral rights belonging to or inuring to the benefit of Seller but only to the extent pertaining to the Land and/or the Improvements (the "Appurtenances") (the Land, the Improvements and the Appurtenances are referred to in this Agreement collectively as the "Real Property"); and (b) all of Seller's right, title and interest (i) as landlord, in and to all written leases with tenants, as tenants only, for the occupancy of space within the Real Property (the "Tenant Leases"); (ii) in and to the "Accepted Service Contracts" (as defined below in Section 3.07 of this Agreement); (iii) in and to all items of personal property situated upon or with the Real Property which pertain to and are used in connection with the operation, maintenance, ownership, management or occupancy of the Real Property, including but not limited to all tangible personal property owned by Seller that is located at the Real Property and is used in connection with the operation, ownership, maintenance, management, or occupancy of the Property and as set forth on Exhibit B attached hereto, but specifically excluding all personal property owned by the tenants under the Tenant Leases, the parties to the Service Contracts, and any parties holding rights under any of the Permitted Exceptions (the "Personalty"); and (iv) in and to the intangible personal property described on Exhibit "B" attached to this Agreement and incorporated herein by reference (the "Intangible Personal Property"). The Tenant Leases, Accepted Service Contracts, Personalty and Intangible Personal Property are referred to in this Agreement collectively as the "Personal Property" and the Real Property and the Personal Property are referred to in this Agreement collectively as the "Property".

II.
Consideration

2.01 Purchase Price. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the sale and conveyance of the Property is ONE HUNDRED FIFTY TWO MILLION AND NO/100 ($152,000,000.00).

2.02 Payment of the Purchase Price. The Purchase Price shall be payable in full in readily available funds at the Closing.

2.03 Earnest Money. Purchaser shall, within two Business Days of the Effective Date (hereinafter defined) of this Agreement, deposit THREE MILLION FIVE HUNDRED THOUSAND AND NO/100 ($3,500,000.00) in cash or other readily available funds with Heritage Title Company of Austin, Inc. (the "Title Company"), Attention: Amy Fisher, 401 Congress Avenue, Suite 1500, Austin, Texas 78701; [intentionally omitted]. All cash deposited with the Title Company pursuant to the terms of this Section 2.03 will be placed in an interest-bearing account approved by the Parties and all such cash, together with all interest earned thereon, is referred to in this Agreement, collectively, as the "Earnest Money". Seller and Purchaser acknowledge and agree that Gregg Krumme of Armbrust & Brown, PLLC will serve as the fee attorney and closing agent ("Fee Attorney") for the Title Company, at no additional cost or expense to Purchaser and provided that in no event shall Fee Attorney handle any funds (whether the Earnest Money or at Closing) and Purchaser shall have the right to exclusively rely on the Title Company for all functions assigned to the Title Company under this Agreement. All closing documents shall be delivered to the attention of Amy Fisher at the Title Company. Closing will fund through the escrow account of the Title Company. The Earnest Money shall be held, delivered and/or applied in accordance with the terms and provisions of Section 6.04 of this Agreement. Purchaser's delivery of the Earnest Money is a condition precedent to Seller's obligations under this Agreement and Purchaser's rights under this Agreement.

2.04 Independent Contract Consideration. Notwithstanding anything to the contrary contained herein, the Earnest Money being delivered by Purchaser includes the amount of $100.00 as independent contract consideration (the "Independent Contract Consideration"). The Independent Contract Consideration is nonrefundable to Purchaser and shall be released to and retained by Seller notwithstanding any other provision of this Agreement to the contrary, but shall be credited against the Purchase Price at the Closing (hereinafter defined). Purchaser and Seller expressly acknowledge and agree that (i) the Independent Contract Consideration, plus Purchaser's other obligations as provided in this Agreement, has been bargained for as consideration for Seller's execution and delivery of this Agreement and for Purchaser's review, inspection and termination rights prior to the expiration of the Inspection Period, and (ii) such consideration is adequate for all purposes under any applicable law or judicial decision.

III.
Purchaser's Inspection Rights

3.01 Inspection Period. The period of time following the Effective Date of this Agreement until 5:00 p.m. U.S. Central Time on the date that is thirty (30) days after the Effective Date is referred to in this Agreement as the "Inspection Period." This Agreement shall terminate unless, before the end of the Inspection Period, Purchaser gives Seller written notice (the "Notice to Proceed") that Purchaser, in its sole and absolute discretion, elects to proceed with the purchase of the Property subject to and in accordance with the terms of this Agreement. In addition, and notwithstanding any provision hereof to the contrary, should Purchaser determine, in Purchaser's sole and absolute discretion, that the Property is not satisfactory to Purchaser, or Purchaser will not acquire the Property, for any reason or no reason at all, Purchaser may terminate this Agreement by delivering written notice of such termination ("Termination Notice") to Seller prior to the expiration of the Inspection Period, whereupon the Earnest Money shall be promptly refunded to Purchaser. In the event that either (a) Purchaser delivers a Termination Notice before the expiration of the Inspection Period or (b) Purchaser does not deliver a Termination Notice but fails to deliver a Notice to Proceed to Seller prior to the expiration of the Inspection Period, this Agreement shall automatically terminate, the Earnest Money promptly shall be returned to Purchaser, and Seller and Purchaser shall have no further obligations or liabilities to each other hereunder other than those which expressly survive a termination of this Agreement.

3.02 Property Information.

(a) Seller will furnish to Purchaser on or before one (1) Business Day after the Effective Date, the following: (i) the commitment for title insurance attached to this Agreement as Exhibit "C" and incorporated herein by reference (the "Title Commitment"), issued by the Title Company and underwritten by First American Title Company, Inc. (the "Underwriter") and providing for issuance to Purchaser of an owner's policy of title insurance with respect to the Real Property in the amount of the Purchase Price (the "Title Policy"); (ii) copies of the title exception documents referenced in the Title Commitment (the "Title Review Documents"); (iii) a copy of the existing ALTA survey of the Property sealed by Clifton Seward, RPLS 4337 on September 30, 2019 (the "Existing Survey"); (iv) a rent roll listing the Tenant Leases ("Rent Roll") (v) copies of each of the Service Contracts; and (vi) those items listed on Schedule 3.02(a) to the extent that those items are in the Seller's possession or direct control and concern the Property. In no event, however, will Seller be required to furnish to Purchaser any proprietary information of Seller, any communications from Seller's attorneys, or any third party reports dealing with property appraisals or market analyses. Notwithstanding anything to the contrary contained herein, Seller may deliver the Property Information to Purchaser by providing Purchaser access to an electronic data room or similar electronic delivery or access.

(b) The items referenced in Section 3.02(a) above, together with all other information provided by Seller to Purchaser related to the Property or Seller are referred to in this Agreement collectively as the "Property Information." Notwithstanding any

provision in this Agreement to the contrary, Purchaser agrees and acknowledges that (i) Purchaser will not disclose any portion of the Property Information that is not in the public domain other than on a "need-to-know" basis to Purchaser's employees, lenders, potential lenders, consultants, attorneys, engineers, investors, potential investors, third-party professionals, insurers, agents and others involved with Purchaser in the acquisition, financing and/or ownership of the Property; (ii) except for Seller's express representations and warranties contained in this Agreement, Seller has not undertaken any independent investigation as to the truth, accuracy or completeness of any matters set out in or disclosed by the Property Information; (iii) except as provided below in Section 5.01(a) of this Agreement, Seller has not made and does not make any warranties or representations of any kind or nature regarding the truth, accuracy or completeness of the information set out in or disclosed by the Property Information; (iv) except as expressly set forth in this Agreement, Seller shall have no liability or culpability of any kind or nature as a result of providing the Property Information to Purchaser or as a result of Purchaser's reliance on any of the Property Information or any information set forth or referred to therein or disclosed thereby; (v) the Inspection Period will not be extended in the event of any failure by Seller to furnish any Property Information which may be required under this Agreement; and (vi) Purchaser's sole and exclusive remedy for any failure by Seller to furnish any Property Information which may be required under this Agreement will be Purchaser's right to terminate this Agreement on or before the final day of the Inspection Period pursuant to the terms and provisions of Section 3.01 of this Agreement. Notwithstanding the foregoing, Purchaser may disclose any Property Information where disclosure is compelled or required by law, rule or regulation or by legal proceedings or in connection with the enforcement of this Agreement.

3.03 Purchaser Access Rights. Purchaser and Purchaser's employees, agents, contractors, subcontractors, lenders, potential lenders, investors, potential investors, consultants and other parties operating by, through or under Purchaser (collectively, the "Purchaser Parties") may enter upon the Real Property and conduct such on-site testing and inspections as Purchaser reasonably desires; provided, however, that: (a) at least 48 hours prior to any entry upon the Real Property by Purchaser or by any of the Purchaser Parties, Purchaser must, in each instance, arrange with Seller or Seller's property manager, Roscoe Properties, Inc. ("Manager"), which arrangement may be made via email to Lindsey Guzman at [intentionally omitted], such proposed entry, and Seller agrees that Seller will cooperate with Purchaser and will cause Manager to cooperate with Purchaser to accommodate same; (b) the right of entry hereunder will terminate automatically upon any termination of this Agreement; (c) any entry of Purchaser and/or the Purchaser Parties onto the Real Property is at the sole risk of Purchaser and the Purchaser Parties; (d) Purchaser hereby releases Seller from all liabilities, obligations and claims of any kind or nature arising out of or in connection with the entry of Purchaser and/or the Purchaser Parties onto the Real Property **EXCLUDING ALL LIABILITIES, OBLIGATIONS AND CLAIMS ARISING OUT OF ANY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON THE PART OF SELLER PARTIES (hereinafter defined), IT BEING EXPRESSLY AGREED AND**

UNDERSTOOD THAT THIS PROVISION SHALL BE EFFECTIVE TO RELEASE SELLER PARTIES FROM CLAIMS ARISING OUT OF SELLER PARTIES' OWN NEGLIGENCE BUT NOT GROSS NEGLIGENCE OR WILLFUL OR INTENTIONAL MISCONDUCT; (e) Purchaser agrees to indemnify and save and hold Seller harmless from and against all liabilities, obligations, claims and costs of any kind or nature (including court costs and reasonable attorneys' fees) arising out of or in connection with any activities of the Purchaser and/or the Purchaser Parties upon or within the Real Property **EXCLUDING ANY LIABILITY ASSOCIATED WITH AN EXISTING CONDITION AT THE PROPERTY AND EXCLUDING ALL LIABILITIES, OBLIGATIONS, CLAIMS AND COSTS ARISING OUT OF ANY NEGLIGENCE OR WILLFUL OR INTENTIONAL MISCONDUCT ON THE PART OF SELLER PARTIES, IT BEING AGREED AND UNDERSTOOD THAT PURCHASER IS AGREEING TO INDEMNIFY SELLER PARTIES FROM CLAIMS ARISING OUT OF SELLER PARTIES' OWN NEGLIGENCE BUT NOT GROSS NEGLIGENCE OR WILLFUL OR INTENTIONAL MISCONDUCT**; (f) while on the Property neither the Purchaser nor any of the Purchaser Parties will unreasonably disturb, interrupt or interfere with any activities of Seller or Manager or Seller's or Manager's members, managers, employees, agents, contractors, subcontractors, consultants, tenants, invitees, licensees or other parties operating by, through or under Seller (collectively, "Seller Parties"); (g) neither the Purchaser nor any of the Purchaser Parties will conduct any drilling or boring activities within the Real Property or engage in any invasive or destructive testing of any kind or nature within the Real Property without the prior written consent of Seller, which consent may be withheld or conditioned by Seller in Seller's sole and absolute discretion; (h) Purchaser shall, and shall use commercially reasonable efforts to cause all of the Purchaser Parties to comply with any additional reasonable requirements which may be reasonably imposed by Seller with respect to their activities upon or within the Real Property; (i) Purchaser shall pay or cause to be paid when due all costs and expenses related to the activities of Purchaser and/or the Purchaser Parties upon, within or with respect to the Real Property and Purchaser agrees to indemnify and hold and save Seller harmless from and against all such costs and expenses and all obligations, liabilities, claims and costs arising in connection therewith, including without limitation actual court costs and reasonable actual attorneys' fees; (j) Purchaser shall not permit any liens to attach to the Property by reason of any activities of Purchaser or the Purchaser Parties; and (k) prior to and as a condition to any entry upon the Real Property by Purchaser or by any of the Purchaser Parties, Purchaser shall furnish to Seller a certificate of insurance insuring Seller from and against any and all claims, demands and actions arising out of any activities of Purchaser. Such insurance must: (i) provide liability coverage for injury to or death of any person or persons in an amount not less than $1,000,000.00 per single incident and $2,000,000.00 for multiple occurrences; (ii) provide coverage for contractual liability; (iii) include a waiver of subrogation in favor of Seller; (iv) not be subject to change or cancellation, except after ten (10) days prior written notice to Seller; and (v) be underwritten by a company or companies authorized to do business in the state where the Real Property is located. Purchaser's obligations under this Section 3.03 will survive any termination of this Agreement for a period of one (1) year.

3.04 [INTENTIONALLY DELETED]

3.05 Purchaser's Review of Title and Survey.

(a) The term "Permitted Exceptions", as used in this Agreement means all matters referenced in the Title Commitment that are approved (or deemed approved) by Purchaser pursuant to this Agreement together with such additional items reflected in any update to the Title Commitment or in the Existing Survey (or any update to the Existing Survey) that are approved (or deemed approved) by Purchaser pursuant to the terms of this Section 3.05. Notwithstanding anything herein to the contrary, Seller agrees to satisfy (a) those matters referenced in Schedule C of the Title Commitment that are applicable to Seller, (b) any mortgage or deed of trust granted or assumed by Seller; (c) any mechanic's or materialmen's lien arising by, through or under Seller; (d) any lien for unpaid and delinquent taxes, assessments, utility, water, sewer or other governmental charges; and (e) any other lien or encumbrance granted, assumed or suffered by Seller and securing the repayment of money or other claims made against Seller ("Mandatory Cure Items"), none of which shall be considered Permitted Exceptions, and Purchaser shall have no obligation to deliver notice in accordance with Section 3.05(b) and (c) below with respect to the Mandatory Cure Items.

(b) Title and Survey Objections. Purchaser may advise Seller in writing and in reasonable detail, not later than ten (10) days prior to the expiration of the Inspection Period, what exceptions to the Title Commitment or the Existing Survey (or any update to the Existing Survey, if obtained) other than Permitted Exceptions (as defined above), if any, are not acceptable to Purchaser ("Title Objections"). Seller shall have three (3) Business Days after receipt of Purchaser's Title Objections to give Purchaser notice that (i) Seller will remove any Title Objections from title, or (ii) Seller elects not to cause such exceptions to be removed. Seller's failure to provide notice to Purchaser as to any Title Objection shall be deemed an election by Seller not to remove or insure over the Title Objection. If Seller so notifies or is deemed to have notified Purchaser that Seller will not remove any or all of the Title Objections, Purchaser shall have until before the expiration of the Inspection Period to determine whether to (x) waive such Title Objections which Seller has elected not to remove and proceed with the purchase and take the Property subject to such exceptions which shall thereafter be deemed Permitted Exceptions or (y) to terminate this Agreement. Should Purchaser (a) fail, before the expiration of the Inspection Period, to give Seller the Termination Notice, or (b) deliver the Notice to Proceed prior to the expiration of the Inspection Period, Purchaser shall be deemed to have elected to terminate as set forth in Section 3.01 above. If Purchaser elects to terminate this Agreement in accordance with clause (y) above, the Earnest Money shall be promptly returned to Purchaser and the Parties shall thereupon be released from all further obligations and liabilities under this Agreement, except for those which expressly survive the termination of this Agreement. If, despite using reasonable efforts, Seller is unable to remove any of Purchaser's Title Objections which Seller has elected to remove under (i) above by the Closing Date, Purchaser shall have the option (in its sole discretion) of either (y) accepting the title as it then is or

(z) terminating this Agreement, in which event the Earnest Money shall promptly be returned to Purchaser, this Agreement shall terminate and Purchaser and Seller shall have no further obligations or liabilities hereunder other than those which expressly survive a termination of this Agreement.

(c) Conveyance of Title. Title to the Property to be transferred and conveyed to Purchaser by Seller shall be a good and indefeasible title in fee simple, except only for ad valorem taxes not then due and payable and subject only to the Permitted Exceptions and the terms of Deed.

3.06 Subsequently Disclosed Exceptions. If any update to the Title Commitment prepared after the expiration of the Inspection Period discloses any additional item which, affects title to the Property and was not disclosed on the original Title Commitment or Existing Survey (the "New Exception"), Purchaser shall have a period of five (5) days from the date of its receipt of such update (the "New Exception Review Period") to review and notify Seller in writing of Purchaser's approval or disapproval of the New Exception. If Purchaser fails to deliver such written notice to Seller within the New Exception Period, then Purchaser will be deemed to have approved the New Exception and to have elected to proceed with the transactions contemplated by this Agreement in accordance with the terms hereof. Alternatively, if Purchaser, prior to the expiration of the New Exception Review Period, delivers to Seller a written notice of Purchaser's disapproval of the New Exception, Seller may, in Seller's sole discretion, notify Purchaser, within three (3) Business Days of Seller's receipt of Purchaser's objection notice as to whether Seller is willing to remove the New Exception. If Seller delivers to Purchaser a written notice that Seller is not willing to remove the New Exception or if Seller fails to deliver a notice of approval or disapproval to Purchaser within three (3) Business Days after the expiration of the New Exception Review Period, Seller shall be deemed to have elected not to remove the New Exception and Purchaser may, as its sole and exclusive remedy elect either: (i) to terminate this Agreement, in which event the Earnest Money shall be promptly returned to Purchaser, or (ii) to waive the New Exception and proceed with the transactions contemplated by this Agreement, in which event Purchaser shall be deemed to have approved the New Exception. If Purchaser fails to notify Seller of its election to terminate this Agreement in accordance with the foregoing sentence within five (5) Business Days after the expiration of the New Exception Review Period, Purchaser shall be deemed to have elected to approve the New Exception, irrevocably waive any objections to the New Exception, and proceed with the transactions contemplated by this Agreement. The Closing Date shall be extended as necessary to accommodate the time frames set forth in this Section 3.06. If, despite using reasonable efforts, Seller is unable to remove any New Exception which Seller has elected to remove hereunder by the Closing Date, Purchaser shall have the option (in its sole discretion) of either (y) accepting the title as it then is or (z) terminating this Agreement, in which event the Earnest Money shall promptly be returned to Purchaser, this Agreement shall terminate and Purchaser and Seller shall have no further obligations or liabilities hereunder other than those which expressly survive a termination of this Agreement.

3.07 Service Contracts. Attached as Schedule 3.07 is a list of all service contracts, landscaping contracts, garbage removal contracts, maintenance contracts, pest control contracts, commission agreements, equipment leases and other agreements relating to

the ownership, operation and maintenance of the Property (the "Service Contracts") as well as a list of all Service Contracts that are not terminable and which must be assumed by Purchaser at Closing (the "Must Assume Contracts") and a list of all Service Contracts that are subject to a master management agreement with Seller's property manager that cannot be assumed due to the termination of the Management and Leasing Agreement, as defined below, (the "Cannot Assume Contracts"). As required under Section 3.02 of this Agreement, Seller has delivered copies of all of the Service Contracts to Purchaser. Prior to the end of the Inspection Period, Purchaser shall deliver to Seller a written notice specifying all of the Service Contracts which Purchaser would like to assume (the "Accepted Service Contracts"), provided that Purchaser acknowledges that the Must Assume Contracts are deemed to be Accepted Service Contracts and the Cannot Assume Contracts cannot be accepted and assumed by Purchaser. Purchaser acknowledges that certain of the Service Contracts require vendor consent to an assignment of the applicable Service Contract. Seller agrees to use commercially reasonable efforts to obtain any such consent but such consent will not be a condition to Closing hereunder; provided that if Seller is unable to obtain such consent with respect to any Must Assume Contract and Purchaser is therefore unable to assume such Must Assume Contract, Purchaser shall have no obligation to assume such Must Assume Contract and Seller shall be responsible for any remaining obligations, liabilities, and/or terminations fees arising out of such Must Assume Contract. Purchaser agrees to reasonably cooperate with Seller in securing a required vendor consent under a Service Contract and will execute a vendor's required assignment of Service Contract form if required under that Service Contract. On or before the Closing Date, Seller shall terminate, and shall bear the costs of such termination, Seller's existing agreement with Manager relating to the management and leasing of the Property (the "Management and Leasing Agreement").

IV.
Closing

4.01 Conditions to the Parties' Obligations to Close.

(a) Mutual Conditions.

1. The obligation of each Party to consummate the transactions contemplated under this Agreement is contingent upon the other Party having performed and complied in all material respects with all of the terms of this Agreements to be performed or complied with by such Party under this Agreement.

(b) Conditions Precedent Favoring Purchaser. The obligation of Purchaser to consummate the transactions contemplated under this Agreement is contingent upon:

1. delivery at the Closing of the Title Policy, or an irrevocable commitment to issue the same, with liability in the amount of the Purchase Price issued by the Title Company, insuring that fee title to the Land vests in Purchaser subject only to the Permitted Exceptions.

2. Purchaser's receipt of the Association Estoppel and the MUD Service Letter (each as hereinafter defined).

3. Seller's express representations and warranties being true, complete and accurate in all material respects as of the Closing.

(c) Conditions Precedent Favoring Seller. The obligation of Purchaser to consummate the transactions contemplated under this Agreement is contingent upon Purchaser's express representations and warranties under this Agreement being true, complete and accurate in all material respects as of the Closing.

(d) Failure of Condition. So long as a Party is not in default hereunder in any material respect on the Closing Date, in which event Article VI will control, if any express condition hereunder to such Party's obligation to proceed with the Closing set forth in this Agreement has not been satisfied as of the Closing Date, such Party may, in its sole discretion: (i) upon delivery to the other Party written notice of such failure and election, extend the Closing Date for up to fifteen (15) days to permit the burdened Party additional time to cause the satisfaction of such failed condition(s); (ii) elect on or before the Closing Date to close, notwithstanding the nonsatisfaction of such condition, in which event such Party shall be deemed to have waived any such condition or (iii) terminate this Agreement, whereupon all rights and obligations of each Party, except those that expressly survive termination, shall terminate, and the Earnest Money shall be promptly returned to Purchaser. Any failure by a Party to timely elect to proceed under clause (i) above by written notice to the other Party on or before the Closing Date, shall be deemed an election to terminate under clause (iii) above. The foregoing notwithstanding, if a failure under Section 4.01 constitutes an event of default, each Party reserves its respective express rights and remedies hereunder.

4.02 Closing Date. This transaction shall close through escrow with the Title Company's or as otherwise acceptable to the Parties on or the date that is thirty (30) days after the expiration of the Inspection Period. The closing of this transaction is herein called "Closing" and the date for Closing is herein called the "Closing Date".

4.03 Seller's Closing Obligations. At the Closing, Seller shall, at Seller's sole cost and expense:

(a) execute and deliver to Purchaser a special warranty deed in the form of Exhibit "D" attached to this Agreement and incorporated herein by reference, with all blanks therein completed as necessary and with a description of the Land attached thereto as Exhibit "A" and a list of the Permitted Exceptions attached thereto as Exhibit "B" (the "Deed");

(b) deliver to Purchaser, at the Real Property, the original Tenant Leases, if available (and to the extent originals are not available, Seller will provide copies);

(c) deliver to Purchaser a certified update to the Rent Roll reflecting all current tenants, the status of rental payments under the Tenant Leases (including arrearages) and the amount of security deposits held by Seller in connection therewith (the "Updated Rent Roll");

(d) execute and deliver to Purchaser an assignment and assumption of tenant leases and security deposits in the form of Exhibit "E" attached to this Agreement and incorporated herein by reference, with all blanks therein completed as necessary, with a description of the Land attached thereto as Exhibit "A" and with a copy of the Updated Rent Roll attached thereto as Exhibit "B" (the "Assignment of Tenant Leases");

(e) execute and deliver to Purchaser an assignment and assumption of the Accepted Service Contracts in the form of Exhibit "F" attached to this Agreement and incorporated herein by reference, with all blanks therein completed as necessary, with a description of the Land attached thereto as Exhibit "A" and with a list of the Accepted Service Contracts attached thereto as Exhibit "B" (the "Assignment of Accepted Service Contracts");

(f) deliver to Purchaser an update to the inventory of Personal Property listed on Exhibit B hereto (the "Updated Inventory");

(g) execute and deliver to Purchaser a bill of sale in the form of Exhibit "G" attached to this Agreement and incorporated herein by reference, with all blanks therein completed as necessary, with a description of the Land attached thereto as Exhibit "A" and with the Updated Inventory attached thereto as Exhibit "B" (the "Bill of Sale");

(h) execute and deliver to Purchaser an assignment of intangible personal property in the form of Exhibit "H" attached to this Agreement and incorporated herein by reference, with all blanks therein completed as necessary, with a description of the Land attached thereto as Exhibit "A" and with the list of Intangible Personal Property attached thereto as Exhibit "B" (the "General Assignment");

(i) execute and deliver to each tenant of the Real Property (promptly after the Closing) a notice in the form of Exhibit "I" attached to this Agreement and incorporated herein by reference, with all blanks therein completed as necessary (the "Tenant Notice Letter");

(j) execute and deliver to Purchaser a "non-foreign" certificate sufficient to establish that withholding of tax is not required in connection with this transaction;

(k) execute and deliver a certificate affirming the truthfulness and accuracy as of the Closing Date of Seller's representations and warranties contained in this Agreement in all material respects (as such representations and warranties are modified in accordance with Section 5.01(f) below);

(l) execute and deliver to Purchaser the Notice to Purchaser (hereinafter defined) in the form of Schedule 5.09 with a description of the Land attached thereto as Exhibit "A";

(m) execute and deliver to the Title Company an affidavit of debts and liens in form customarily required by the Title Company;

(n) deliver to Purchaser evidence of termination of the current agreement with the Manager; and

(o) execute and deliver such other documents as are customarily executed by a seller in connection with the conveyance of similar property in the county where the Real Property is located, including all required closing statements, releases, affidavits, evidences of authority to execute the documents, certificates of good standing, corporate resolutions and any other instruments reasonably required by the Purchaser or the Title Company and reasonably approved by Seller.

The above and foregoing are collectively referred to as "Closing Documents."

4.04 Purchaser's Closing Obligations. At the Closing, Purchaser shall, at Purchaser's sole cost and expense:

(a) deliver to the Title Company the Purchase Price (less the Earnest Money) plus the full amount of all expenses and other sums which Purchaser is required to pay under the terms of this Agreement and subject to all prorations and adjustments set forth herein, all for disbursement in accordance with the terms and provisions of this Agreement;

(b) execute and deliver to the Title Company for delivery to Seller the Assignment of Tenant Leases, the Assignment of Accepted Service Contracts, the Bill of Sale, and the General Assignment;

(c) execute and deliver to the Title Company for delivery to Seller the Tenant Notice Letters;

(d) execute and deliver a certificate affirming the truthfulness and accuracy as of the Closing Date of Purchaser's representations and warranties contained in this Agreement in all material respects;

(e) execute and deliver to the Title Company for delivery to Seller the Notice to Purchaser in the form of Schedule 5.09, with a description of the Land attached thereto as Exhibit "A"; and

(f) execute and deliver such other documents as are customarily executed by a purchaser in connection with the conveyance of similar property in the county where the Real Property is located, including all required closing statements, releases, affidavits, evidences of authority to execute documents, certificates of good standing, corporate resolutions, and other instruments which are reasonably required by the Seller or the Title Company and reasonably approved by the Purchaser.

4.05 The Title Policy. Purchaser's obligations under this Agreement are contingent upon the Title Company being committed, at the Closing, to issue the Title Policy subject only to the Permitted Exceptions and the terms of such policy. The Title Policy will be delivered after the Closing.

4.06 Closing Costs. Seller and Purchaser each agrees to pay the following costs at Closing, in addition to any other amounts set forth in this Agreement.

(a) At or prior to the Closing, Seller shall pay: (i) the basic premium for the Title Policy; (ii) Seller's attorneys' fees; (iii) the cost of any tax certificates required under the terms of this Agreement; (iv) all costs incurred in connection with the preparation and recordation of any releases of existing liens against the Property; (v) onehalf (½) of any escrow or closing fee charged in connection with this Agreement and reasonably approved by the Parties; (vi) all costs of preparing the Title Commitment; (vii) all recording costs in connection with any documents recorded to remove any title exceptions in accordance with the terms of this Agreement; and (viii) any other closing costs customarily paid by a seller of similar real property in the county where the Real Property is located, except as may be otherwise provided in this Agreement.

(b) At or prior to the Closing, Purchaser shall pay: (i) all charges for any endorsements to the Title Policy, all charges to modify the area and boundary exception in the Title Policy, and all inspection fees and other additional premiums or expenses of any kind or nature incurred in connection with the Title Policy; (ii) all charges for or in connection with any mortgagee's title policy requested by Purchaser, including charges for any survey endorsement or tax deletion requested; (iii) all expenses incurred in connection with any update to the Existing Survey; (iv) Purchaser's attorneys' fees; (v) all expenses relating to Purchaser's financing (if any), including any and all costs, expenses and fees required

by Purchaser's lender; (vi) all recording fees charged in connection with the Deed; (vii) onehalf (½) of any escrow fee charged in connection with this Agreement and reasonably approved by the Parties; and (viii) any other closing costs customarily paid by a purchaser of similar real property in the county where the Real Property is located, except as may otherwise be provided in this Agreement.

4.07 Prorations.

(a) All normally and customarily proratable items, including, without limitation, real estate and personal property taxes assessed against the Property ("Taxes"), property owners association assessments or any other special assessments imposed by private covenant constituting a lien or charge on the Property for the then current calendar year, utility expenses and rents shall be prorated as of the Closing Date, Seller being charged and credited for all of the same through the day immediately prior to such date and Purchaser being charged and credited for all of the same including and after such date. In connection with utilities servicing the Property, Seller shall endeavor to obtain meter readings on the day before the Closing Date, and if such readings are obtained, there shall be no proration of such items. Seller shall pay at Closing the bills therefor for the period to the day preceding the Closing, and Purchaser shall pay the bills therefor for the period subsequent thereto. If the utility company will not issue separate bills, Purchaser will receive a credit against the Purchase Price for Seller's portion and will pay the entire bill prior to delinquency after Closing.

(b) If the Taxes for the calendar year or other applicable tax period in which the Closing occurs are not known as of the Closing Date, the proration for Taxes will be determined based upon 100% of the most recent ascertainable Taxes. If the actual amounts to be prorated with respect to expenses other than Taxes are not known as of the Closing Date, the prorations with respect to those expenses shall be made on the best information then available. With respect to both Taxes and such other expenses which are not ascertainable as of the Closing Date, promptly after the actual amounts of the Taxes or such other expenses are known, adjustments, if needed, will be made between Seller and Purchaser. Any refund or rebate of Taxes resulting from a tax protest, challenge or appeal (an "Appeal") for a tax year ending prior to the Closing Date shall belong to Seller, whether received before or after Closing, and Seller shall have the sole authority to prosecute such Appeals for the year in which Closing occurs and any tax year prior to the calendar year in which Closing occurs and Purchaser shall have the sole authority to prosecute such Appeals for any tax year subsequent to the calendar year in which Closing occurs.

Any refund or rebate of Taxes, less costs incurred in connection therewith, resulting from an Appeal for the tax year in which the Closing Date occurs shall be prorated between the parties as of the Closing Date, whether received before or after Closing, and Seller shall have the sole authority to prosecute any such Appeal. Purchaser will reasonably cooperate with Seller in any protest or other Appeal arising therefrom. Any reasonable costs Seller incurs in such cooperation will be paid out of any refund or rebate of Taxes arising from such protest or other Appeal.

(c) Seller shall be entitled to all deposits held by the providers of utility services to the Real Property. Purchaser shall be solely responsible to make arrangements for the continuation of utility services to the Real Property. Without limitation on the foregoing, Purchaser must, within three (3) Business Days after the Closing Date, post new utility deposits with all providers of utility services to the Real Property in replacement of Seller's deposits.

(d) All security deposits which have been deposited with Seller under the terms of any existing leases shall be credited to Purchaser at the Closing, and Purchaser will assume all liabilities and obligations of Seller in connection with such security deposits.

(e) All rents or other income collected with respect to the Property as of the Closing Date for the then current month or that applies to other periods after Closing shall be prorated as of the Closing Date with Purchaser receiving rents and income applicable to the Closing Date and the period thereafter (for the avoidance of doubt, Purchaser shall receive the full amount of any pre-paid rent, parking fees, pet fees or any other fees or deposits paid by the tenants). With respect to uncollected rents for any period prior to Closing (the "Seller's Rents"), Purchaser shall pay to Seller all of Seller's Rents on a monthly basis as and to the extent collected by Purchaser in accordance with the terms of this Section 4.07(e) and Section 4.07(f), after the same are collected after the Closing. Purchaser shall make an attempt to collect the Seller's Rents in the ordinary course of Purchaser's business (but Purchaser shall not be obligated to engage a collection agency, take legal action, threaten eviction, or draw upon any security deposits to collect same) and, promptly following the date that is ninety (90) days after the Closing Date, Purchaser shall: (i) provide Seller with a written accounting (the "Uncollected Rents Accounting") of all of Seller's Rents collected by Purchaser after Closing; and (ii) promptly pay to Seller all Seller's Rents not previously remitted by Purchaser to Seller. In no event shall Purchaser have any obligation to attempt to collect Seller Rent after said ninety (90) day period.

(f) In making the computations required under Section 4.07(e) above, all amounts of delinquent rent and expenses collected by Purchaser from tenants after Closing shall be applied: (i) first to Purchaser's actual and

reasonable costs of collection, including, without limitation, court costs and reasonable attorneys' fees; (ii) next, to the then-current rents; and (iii) finally, to Seller's Rents.

(g) Nothing contained in Sections 4.07(e) and 4.07(f) above shall prohibit, limit or restrict Seller from collecting or attempting to collect Seller's Rents directly from any tenant in any lawful manner after the Closing, but Seller shall not take any legal action against a delinquent tenant or any action to terminate such delinquent tenant's lease or to evict any tenant, or otherwise seek to terminate any Tenant Lease. Amounts of delinquent rent and expenses collected by Seller from tenants shall be applied (i) first, to Seller's Rents, (ii) next, to reimburse Seller for expenses incurred by Seller and (iii) finally, to Purchaser if and to the extent any amounts collected by Seller are due in connection with Purchaser's period of ownership.

(h) Fees and regular charges under Accepted Service Contracts will be prorated between Purchaser and Seller on the basis the periods to which such regular fees and charges relate. In the event that any Accepted Service Contract includes any "door fees" that have been prepaid in advance to Seller or otherwise paid in full to Seller prior to the Closing, then Seller will pay to Purchaser, as a credit at Closing, Purchaser's share of such door fees for the remaining term under that Service Contract assumed by Purchaser based upon the total term of such Service Contract. By way of example and for avoidance of doubt, if an Accepted Service Contract is for a term of ten (10) years and such Accepted Service Contract has eight (8) years of term remaining at Closing, Seller shall credit Purchaser with 80% of the door fees provided for under such Accepted Service Contract.

(i) Locator fees and referral fees on Tenant Leases (entered into before Closing) which are the obligation of the landlord shall be paid by Seller at or prior to closing and shall not be subject to proration.

(j) Seller shall provide a credit to Purchase at Closing as set forth in, and to the extent required by, Section 5.04(a)(i) and/or Schedule 5.04(a)(i).

(k) The provisions of this Section 4.07 shall survive the Closing.

4.08 Real Estate Commissions.

(a) Seller and Purchaser acknowledge and agree that the only broker who has been involved with the origination and negotiation of this Agreement is Berkadia Real Estate Advisors LLC (the "Broker"). Seller will compensate the Broker pursuant to a separate agreement between Seller and Broker.

(b) Seller and Purchaser each represents and warrants to the other that, other than the real estate sales commission payable to the Broker as specified hereinabove, there are no real estate commissions payable to any person or entity in connection with the transactions evidenced by this Agreement. Seller and Purchaser agree to hold harmless, defend, and indemnify each other from any and all claims, suits, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and court costs) resulting from any claims made by any broker, agent, finder, or salesman for any real estate sales commission or other compensation, reimbursement or payment of any kind or nature which is alleged to be owed based upon an agreement with the indemnifying party.

(c) The Broker is not a party to this Agreement. This Agreement may be amended or terminated without notice to or the consent of the Broker. The absence of Broker's signature shall not in any way affect the validity of this Agreement or any amendment to this Agreement.

(d) Purchaser understands and hereby acknowledges that neither the Broker nor any agent operating by, through or under the Broker has any authority to bind Seller to any warranties or representations regarding the Property, and further acknowledges that Purchaser has not relied upon any warranties or representations of the Broker or any agent operating by, through or under the Broker in Purchaser's decision to purchase the Property.

(e) Purchaser acknowledges that Purchaser has been advised by the Broker, to have an abstract of title on the Real Property examined by an attorney or else to acquire an owner's policy of title insurance on the Real Property.

(f) The obligations of the Parties contained in this Section 4.08 shall survive the Closing or any termination of this Agreement.

4.09 Section 1031 Exchange. Either Party (the "Exchanging Party") may consummate the sale and purchase of the Real Property as part of a so-called like kind exchange (the "Exchange") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"); provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange; (b) the consummation of the Exchange will not be a condition precedent or condition subsequent to the obligations of either Party under this Agreement; (c) the Exchanging Party shall effectuate the Exchange through an assignment of its rights under this Agreement to a qualified intermediary; (d) the other Party ("Non-Exchanging Party") shall not be required to take an assignment of any purchase agreement for replacement property or be required to acquire or hold title to any replacement property for purposes of consummating the Exchange; (e) the Non-Exchanging Party shall not be required to incur any cost or liability in connection with the Exchange; and (f) the Non-Exchanging Party shall not by this Agreement or by the acquiescence of the Non-Exchanging Party to the Exchange: (i) have its rights under this Agreement affected or diminished in any manner; or

(ii) be responsible for compliance with or be deemed to have warranted to Exchanging Party that the Exchange in fact complies with Section 1031 of the Code.

V.

Representations; Covenants; Casualty and Condemnation; Notices

5.01 Seller Representations:

(a) Seller represents and warrants to Purchaser the following as of the Effective Date and as of the Closing Date:

(i) Seller is a duly organized and validly existing limited liability company under the laws of the State of Delaware, is qualified to do business in the State of Texas, and is in good standing under the laws of the State of Delaware and the State of Texas.

(ii) Seller has, without notice to or consent or joinder of any other person or entity, the full right, power and authority to enter into and perform this Agreement, including full right, power and authority to sell the Property to Purchaser.

(iii) Seller's execution, delivery and performance of this Agreement and the Closing Documents: (i) are within Seller's power and authority and have been duly authorized; and (ii) will not conflict with, or with or without notice or the passage of time, or both, result in a breach of any of the terms and provisions of or constitute a default under any legal requirement, indenture, mortgage, loan agreement or instrument to which Seller is a party or by which Seller is bound.

(iv) There is no litigation or proceeding pending or, to Seller's knowledge, threatened in writing, with respect to Seller or relating to the Property, including, but not limited to, condemnation or eminent domain; provided, however, Seller understands that a tenant injured herself at the trash dumpster on the Property and may pursue a claim against Seller arising out of this incident (the "Potential Litigation").

(v) Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and will deliver an affidavit so confirming at Closing.

(vi) Neither Seller nor, to Seller's actual knowledge any Person (as defined below) who owns a direct or indirect interest in Seller (collectively, a "Seller Owner") is now nor shall be at any time through the Closing under this Agreement an individual, corporation, partnership, joint venture, association, joint stock

company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust, government or any agency or political subdivision thereof, or any other form of entity (collectively, a "Person") with whom a United States citizen, entity organized under the laws of the United States or its territories or entity having its principal place of business within the United States or any of its territories (collectively, a "U.S. Person"), including a United States Financial Institution as defined in 31 U.S.C. 5312, as periodically amended ("Financial Institution"), is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States law, regulation, executive orders and lists published by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") (including those executive orders and lists published by OFAC with respect to Persons that have been designated by executive order or by the sanction regulations of OFAC as Persons with whom U.S. Persons may not transact business or must limit their interactions to types approved by OFAC) or otherwise.

(vii) Neither Seller nor, to Seller's actual knowledge, any Seller Owner, nor any Person providing funds to Seller in connection with the transaction contemplated hereby (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the United States would be predicate crimes to money laundering or any violation of any Anti-Money Laundering Laws (as defined below) or any violation of any Anti-Corruption Laws (as defined below); (ii) has been assessed civil or criminal penalties under any Anti-Money Laundering Laws or under any Anti-Corruption Laws; or (iii) has had any of its funds seized or forfeited in any action under any Anti Money Laundering Laws or any Anti-Corruption Laws.

(viii) There are no attachments, executions or assignments for the benefit of creditors or proceedings in bankruptcy or under any other debtor relief laws contemplated by Seller or, to Seller's knowledge, pending or threatened against Seller or the Property and Seller has not received written notice of any of the same.

(ix) There are no leasing, maintenance, service or supply agreements entered into by or on behalf of Seller or otherwise assumed by Seller other than the Service Contracts listed on Schedule 3.07 and the existing Management and Leasing Agreement with Manager. Seller has not delivered or received written notice of default under any Service Contract.

(x) The list and copies of Service Contracts, including any equipment leases, and Rent Roll attached hereto as Schedule 3.07 or delivered as part of the Property Information, respectively, are true, correct, and complete in all material respects.

(xi) The books, records and other information made available to Purchaser with respect to the Property, were prepared in the ordinary course of its business and are the same books, records and other information used and relied upon by Seller in its ownership and operation of the Property.

(xii) There are no leases, license agreements, occupancy agreements or tenancies (written or oral) for any space in the Property other than those leases set forth on the Rent Roll and, to the extent any changes to the Rent Roll reflect only changes in circumstances that are made in accordance with the terms of this Agreement, the updates to the Rent Roll provided to Purchaser from time to time (but only to the extent any changes to the Rent Roll reflect only changes in circumstances that are made in accordance with the terms of this Agreement), and, to Seller's knowledge, there are no adverse parties or other parties in possession of the Property, except for the tenants set forth therein and their guests and any parties holding rights pursuant to the Service Contracts or the Permitted Exceptions. The Rent Roll (as of the date hereof and, to the extent any changes to the Rent Roll reflect only changes in circumstances that are made in accordance with the terms of this Agreement, as updated by Seller from time to time) sets forth the true, correct and complete amount of rent payments and tenant security deposits held by Seller in connection with the Tenant Leases.

(xiii) Other than the Permits, the agreements listed on Schedule 3.02(a) attached hereto, and any agreements disclosed in or by the Permitted Exceptions (including, but not limited to that certain that certain Easement for Water Treatment Plant, Water Quality and Access recorded under Document No. 2009025488, Official Public Records of Travis County, Texas), Seller is not a party to any written agreements with any governmental authority which materially affects the use, operation and/or development and construction of the Property.

(xiv) Seller does not have any employees.

(xv) Seller has not received written notice of any special assessments to be levied against the Property, other than those that may be disclosed in the Title Commitment, and to Seller's knowledge,

there are no special assessments threatened to be levied against the Property.

(xvi) Seller has not entered into any currently effective agreement, other than this Agreement, to convey the Property or any part thereof, and no other party has any right to purchase the Property or any part thereof or any interest therein.

(xvii) Seller owns (and does not lease) the Personal Property listed on Exhibit B attached hereto and such Personal Property constitutes all of the material personal property used by Seller and the Manager in the ordinary course of business at the Property.

(xviii) Seller is not and is not acting on behalf of (i) an "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (ii) a "plan" within the meaning of Section 4975 of the Internal Revenue Code of 1986, as amended, or (iii) an entity deemed to hold "plan assets" within the meaning of 29 C.F.R. Section 2510.3-101 of any such employee benefit plan or plans.

(xix) Except as set forth on Schedule 5.01(xix), as of the Effective Date, Seller has not initiated any action involving forcible eviction, collection, unlawful detainer or other remedial action with respect to any current tenant at the Property.

(xx) Seller has not received any written notice from any governmental agency or other governmental authority requiring the correction of any condition with respect to the Real Property, or any part thereof, by reason of a material violation of any applicable federal, state, county or municipal law, code, rule or regulation, that has not been cured or waived.

(xxi) Seller has not received any written notice of default by Seller under any declaration, covenant, right of way, easement or reciprocal easement agreement, affecting the Property to which Seller is a party that has not been cured or waived; there are no outstanding delinquent assessments under any declaration or reciprocal easement agreement affecting the Property or in connection with the MUD; Seller has not received any written notice with respect to the actual or potential annexation of the Property by any municipality.

(b) All references in this Section 5.01 or elsewhere in this Agreement and/or in any other document or instrument executed by Seller in connection with or pursuant to this Agreement, to "Seller's knowledge" or "to the knowledge of Seller" and words of similar import shall refer to facts

within the current actual knowledge of William H. Armstrong, III (the "Seller Representative"). Nothing in this Section 5.01 or the remainder of this Agreement shall imply or impose any duty of investigation or inquiry upon Seller or the Seller Representative, or give rise to any personal liability on the part of the Seller Representative. The warranties and representations of Seller set out in this Section 5.01, plus the special warranty of title to be included in the Deed and other representations and warranties contained in this Agreement and the Closing Documents are referred to in this Agreement collectively as the "Express Warranties".

(c) For purposes of this Agreement, the term "Anti-Money Laundering Laws" shall mean laws, regulations and sanctions, state and federal, criminal and civil, that (1) limit the use of and/or seek the forfeiture of proceeds from illegal transaction; (2) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; (3) require identification and documentation of the parties with whom a Financial Institution conducts business; or (4) are designed to disrupt the flow of funds to terrorist organizations. Such laws, regulations and sanctions shall be deemed to include the USA PATRIOT Act of 2001, Pub. L. No. 107-56, the Bank Secrecy Act, 31 U.S.C. Section 5311 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., the International Emergency Economic Powers Act, 50 U.S.C. Section 1701 et. Seq., the Money Laundering Control Act of 1986 and the sanction regulations promulgated pursuant thereto by the OFAC, as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Section 1956 and 1957. For purposes of this Agreement, the term "Anti-Corruption Laws" shall mean any anti-corruption laws of any applicable jurisdiction including the U.S. Foreign Corrupt Practices Act, 15 U.S.C. Section 78dd-1, et seq.

(d) Purchaser acknowledges that Purchaser will have the opportunity to independently cause the Property to be inspected on Purchaser's behalf during the Inspection Period and that Purchaser has not entered into this Agreement based on any representation, warranty, agreement, statement or expression of opinion by Seller or by any person or entity acting or allegedly acting for or on behalf of Seller, other than the Express Warranties. Purchaser understands, agrees and acknowledges that the Property is to be sold and accepted by Purchaser at the Closing: (I) AS IS, WHERE IS, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, OTHER THAN THE EXPRESS WARRANTIES; AND (II) SUBJECT TO THE DISCLAIMERS AND OTHER MATTERS SET OUT IN THIS AGREEMENT.

(e) Notwithstanding any provision to the contrary set out in this Section 5.01 or set out elsewhere in this Agreement, it is agreed and understood that all

of the Express Warranties are given by Seller and accepted by Purchaser subject to all matters which appear in any documents made available to Purchaser in the online data room that Seller has provided Purchaser access to or in the Title Commitment (the foregoing being referred to herein collectively as the "Disclosed Matters").

(f) If prior to Closing Seller receives or gains knowledge of any facts or circumstances that would make any of the Express Warranties or any of the covenants made by Seller under this Agreement inaccurate, incomplete or unperformable in any material respect, Seller will promptly notify Purchaser in writing of the existence of such facts and circumstances and indicate which of the Express Warranties or covenants is inaccurate, incomplete or unperformable in any material respect. Thereafter, Purchaser shall have the right, within five (5) Business Days after receipt of such notice from Seller to either: (i) accept such modified representation, warranty or covenant as Seller may then give consistent with the facts and circumstances set out in Seller's notice and proceed under this Agreement; or (ii) terminate this Agreement, and receive a refund of the Earnest Money, as Purchaser's sole and exclusive remedy. If Purchaser fails to deliver to Seller a written notice on or before the expiration of such five (5) Business Day period, then Purchaser shall be deemed to have elected option (i) in the immediately preceding sentence.

(g) EXCEPT FOR THE EXPRESS WARRANTIES: (1) PURCHASER IS NOT RELYING ON ANY WRITTEN, ORAL, IMPLIED OR OTHER REPRESENTATIONS, STATEMENTS OR WARRANTIES BY SELLER OR ANY AGENT OF SELLER OR ANY REAL ESTATE BROKER; AND (2) ALL PREVIOUS WRITTEN, ORAL, IMPLIED OR OTHER STATEMENTS, REPRESENTATIONS, WARRANTIES OR AGREEMENTS, IF ANY, ARE MERGED HEREIN.

(h) PURCHASER ACKNOWLEDGES THAT EXCEPT FOR THE EXPRESS WARRANTIES, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO ANY OF THE FOLLOWING MATTERS (COLLECTIVELY, THE "DISCLAIMED MATTERS"): (1) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE ACREAGE OF THE PROPERTY, THE DRAINAGE OF STORM WATER ONTO OR FROM THE PROPERTY, THE CONDITION OF THE SOILS LOCATED WITHIN THE PROPERTY, THE PRESENCE OR EXISTENCE OF ANY FAULTS WITHIN THE PROPERTY OR ANY OTHER MATTERS RELATED TO THE GEOLOGY OF THE PROPERTY OR

ANY SURROUNDING AREAS; (2) THE AVAILABILITY OF WATER OR WATER RIGHTS WITH RESPECT TO THE PROPERTY; (3) THE AVAILABILITY OF UTILITIES TO THE PROPERTY OR THE EXISTENCE OR AVAILABILITY OF UTILITY COMMITMENTS TO SERVE THE PROPERTY; (4) WHETHER OR NOT ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD PLAIN, FLOOD WAY, FLOOD PRONE AREA OR SPECIAL FLOOD HAZARD AREA; (5) THE STATUS OF ANY RIGHTS OF ACCESS TO THE PROPERTY, WHETHER BY PRIVATE EASEMENTS, PUBLIC ROADS OR OTHERWISE; (6) THE VALUE OF THE PROPERTY OR THE ANTICIPATED INCOME TO BE DERIVED FROM THE PROPERTY; (7) THE DEVELOPMENT POTENTIAL OF THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE STATUS OF GOVERNMENTAL APPROVALS WITH RESPECT TO THE PROPERTY, THE ANTICIPATED DENSITIES WHICH MAY BE OBTAINED IN CONNECTION WITH THE DEVELOPMENT OF THE PROPERTY, OR ANY OTHER SIMILAR MATTERS; (8) THE SUITABILITY OF THE PROPERTY FOR ANY ACTIVITIES OR USES WHICH PURCHASER MAY CONDUCT THEREON; (9) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATIONS WITH ANY RESTRICTIVE COVENANTS OR OTHER LEGAL REQUIREMENTS OR LIMITATIONS WHICH ARE FILED OF PUBLIC RECORD; (10) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATIONS WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, INCLUDING WITHOUT LIMITATION ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS; (11) THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY ASBESTOS, PCB EMISSIONS, HYDROCARBONS, RADON GAS, OR HAZARDOUS OR TOXIC MATERIALS; (12) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (13) THE PLANNING, DESIGN OR ENGINEERING OF ANY IMPROVEMENTS LOCATED UPON OR WITHIN THE PROPERTY; (14) ANY MATTERS RELATED TO THE CONSTRUCTION OF ANY IMPROVEMENTS LOCATED UPON OR WITHIN THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE QUALITY OF ANY LABOR OR MATERIALS INCORPORATED THEREIN; (15) THE EXISTENCE OF ANY DEFECTS (LATENT OR PATENT) OR THE STATE OF REPAIR OR LACK OF REPAIR OF ANY IMPROVEMENTS LOCATED UPON OR WITHIN THE PROPERTY; OR (16) ANY OTHER MATTERS WITH RESPECT TO THE PROPERTY OR THE AREA IN WHICH THE PROPERTY IS LOCATED.

(i) EXCEPT WITH RESPECT TO ANY LIABILITY ARISING PER THE EXPRESS WARRANTIES, OR IN CONNECTION WITH CLAIMS BROUGHT BY THIRD PARTIES WHICH ACCRUED PRIOR TO CLOSING., SELLER SHALL NOT HAVE ANY LIABILITY TO PURCHASER, AND, BY EXECUTION OF THIS AGREEMENT, PURCHASER RELEASES SELLER FROM ANY LIABILITY (INCLUDING WITHOUT LIMITATION CONTRACTUAL AND/OR STATUTORY ACTIONS FOR CONTRIBUTION OR INDEMNITY) FOR, CONCERNING, OR REGARDING ANY OF THE DISCLAIMED MATTERS

(j) PURCHASER EXPRESSLY ACKNOWLEDGES AND AGREES THAT: (1) PURCHASER HAS INVESTIGATED OR SHALL HAVE THE OPPORTUNITY TO INVESTIGATE AND INSPECT THE PROPERTY OR WILL INVESTIGATE AND INSPECT THE PROPERTY DURING THE INSPECTION PERIOD; (2) PURCHASER IS FAMILIAR WITH THE PROPERTY OR WILL HAVE THE OPPORTUNITY TO BECOME FAMILIAR WITH THE PROPERTY DURING THE INSPECTION PERIOD AND HAS MADE OR WILL MAKE PURCHASER'S OWN DETERMINATION AS TO ALL OF THE DISCLAIMED MATTERS; (3) PURCHASER IS RELYING SOLELY ON THE EXPRESS WARRANTIES AND ITS OWN INVESTIGATION AND INSPECTION OF THE PROPERTY IN ACQUIRING THE PROPERTY; (4) PURCHASER IS A SOPHISTICATED PURCHASER OF REAL PROPERTY AND IS EXPERIENCED IN THE PURCHASE OF PROPERTIES SIMILAR TO THE PROPERTY; AND (5) BASED SOLELY UPON THE FOREGOING, PURCHASER SHALL, BY THE END OF THE INSPECTION PERIOD (IF PURCHASER DOES NOT TERMINATE THIS AGREEMENT PURSUANT TO SECTION 3.01), BE FULLY SATISFIED WITH THE CONDITION OF THE PROPERTY SUBJECT TO THE TERMS HEREOF.

(k) PURCHASER FURTHER EXPRESSLY ACKNOWLEDGES AND AGREES THAT, EXCEPT WITH RESPECT TO EXPRESS WARRANTIES: (1) ANY INFORMATION PROVIDED TO PURCHASER BY SELLER WITH RESPECT TO THE PROPERTY HAS NOT BEEN INDEPENDENTLY INVESTIGATED OR VERIFIED BY SELLER; (2) SELLER HAS MADE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION; AND (3) SELLER IS NOT, AND SHALL NOT BE, LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, REPORTS, SURVEYS OR OTHER INFORMATION OF ANY KIND OR NATURE PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY

SELLER OR BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT, OR OTHER PERSON.

(l) SELLER AND PURCHASER EXPRESSLY CONFIRM AND AGREE THAT THE PURCHASE PRICE TO BE PAID BY PURCHASER TO SELLER FOR THE PROPERTY HAS BEEN ADJUSTED AND AGREED UPON BY PURCHASER AND SELLER IN PART AS A RESULT OF PURCHASER'S AGREEING TO PURCHASE THE PROPERTY IN ITS CURRENT CONDITION, AND SUBJECT TO THE EXPRESS WARRANTIES AND THE DISCLAIMER OF REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN.

(m) SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, EACH OF THE STATEMENTS AND AGREEMENTS OF SELLER AND PURCHASER UNDER THIS SECTION 5.01 SHALL BE EFFECTIVE AS OF THE EFFECTIVE DATE OF THIS AGREEMENT AND SHALL ALSO BE EFFECTIVE AS OF THE CLOSING DATE.

(n) PURCHASER ACKNOWLEDGES THAT: (1) THE DISCLAIMERS, RELEASES AND OTHER MATTERS SET OUT IN THIS SECTION 5.01 HAVE BEEN FULLY EXPLAINED TO PURCHASER; (2) PURCHASER FULLY UNDERSTANDS, ACCEPTS AND AGREES TO ALL OF SUCH DISCLAIMERS AND RELEASES; AND (3) PURCHASER HAS BEEN REPRESENTED BY COUNSEL IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS AGREEMENT.

5.02 Purchaser Representations: Purchaser represents and warrants to Seller the following:

(a) Purchaser is a duly organized and validly existing limited liability company under the laws of the State of Delaware.

(b) Purchaser has, without notice to or consent or joinder of any other person or entity, the full right, power and authority to enter into and perform this Agreement, including full right, power and authority to purchase the Property from Seller.

(c) Purchaser's execution, delivery and performance of this Agreement and the Closing Documents: (i) are within Purchaser's power and authority and have been duly authorized; and (ii) will not conflict with, or with or without notice or the passage of time, or both, result in a breach of any of the terms and provisions of or constitute a default under any legal requirement, indenture, mortgage, loan agreement or instrument to which Purchaser is a party or by which Purchaser is bound.

(d) Neither Purchaser nor, to Purchaser's actual knowledge, any Person who owns a direct or indirect interest in Purchaser (collectively, a "Purchaser Owner") is now nor shall be at any time until the Closing under this Agreement a Person with whom a U.S. Person, including a Financial Institution, is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under United States law, regulation, executive orders and lists published by OFAC (including those executive orders and lists published by OFAC with respect to Persons that have been designated by executive order or by the sanction regulations of OFAC as Persons with whom U.S. Persons may not transact business or must limit their interactions to types approved by OFAC) or otherwise. Neither Purchaser nor, to Purchaser's actual knowledge, any Purchaser Owner, nor any Person providing funds to Purchaser in connection with the transaction contemplated hereby (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the United States would be predicate crimes to money laundering or any violation of any Anti-Money Laundering Laws or any violation of any Anti-Corruption Laws; (ii) has been assessed civil or criminal penalties under any Anti-Money Laundering Laws or any Anti-Corruption Laws; or (iii) has had any of its funds seized or forfeited in any action under any Anti Money Laundering Laws or any Anti-Corruption Laws.

Each of the warranties and representations of Seller and Purchaser under this Agreement is true and correct as of the Effective Date of this Agreement and shall be true and correct as of the date of Closing. The warranties, representations and covenants contained in this Agreement shall survive the Closing and shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the Parties hereto. Notwithstanding any provisions in this Agreement to the contrary, however, if Purchaser has actual knowledge that any representation or warranty of Seller under this Agreement is not true and correct as of the date of Closing and Purchaser proceeds with the Closing, then Seller will have no liability or obligation to Purchaser whatsoever with respect to such warranty or representation. For purposes of this provision, Purchaser is deemed to have "knowledge" to the extent such information is (i) contained in the Property Information or the Title Commitment, (ii) pursuant to written notice to Purchaser pursuant to this Agreement by Seller or Seller's agents and employees that contradicts any of Seller's representations and warranties herein, or (iii) actually known by Greg Collins.

5.03 No Fraud In The Inducement.

(a) EACH PARTY UNEQUIVOCALLY REPRESENTS, ACKNOWLEDGES AND STATES THAT NEITHER THE OTHER PARTY NOR ANY AGENT, EMPLOYEE, CONTRACTOR OR OTHER PERSON OR ENTITY OPERATING BY, THROUGH OR UNDER THE OTHER PARTY: (1) HAS MADE ANY WARRANTIES, REPRESENTATIONS, PROMISES OR STATEMENTS, EITHER EXPRESS OR IMPLIED, TO INDUCE SUCH PARTY TO ENTER

INTO THIS AGREEMENT, EXCEPT TO THE EXTENT THAT THE SAME ARE EXPRESSLY SET FORTH IN THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE EXPRESS WARRANTIES); OR (2) HAS ANY DUTY TO MAKE ANY DISCLOSURES TO SUCH PARTY, EXCEPT TO THE EXTENT THAT THE SAME ARE EXPRESSLY SET FORTH IN THIS AGREEMENT.

(b) EACH PARTY UNEQUIVOCALLY REPRESENTS, ACKNOWLEDGES AND STATES THAT IN ENTERING INTO THIS TRANSACTION AND EXECUTING AND DELIVERING THIS AGREEMENT TO THE OTHER PARTY, SUCH PARTY IS: (1) NOT RELYING UPON ANY WARRANTIES, REPRESENTATIONS, PROMISES OR STATEMENTS, MADE BY THE OTHER PARTY OR ANY AGENT, EMPLOYEE, CONTRACTOR OR OTHER PERSON OR ENTITY OPERATING BY, THROUGH OR UNDER THE OTHER PARTY, EXCEPT TO THE EXTENT THAT THE SAME ARE EXPRESSLY SET FORTH IN THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE EXPRESS WARRANTIES); AND (2) EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS AGREEMENT, RELYING SOLELY ON ITS OWN INSPECTION, INVESTIGATION AND JUDGMENT.

5.04 Seller Covenants.

(a) Seller agrees that, between the Effective Date of this Agreement and the Closing Date, Seller will not, without the prior written consent of Purchaser:

(i) enter into any new Tenant Leases or amend any existing Tenant Leases which would be binding on Purchaser or the Property after the Closing, except for Tenant Leases entered into or extended in the ordinary course of business and consistent with past practices. Notwithstanding the foregoing, (i) no new Tenant Lease shall provide for a term less than six (6) months or more than thirteen (13) months (provided that this limitation is not applicable to renewals of existing Tenant Leases on a month to month basis provided that (a) there are never more than twenty (20) Tenant Leases with month-to-month terms at any given time without Purchaser's prior written consent (in Purchaser's sole discretion), and (b) the premium for any such month-to-month renewal is not less than 20%) and (ii) each new Tenant Lease or amendment to existing Tenant Leases will comport with the rent and concessions parameters set forth on Schedule 5.04(a)(i)-1 attached hereto. Notwithstanding the foregoing, Tenant acknowledges that Seller has made certain offers to tenants under Tenant Leases in effect as of the Effective Date to renew their lease on the terms set forth on

Schedule 5.04(a)(i)-2 (the "Existing Tenant Lease Renewal Proposal Chart"). Purchaser hereby agrees that so long as Seller provides Purchaser with written notice of any lease renewal shown on the Existing Tenant Lease Renewal Proposal Chart (on the terms set forth thereon for the respective Tenant Lease listed thereon), Purchaser approval of such renewals shall not be required, provided however that, (a) if any renewal would cause the total month-to-month Tenant Leases at the Property to exceed twenty (20), Purchaser approval shall be required in accordance with the terms above and (b) if any renewal provides for a premium of less than 20% for such respective Tenant Lease, Seller shall provide a credit to Purchaser at Closing in an amount equal to the difference between a 20% premium with respect to such Tenant Lease and the premium offered to such tenant.

(ii) enter into any new Service Contract which would be binding on Purchaser or the Property after the Closing, and Seller shall not (without Purchaser's written consent, which shall not be unreasonably withheld or unduly delayed by Purchaser) amend, terminate, waive any default under, or grant concessions regarding, any Accepted Service Contract that will be an obligation affecting the Property or Purchaser subsequent to Closing;

(iii) remove any Personalty from the Property, other than office supplies, cleaning supplies and other similar items utilized in the ordinary course of business and items of equipment and other Personalty which are replaced with items of similar or better quality by Seller in the ordinary course of business;

(iv) alter or amend in any way which would be binding upon Purchaser or the Property after the Closing, any governmental approval or permit affecting the Property;

(v) permit any material alteration, structural modification or additions to the Property, except in the nature of ordinary maintenance or in response to a casualty in accordance with the terms of Section 5.07, or with Purchaser's written consent, which shall not be unreasonably withheld or unduly delayed; and

(vi) except for Tenant Leases entered into as permitted pursuant to Section 5.04(a)(i) above and Service Contracts entered into as permitted pursuant to Section 5.04(a)(ii) above, enter into, execute or knowingly create any contract, lease, lien, easement or encumbrance on the Property that will survive Closing or be binding upon Purchaser or the Property after the Closing without Purchaser's prior written consent (which consent may be given or withheld by Purchaser in its sole discretion).

(b) In addition, Seller agrees that, between the Effective Date of this Agreement and the Closing Date:

(i) Seller shall continue to maintain in full force and effect all policies of property insurance now in effect or renewals thereof (or equivalent insurance), and will give all notices and present all claims under all policies of insurance in due and timely fashion.

(ii) During the pendency of this Agreement, Seller shall provide leasing activity and occupancy reports to Purchaser on a weekly basis during the term of this Agreement.

(iii) Seller shall maintain in existence all licenses, permits and approvals which are currently in place with respect to the ownership, operation or improvement of the Property, and shall not (without the written approval of Purchaser, which shall not be unreasonably withheld or unduly delayed) apply or consent to any action or proceedings which will have the effect of terminating or changing such licenses, permits and approvals for the Property.

(iv) Seller shall use reasonable efforts to cause to be performed, in all material respects, its obligations under the Tenant Leases and Service Contracts that may affect the Property. Seller shall promptly deliver to Purchaser any Tenant Leases and/or Service Contracts entered into by Seller and not previously delivered or made available to Purchaser.

(v) Subject to Section 5.04(a)(i), Seller shall continue to market the Property for lease in the same manner as Seller has marketed the Property prior to the Effective Date and will not cancel any advertising contracts now in effect unless approved by Purchaser.

(vi) Seller hereby covenants that on the Closing Date all vacant apartment units within the Property will be in Rent Ready Condition (as said term is hereinafter defined), except for those apartment units which became vacant within five (5) days prior to the Closing Date. With respect to any such apartment units vacant within five (5) days prior to the Closing Date that are not in Rent Ready Condition on the Closing Date, Seller shall provide Purchaser with a credit against the Purchase Price of Seven Hundred Fifty and 00/100 Dollars ($750.00) per unit. Rent Ready Condition means the physical condition to which a vacant apartment unit is prepared in the ordinary course of business in accordance with Seller’s current practice for occupancy by a new tenant.

(vii) Seller shall use commercially reasonable efforts to obtain an estoppel certificate from the property owners' association in connection with the restrictive covenants described in Section 5.11 in the form attached hereto as Schedule 5.04(b)(vii) (the "Association Estoppel").

(viii) Seller shall use commercially reasonable efforts to obtain a service letter from the Municipal Utility District in which the Property is located (the "MUD") in the form attached hereto as Schedule 5.04(b)(viii) (the "MUD Service Letter").

(c) Seller hereby agrees that Seller shall remain liable and shall indemnify and hold Purchaser harmless for any and all liabilities, obligations, claims and costs, fees and expenses of any kind or nature (including court costs and reasonable attorneys' fees) arising out of or in connection with the Potential Litigation and/or the Non-Payment Eviction (as defined in Schedule 5.01(xix)). This Section 5.04(c) shall survive Closing indefinitely.

5.05 Purchaser Covenants. Purchaser agrees that, between the Effective Date of this Agreement and the Closing Date, Purchaser will not, without the prior written consent of Seller:

(a) make any commitments to any governmental authority, utility company, school board, church or other religious body, or any homeowners association, or any other organization, group or individual which would be binding upon Seller or the Property after any termination of this Agreement;

(b) enter into any leases or other possessory agreements for the Property which would be binding on Seller or the Property after any termination of this Agreement;

(c) enter into or grant any easements, liens, encumbrances or other contracts or instruments which would be binding upon Seller or the Property after any termination of this Agreement;

(d) alter or amend in any way which would be binding upon Seller or the Property after any termination of this Agreement, any governmental approval or permit affecting the Property;

(e) commence any construction activities upon or within the Property; or

(f) transfer, convey, dispose of or remove any portion of the Property.

5.06 Condemnation.

(a) If, during the period of time commencing on the Effective Date of this Agreement and terminating on the Closing Date (the "Contract Period") any entity having condemnation authority institutes or threatens (in a written document delivered to Seller) an eminent domain proceeding with respect to the Property (a "Pending Condemnation") and either, (a) in the reasonable estimate of the Parties, the loss in value to the Property resulting from such Pending Condemnation will equal or exceed $750,000.00, (b) access to or egress from the Property is materially and permanently impaired, or (c) parking spaces are taken such that the Property no longer complies with applicable zoning or other legal requirements, then: (i) such Pending Condemnation will be considered a "Material Taking" for purposes of this Agreement; and (ii) if such Pending Condemnation is not dismissed on or before the Closing Date, then Purchaser may terminate this Agreement by delivering a written notice of termination to Seller and the Earnest Money shall be immediately returned to Purchaser.

(b) The obligations of Seller and Purchaser under this Agreement shall not be affected by a Pending Condemnation that does not constitute a Material Taking.

(c) If a Pending Condemnation exists during the Contract Period but such Pending Condemnation does not give rise to a Material Taking or if a Material Taking occurs during the Contract Period but Purchaser does not elect to terminate this Agreement, then the Closing shall occur in accordance with the terms and provisions of this Agreement, but: (i) the Purchase Price shall be reduced by the amount of any condemnation proceeds which have been received by Seller with respect to the Property during the Contract Period; and (ii) Seller will assign to Purchaser, at the Closing, all of Seller's rights to any condemnation proceeds which are payable to Seller with respect to the Property, but which have not yet been received by Seller.

5.07 Casualty. Risk of loss up to and including the Closing Date shall be borne by Seller. Seller shall promptly give Purchaser written notice of any damage to the Property, describing such damage, stating whether such damage and loss of rents is covered by insurance and the estimated cost of repairing such damage. In the event of any "material damage" (described below) to the Property, Purchaser may, at its option, by written notice to the Seller given within five (5) Business Days after Seller has provided the above described notice (and if necessary the Closing Date shall be extended to give Purchaser the full five (5)

Business Day period to make its election): (i) terminate this Agreement and the Earnest Money shall be immediately returned to Purchaser, or (ii) proceed under this Agreement, in which event Purchaser will have the right to participate in the insurance claim and settlement process, and receive any insurance proceeds (including any rent loss applicable to any period on and after the Closing Date) due Seller as a result of such damage and receive a credit at Closing for any deductible amount under said insurance policies. If Purchaser fails to timely make such election, Purchaser shall be deemed to have elected to terminate this Agreement and the Earnest Money shall promptly be returned to Seller. If the Property is not materially damaged, then (i) Purchaser will not have the right to terminate this Agreement, (ii) Purchaser shall have the right to participate in the insurance claim and settlement process, and (iii) at Closing, Purchaser shall receive any insurance proceeds (including any rent loss insurance applicable to any period on and after the Closing Date) due to Seller as a result of such damage and receive a credit at Closing for any deductible amount under said insurance policies. "Material damage" and "materially damaged" means, with respect to the Property, damage that exceeds $750,000.00 to repair.

5.08 Notice Regarding Title And Legal Counsel. As required by the Texas Real Estate License Act, Seller hereby advises Purchaser that Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection, or that Purchaser should be furnished with or obtain a policy of title insurance. By signing this Agreement, Purchaser acknowledges receipt of this notice. Purchaser and Seller further acknowledge that they have been given the opportunity to, and are hereby advised to, consult with an attorney of their choice with regard to this Agreement, the closing documents to be executed in connection herewith and the transaction contemplated by this Agreement.

5.09 Notice Regarding District. Purchaser acknowledges and understands that: (a) the Real Property is located in Travis County Municipal Utility District No. 8 (the "District"); and (b) the Real Property will be conveyed at the Closing subject to assessments and assessment liens in favor of the District. Purchaser acknowledges receipt of the notice regarding such assessments and assessment liens which is attached to this Agreement as Schedule 5.09 (the "Notice to Purchaser") and is incorporated herein by reference.

5.10 Notice Regarding Possible Annexation. If the Property that is the subject of this contract is located outside the limits of a municipality, the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

5.11 Notice of Obligations Related to Membership in Property Owners' Association. If Purchaser acquires the Property, Purchaser is obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the Property and a dedicatory instrument governing the establishment, maintenance, and operation of this development area have been recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory

instrument may be obtained from the county clerk and are referenced in the Title Commitment. Purchaser will be obligated to pay assessments to the property owners' association. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of the Property.

VI.
Remedies

6.01 Purchaser's Default and Seller's Remedies: If Purchaser fails or refuses to timely comply with Purchaser's obligations to pay the Purchase Price or execute and deliver the documents to be executed and delivered by Purchaser at the Closing pursuant to this Agreement at Closing, and if Seller is not in default of any of Seller's material obligations under this Agreement and all conditions precedent to Purchaser's obligation to Close have been satisfied, then Seller may terminate this Agreement and, as Seller's sole and exclusive remedy: recover or retain the Independent Contract Consideration and the Earnest Money as liquidated damages for the failure or refusal by Purchaser to close the purchase of the Property ("Acquisition Default"). The amount of the Independent Contract Consideration and the Earnest Money shall be the full, agreed and liquidated damages for an Acquisition Default, all other claims to damages or other remedies being hereby expressly and irrevocably waived by Seller. If Purchaser shall default in the performance of any of its material obligations to be performed hereunder that does not constitute an Acquisition Default and, with respect to any such default only, and if such default shall continue for five (5) Business Days after written notice to Purchaser, Purchaser shall be liable to Seller for the actual (but not indirect, consequential or punitive) damages suffered by Seller as a result of such default. In the event of an Acquisition Default by Purchaser, the Independent Contract Consideration and the Earnest Money will be delivered to or retained by Seller as liquidated damages, and not a penalty, in full satisfaction of Seller's claims against Purchaser with respect to the Acquisition Default only. Seller and Purchaser agree that (y) it is difficult to determine the actual amount of Seller's damages arising out of an Acquisition Default by Purchaser, but the amount of the Independent Contract Consideration and the Earnest Money is a fair estimate of those damages which has been agreed to by the Parties in a sincere effort to make the damages certain and (z) Seller's right to retain the Earnest Money shall be Seller's sole remedy, at law and in equity for an Acquisition Default.

6.02 Seller's Default and Purchaser's Remedies.

(a) If Purchaser's conditions to Closing have been fulfilled, and Purchaser is not in material default of any of Purchaser's obligations at Closing, and Seller fails or refuses to timely comply with Seller's material obligations under this Agreement (or is unable to do so as the result of any act by Seller in contravention of this Agreement or any failure by Seller to act as required under this Agreement which is not caused by Purchaser's default) and such failure is not cured within five (5) Business Days after Purchaser delivers written notice of default to Seller (provided that no notice is required with respect to Seller's obligations on the Closing Date), then, in such event, Purchaser shall have the right to exercise any one of the following remedies as its sole and exclusive remedy: (i) to

terminate this Agreement by giving written notice of termination to Seller and Escrow Agent, whereupon Escrow Agent shall promptly refund to Purchaser all Earnest Money, and to receive from Seller an amount equal to the actual and reasonable third party out-of-pocket costs incurred by Purchaser in connection with Purchaser's investigations of the Property (up to but not in excess of $100,000.00); or (ii) Purchaser shall have the right to seek specific performance of the Agreement by Seller if and only if Purchaser complies with all of the preconditions and requirements set out in Section 6.02(b) of this Agreement, it being acknowledged that the Property is unique and that monetary damages would not be an adequate remedy. Purchaser hereby waives any other rights or remedies. Purchaser agrees not to file a lis pendens or other similar notice against the Property except in connection with the filing of a suit for specific performance. Notwithstanding any provision in this Agreement to the contrary, the total liability of Seller to Purchaser for any breach of Seller's covenants, representations and warranties under this Agreement shall in all events be limited to a maximum amount of $2,280,000.00. To provide security for any post-Closing claims of Purchaser made to enforce any breach of the representations, warranties, and covenants made by Seller in this Agreement, Stratus Properties Inc., a Delaware corporation, an affiliate of Seller, has executed and delivered the joinder attached hereto. Notwithstanding anything in this Agreement to the contrary, Seller's obligations set forth in Section 5.04(c) and liability in connection therewith shall not be subject to the limitations on liability set forth in this Section 6.02.

(b) Notwithstanding any provision in this Agreement to the contrary, it is specifically agreed and understood that Purchaser will not have the right to enforce specific performance of Seller's obligations under this Agreement or to place a lis pendens on the Property or otherwise encumber the Property in any way until and unless: (i) Purchaser timely tenders full performance under this Agreement by delivering to the Title Company, on or before the Closing Date, fully executed originals of all documents required to be executed by Purchaser under the terms and provisions of this Agreement, and is ready and willing to deliver cash or other readily available funds in an amount sufficient to cover the cash portion of Purchase Price plus all expenses which are required to be paid by Purchaser under the terms and provisions of this Agreement; (ii) despite such tender by Purchaser at the Closing, Seller fails or refuses to close the transaction evidenced by this Agreement; (iii) Purchaser institutes, within thirty (30) days after the Closing Date, an action in a court with jurisdiction and in the venue specified under this Agreement (the "Court"), seeking to enforce specific performance of Seller's obligations under this Agreement. If Purchaser satisfies the foregoing requirements, then all sums held by the Title Company as Earnest Money shall be tendered to the Court and will be retained by the Court until all disputes between the Parties related to this Agreement have been resolved, either by final non-appealable judgment or by final binding settlement agreement between the Parties. Each Party agrees to execute and deliver such joint instructions, joint motions and other instruments as may be necessary to effectuate the transfer of the funds from the Title Company to the Court contemplated under this Section 6.02(b). PURCHASER HERBY WAIVES ALL RIGHTS WHICH PURCHASER HAS OR MAY HAVE TO ENFORCE SPECIFIC PERFORMANCE OF SELLER'S OBLIGATIONS UNDER THIS AGREEMENT AND/OR TO PLACE A LIS

PENDENS ON THE PROPERTY WITHOUT SATISFYING THE REQUIREMENTS AND CONDITIONS SET OUT IN THIS SECTION 6.02(b).

6.03 Purchaser's Post Termination Obligations. If this Agreement is terminated for any reason (either by Purchaser or by Seller), then Purchaser shall: (a) repair all damage to the Property (if any) arising out of any inspections, tests or other activities of Purchaser and/or any of the Purchaser Parties; (b) return to Seller or destroy all studies, reports, surveys and other documents or information of any kind or nature which have been provided by Seller to Purchaser; provided, however, Purchaser may keep a copy of any such documents if required for its records to the extent required by applicable law or regulatory authority or Purchaser's internal compliance requirements or in accordance with Purchaser's automated backup archiving practices; provided, however, that the confidentiality obligations set forth in this Agreement shall survive so long as such archival copies are retained; (c) [intentionally deleted]; (d) remove all liens against the Property which have arisen due to any activities of Purchaser or any of the Purchaser Parties; (e) compensate Seller for any damages arising out of any breach or default by Purchaser under any of Purchaser's representations, warranties, covenants and agreements under Sections 5.02 and 5.05 of this Agreement; and (f) reimburse Seller for all expenses, costs and liabilities of any kind or nature (including without limitation attorneys' fees and court costs) incurred by Seller in connection with the enforcement of any of the obligations of Purchaser under this Section 6.03 and/or in connection with the performance by Seller of any of the obligations of Purchaser under this Section 6.03 (provided, however, that Seller will deliver to Purchaser written notice at least three (3) Business Days prior to performing any of Purchaser's obligations under this Section 6.03). The obligations of Purchaser under this Section 6.03 are referred to in this Agreement collectively as the "Post Termination Obligations". Notwithstanding any provision in this Agreement to the contrary, the Post Termination Obligations shall survive any termination of this Agreement, and the Post Termination Obligations shall not (regardless of any liquidated damages provisions in this Agreement) be deemed to be satisfied in whole or in part by the delivery to Seller of all or any portion of the Earnest Money.

6.04 Disposition of the Earnest Money.

(a) Notwithstanding any provision in this Agreement to the contrary, the provisions in this Agreement relating to the Earnest Money shall survive any termination of this Agreement.

(b) If the sale and purchase of the Property is consummated under the terms and provisions of this Agreement, then the Earnest Money will be credited and applied against the cash sums which are payable by Purchaser at the Closing.

(c) If Purchaser terminates this Agreement under the terms and provisions of this Agreement that permit the Earnest Money to be returned to Purchaser, then the Earnest Money will be promptly disbursed to Purchaser after such termination. Without limitation on the generality of the foregoing, Purchaser expressly agrees and hereby acknowledges that if this Agreement is terminated under the terms and provisions of Section 6.01 of this Agreement, then the Earnest Money will be

disbursed to and retained by Seller and Purchaser will have no right to receive a return or refund of an portion of the Earnest Money.

IF THIS AGREEMENT IS NOT TERMINATED UNDER THE TERMS AND PROVISIONS OF THIS AGREEMENT THAT EXPRESSLY PERMIT THE EARNEST MONEY TO BE RETURNED TO PURCHASER, THEN THE EARNEST MONEY WILL BE COMPLETELY "AT RISK" AND WILL BE REFUNDABLE TO PURCHASER ONLY IF SELLER DEFAULTS UNDER THIS AGREEMENT, SELLER DOES NOT CURE SUCH DEFAULT WITHIN ITS APPLICABLE CURE PERIOD AND PURCHASER TERMINATES THIS AGREEMENT UNDER THE TERMS AND PROVISIONS OF SECTION 6.02 OF THIS AGREEMENT.

6.05 Enforcement Costs: In the event of any dispute between the Parties arising out of or in connection with this Agreement, the prevailing Party in such dispute shall be entitled to recover from the non-prevailing Party all of the prevailing Party's costs and expenses in connection with such dispute, including without limitation court costs, expert witness fees and reasonable attorney's fees.

6.06 WAIVER OF JURY TRIAL. THE PARTIES BOTH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ALL OF THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY AND ALL DISPUTES OF ANY KIND OR NATURE WHICH ARE BASED ON OR WHICH ARISE OUT OF OR IN CONNECTION WITH: (A) THIS AGREEMENT; OR (B) ANY DOCUMENT, INSTRUMENT OR OTHER AGREEMENT WHICH IS EXECUTED OR IS CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS AGREEMENT; OR (C) ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF EITHER PARTY WHICH RELATES TO, CONCERNS OR ARISES OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY DOCUMENT, INSTRUMENT OR OTHER AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS AGREEMENT. THE FOREGOING WAIVER SHALL APPLY TO ANY AND ALL LITIGATION OF ANY KIND OR NATURE, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, AND WHETHER RELATED TO ANY DIRECT CLAIM, COUNTERCLAIM, CROSS CLAIM OR THIRD PARTY CLAIM. EACH PARTY CERTIFIES TO THE OTHER PARTY THAT NO REPRESENTATIVE, AGENT OR COUNSEL OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR IMPLICITLY, TO SUCH PARTY THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THIS WAIVER. NO REPRESENTATIVE, AGENT OR COUNSEL OF EITHER PARTY HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS WAIVER OF JURY TRIAL. EITHER PARTY MAY FILE A COPY OF THIS SECTION 6.06 WITH ANY COURT AS CONCLUSIVE EVIDENCE THAT BOTH PARTIES HAVE WAIVED THEIR RIGHTS TO TRIAL BY JURY. THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.

VII.
Miscellaneous Provisions

7.01 Delivery of Notices. Any notice, communication, request, reply or advice (severally and collectively referred to as "Notice") in this Agreement provided or permitted to be given, made or accepted by either Party to the other must be in writing. Notice may, unless otherwise provided herein, be given or served: (a) by depositing the same in the United States Mail, certified, with return receipt requested, addressed to the Party to be notified and with all charges prepaid; (b) by depositing the same with Federal Express or another service guaranteeing "next day delivery", addressed to the Party to be notified and with all charges prepaid; (c) by hand delivering the same to such Party or an agent of such Party; or (d) by transmitting the same to the Party to be notified by telecopy or by electronic mail, provided that the sender of any such telecopy or electronic mail delivery is acknowledged by the receiving party by return electronic mail delivery or notifying Party does not receive a "failure of delivery" notice. Any notice delivered by telecopy or electronic mail in the manner required hereunder shall be effective on the date of such telecopy or electronic mail. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the earlier of the date of actual receipt or three (3) days after the date of such deposit. Notice given in any manner other than as described in the two immediately preceding sentences shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties shall, until changed as provided below, be as follows:

Seller: Santal, L.L.C.
212 Lavaca Street, Suite 300
Austin, Texas 78701
Attn: Erin D. Pickens
Telephone No. [intentionally omitted]
E-mail: [intentionally omitted]

With copy to: Armbrust & Brown, PLLC
100 Congress Ave., Suite 1300
Austin, TX 78701
Attn: Kenneth N. Jones
Email: [intentionally omitted]

Purchaser: c/o Berkshire Residential Investments
14001 Dallas Parkway, Suite 1210
Dallas, Texas 75240
Attention: Greg Collins

Email: [intentionally omitted]

with a copy to:

Berkshire Residential Investments
One Beacon Street, 24th Floor
Boston, Massachusetts 02108
Attention: Mary Beth Bloom, Esq.
Email: [intentionally omitted]

And to:

DLA Piper LLP (US)
33 Arch Street, 26th Floor
Boston, Massachusetts 02110
Attention: Cara Nelson, Esq.
Email: [intentionally omitted]

And to:

QuadReal Property Group
1330 Avenue of the Americas, Suite 3400A
New York, NY 10019
Attention: Daniel Gliksman
Email: [intentionally omitted]

And: to:

QuadReal Property Group
Suite 800
666 Burrard Street
Vancouver, BC, Canada
V6C 2X8
Attention: Chief Legal Officer
Email: [intentionally omitted]

And to:

QuadReal Property Group
1330 Avenue of the Americas, Suite 3400A
New York, NY 10019
Attention: Daniel Gliksman
Email: [intentionally omitted]

And to:

Kirkland & Ellis LLP

555 S. Flower Street, Suite 3700
Los Angeles, California 90071
Attention: Robert M. Keane, Jr., Esq.
Email: [intentionally omitted]

The Parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days written notice to the other Party.

7.02 Survival of Covenants: The obligations, representations, warranties, covenants and agreements of the Parties set out in this Agreement shall not be merged into the documents executed at the Closing, but rather shall survive the Closing. Notwithstanding any provision herein to the contrary, however, such survival shall be for a period of two (2) years only (the "Survival Period"). Any suit or cause of action based upon obligations arising out of or under this Agreement will be deemed barred if not filed prior to the expiration of the Survival Period.

7.03 Entire Agreement. This Agreement contains the entire agreement of the Parties hereto. There are no other agreements, oral or written, between the Parties regarding the Property and this Agreement can be amended only by written agreement signed by the Parties hereto, and by reference made a part hereof.

7.04 Binding Effect. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the Parties hereto.

7.05 Effective Date. The Effective Date of this Agreement and other similar references herein are deemed to mean and refer to the date this Agreement is executed by Seller and Purchaser and submitted to the Escrow Agent.

7.06 Time. Time is of the essence in all things pertaining to the performance of this Agreement, including without limitation all dates, deadlines and periods of time referred to in this Agreement. All references in this Agreement to specific times shall mean and refer to U.S. Central Time Zone time.

7.07 Business Days. For purposes of this Agreement, the term "Business Day" or "Business Days" shall mean and refer to any calendar day, other than (a) Saturday, Sunday or a day on which the banking institutions in Austin, Texas or Boston, Massachusetts are closed, or (b) a day on which governmental or banking functions in Boston, Massachusetts or Austin, Texas are interrupted because of extraordinary events such as hurricanes, blizzards, power outages, pandemics, epidemics, or acts of terrorism. If any deadline set forth in this Agreement falls on a day which is not a Business Day or if any period of time provided for in this Agreement ends on a day which is not a Business Day, then the applicable deadline or period shall be extended to the first succeeding day which is a Business Day.

7.08 Assignment. Purchaser may assign Purchaser's rights under this Agreement to: (a) any entity which is owned and controlled by Purchaser or an Affiliate of

Purchaser; (b) any entity which is under common ownership and control with Purchaser or an Affiliate of Purchaser; (c) a limited partnership of which Purchaser or an Affiliate of Purchaser is the general partner (and has effective management control); (d) a limited liability company of which Purchaser or an Affiliate of Purchaser is the sole managing member (and has effective management control); (e) to multiple entities as tenants in common which are sponsored by the principals of Purchaser, or have entered into the transaction in cooperation with the principals of Purchaser, or (f) to any entity that is an advisee of, and remains directly or indirectly managed by, controlling, or controlled by or under common control with, or any other affiliate of, QR Multifamily LP. Otherwise, this Agreement may not be assigned by the Purchaser without the written consent of Seller. For purposes of this Agreement, the term "Affiliate" means an entity controlled by, controlling or under common control with Purchaser.

7.09 Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that in lieu of each provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.

7.10 Waiver. Any failure by a Party hereto to insist, or any election by a Party hereto not to insist, upon strict performance by the other Party of any of the terms, provisions, or conditions of this Agreement shall not be deemed to be a waiver thereof or of any other term, provision, or condition hereof, and such Party shall have the right at any time or times thereafter to insist upon strict performance of any and all of the terms, provisions, and conditions hereof.

7.11 Applicable Law and Venue. The construction and validity of this Agreement shall be governed by the laws of the State of Texas. Venue shall be in a court of appropriate jurisdiction in Travis County, Texas.

7.12 Article and Section Headings. The article and section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several provisions therein.

7.13 Grammatical Construction . Wherever appropriate, the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice versa.

7.14 No Recordation. Except for a lis pendens properly filed by Purchaser in connection with a suit for specific performance of this Agreement properly filed by Purchaser in conformance with the requirements set out in Section 6.02(b) of this Agreement, neither this Agreement nor any memorandum of this Agreement shall be recorded in any public records.

7.15 Force Majeure. If either Party is delayed or prevented from performing any of its obligations under this Agreement (other than the obligation to pay any sum of

money) by reason of strikes, lockouts, labor troubles, work stoppages, shortages of materials, transportation delays, failure of power, riots, insurrections, war, acts of God, floods, storms, weather (including delays due to rain or wet ground), fire or other casualty, or any other cause beyond such Party's control, the period of such event, plus the period of delay caused by such event, shall be deemed to be added to the time period herein provided for the performance any such obligation by the applicable Party.

7.16 Confidentiality. Each Party agrees that the material terms and provisions of this Agreement (collectively, the "Confidential Information") shall be kept confidential and that neither Party will disclose the Confidential Information to any person or entity other than: (a) the Title Company, any Seller Party, and any Purchaser Party; or (b) any person or entity to whom disclosure is required by law, court order or other similar requirement to the extent required

7.17 Exculpation. Notwithstanding any provision in this Agreement to the contrary, it is agreed and understood that each Party shall look solely to the assets of the other Party in the event of any breach or default by such other Party under this Agreement, and not to the assets of: (a) any person or entity which is a partner in such defaulting Party, if such Party is a partnership, or which otherwise owns or holds any ownership interest in such Party, directly or indirectly (each such partner or other holder or owner of any interest in such party being referred to herein as a "Subtier Party"); (b) any person or entity which is a partner in or otherwise owns or holds any ownership interest in any Subtier Party, whether directly or indirectly; (c) any person or entity serving as an officer, director, employee or otherwise for or in such Party; or (d) any person or entity serving as an officer, director, employee or otherwise for or in any Subtier Party. This Agreement is executed by one or more persons (the "Signatories", whether one or more) of Seller and Purchaser solely in their capacities as representatives of the Seller and Purchaser, or a Subtier Party of Seller or Purchaser, and not in their own individual capacities. Purchaser and Seller hereby mutually release and relinquish the Signatories from any and all personal liability for any matters or claims of any kind which arise under or in connection with or as a result of this Agreement. The foregoing release of liability shall be effective with respect to and shall apply to all claims against any partners of the Parties (if a Party is a partnership) and any partners of any Subtier Party (if such Subtier Party is a partnership) regardless of whether such claims arise as a result of any liability which the Signatories may have as partners of the Seller or Purchaser or any Subtier Party, or otherwise.

7.18 Execution. To facilitate execution, this instrument may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all Parties be contained in any one counterpart hereof. Additionally, the Parties hereto hereby covenant and agree that, for purposes of facilitating the execution of this instrument: (a) the signature pages taken from separate individually executed counterparts of this instrument may be combined to form multiple fully executed counterparts; and (b) a facsimile signature or a signature sent by electronic mail shall be deemed to be an original signature for all purposes. All executed counterparts of this instrument shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same agreement.

EXECUTED by Seller and Purchaser on the counterpart signature pages attached to this Agreement.

COUNTERPART SIGNATURE PAGE FOR ATTACHMENT TO AGREEMENT OF SALE AND PURCHASE BY AND BETWEEN SANTAL, L.L.C., AS "SELLER" AND BG-QR GP, LLC, AS "PURCHASER"

Executed by the undersigned on the date or dates set out hereinbelow.

SELLER: **SANTAL, L.L.C.,**
a Delaware limited liability company

By: STRS L.L.C., a Delaware limited liability company, Manager

By: Stratus Properties Inc., a Delaware corporation, Sole Member

By: /s/ Erin D. Pickens

Erin Pickens, Sr. Vice President

Date: September 20, 2021

COUNTERPART SIGNATURE PAGE FOR ATTACHMENT TO AGREEMENT OF SALE AND PURCHASE BY AND BETWEEN SANTAL, L.L.C., AS "SELLER" AND BG-QR GP, LLC, AS "PURCHASER"

Executed by the undersigned on the date or dates set out hereinbelow.

PURCHASER: **BG-QR GP, LLC**,
a Delaware limited liability company

By: /s/ Jason Polcaro
Printed Name: Jason Polcaro
Title: Vice President

Date: September 13, 2021

LIMITED JOINDER AND GUARANTY

tratus Properties Inc., a Delaware corporation, ("**Guarantor**") hereby joins in the execution of that certain Purchase Agreement by and between Santal, L.L.C., a Delaware limited liability company, ("**Seller**") and BG-QR GP, LLC, a Delaware limited liability company ("**Purchaser**") dated on or about September 20, 2021 (the "**Agreement**"; capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Agreement) for the benefit of Purchaser for the purpose of guaranteeing certain obligations of Seller under the Agreement.

1. Joinder. Guarantor hereby guaranties the Seller's performance and payment for any breach of Seller's covenants, representations and warranties under this Agreement that expressly survive the Closing, if and to the extent that the Closing occurs. Notwithstanding any provision in this Limited Joinder and Guaranty to the contrary, but in all cases except with respect to Seller's obligations set forth in Section 5.04(c) of the Agreement, (i) the total liability of Guarantor to Purchaser hereunder shall in all events be limited to a maximum amount of $2,280,000.00, and (ii) this Limited Joinder and Guaranty will expire on the expiration of the Survival Period (defined above in this Agreement) except for any suit or cause of action based upon any breach of Seller's covenants, representations and warranties under this Agreement that was filed prior to the expiration of the Survival Period.

2. Representations and Warranties. Guarantor hereby represents and warrants to Purchaser that, on the date hereof:

(a) Due Formation, Authorization and Enforceability. Guarantor is duly organized and validly existing under the laws of the jurisdiction of its incorporation or formation, as the case may be. Guarantor has all requisite power and authority to enter into the Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance of the Agreement and the consummation of the transactions provided for herein have been duly authorized by all necessary action on the part of Guarantor. The Agreement has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms.

(b) Benefit to Guarantor. Guarantor hereby acknowledges that the Purchaser would not enter into the Agreement but for the personal liability undertaken by Guarantor under the Agreement. Guarantor (i) is an Affiliate of Seller and (ii) has received, or will receive, direct and/or indirect benefit from Seller entering into the Agreement.

(c) Solvency. Guarantor is not presently insolvent, and the execution and delivery of the Agreement will not render Guarantor insolvent.

(d) No Conflicts. Guarantor's execution, delivery and compliance with, and performance of the terms and provisions of, the Agreement will not (i) conflict with or result in any violation of its organizational documents, (ii) conflict with or result in any violation of any

provision of any bond, note or other instrument of indebtedness, contract, indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which Guarantor is a party in its individual capacity, or (iii) violate any Laws relating to Guarantor or its assets or properties.

(e) Consents. No consent, license, approval, order, permit or authorization of, or registration, filing or declaration with, any court, administrative agency or commission or other Governmental Entity, is required to be obtained or made in connection with the execution, delivery and performance of the Agreement by Guarantor or any of Guarantor's obligations in connection with the transactions required or contemplated hereby.

(f) Bankruptcy. Guarantor has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Guarantor's creditors (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Guarantor's assets, which remains pending or (iv) suffered the attachment or other judicial seizure of all, or substantially all of Guarantor's assets, which remains pending.

(g) Survival. All representations and warranties made by Guarantor herein shall survive the execution hereof.

3. Waivers. In connection with the Agreement, Guarantor hereby waives and agrees not to assert or take advantage of the following defenses:

(a) Any defense that may arise by reason of the incapacity, lack of authority, death or disability of any Person, or revocation hereof by any Person, or the failure of any Person to file or enforce a claim against the estate (either in administration, bankruptcy, or any other proceeding) of any other Person;

(b) Diligence, presentment, notice of acceptance, notice of dishonor, notice of default, notice of presentment, and other suretyship defenses generally;

(c) Protest and notice of dishonor or of default to Guarantor or to any other Person with respect to the performance of obligations guaranteed under the Agreement;

(d) Any action required by any statute to be taken against Guarantor;

(e) The dissolution or termination of the Purchaser or any other entity;

(f) The voluntary or involuntary liquidation, sale, or other disposition of all or substantially all of the assets of the Purchaser or any other entity;

(g) The voluntary or involuntary receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, assignment, composition, or readjustment of, or any similar proceeding affecting, the Purchaser or any other entity, or their respective assets; and

(h) Any amendments, modifications and/or supplements to the Agreement.

4. Notices. All notices required, permitted or desired to be given under the Agreement shall be given in accordance with the Agreement, and notices to Guarantor shall be delivered to the address for notice to Seller.

GUARANTOR:

Stratus Properties Inc., a Delaware corporation,

By: /s/ Erin D. Pickens
Name: Erin D. Pickens
Title: Senior Vice President

TITLE COMPANY RECEIPT

Heritage Title Company of Austin, Inc. acknowledges receipt of this Agreement, executed and, if needed, initialed, by both Seller and Purchaser this 20 day of September, 2021.

HERITAGE TITLE COMPANY OF AUSTIN, INC.

By: /s/ Amy Love Fisher
Printed Name: Amy Love Fisher
Title: Senior Vice President

LIST OF EXHIBITS AND SCHEDULES
TO
Agreement of Sale and Purchase
By and Between Santal, L.L.C., as Seller, and
BG-QR GP, LLC, as Purchaser

The following list of exhibits and schedules is provided pursuant to Item 601(a)(5) of Regulation S-K. These exhibits and schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K because the information contained therein is not material and is not otherwise publicly disclosed. The registrant undertakes to furnish supplementally a copy of the exhibits and schedules to the Securities and Exchange Commission upon request.

EXHIBITS

Exhibit A – Description of the Land

Exhibit B – Personal Property

Exhibit C – Title Commitment

Schedule A – Commitment for Title Insurance
Schedule B – Exceptions from Coverage
Schedule C – Commitment for Title Insurance
Schedule D – Commitment for Title Insurance

Exhibit D – Special Warranty Deed

Exhibit E – Assignment and Assumption of Tenant Leases and Security Deposits

Exhibit F – Assignment and Assumption of Service Contracts

Exhibit G – Bill of Sale

Exhibit H – Assignment of Intangible Personal Property

Exhibit I – Tenant Notice Letter

SCHEDULES

Schedule 3.02(a) – Property Information

Schedule 3.07 – Service Contracts

Schedule 5.01(xix) – Tenant Eviction Actions

Schedule 5.04(a)(i)-1 – Leasing Parameters

Schedule 5.04(a)(i)-2 – Existing Tenant Lease Proposal Renewal Chart

Schedule 5.04(b)(vii) – Association Estoppel Form
Exhibit A – Description of Property
Exhibit B – Barton Creek Commercial Binder

Schedule 5.04(b)(viii) – MUD Service Letter

Schedule 5.09 – MUD Notice

FIRST AMENDMENT TO
AGREEMENT OF SALE AND PURCHASE

This First Amendment to Agreement of Sale and Purchase (this "Amendment") is made and entered into by and between **SANTAL, L.L.C.**, a Delaware limited liability company ("Seller"), and **BG-QR GP, LLC**, a Delaware limited liability company ("Purchaser").

R E C I T A L S:

A. Seller and Purchaser previously entered into an Agreement of Sale and Purchase dated September 20, 2021 (the "Agreement"), whereby Seller agreed to sell to Purchaser, and Purchaser agreed to purchase from Seller, certain real property located in Austin, Travis County, Texas, as more particularly described therein.

B. Seller and Purchaser wish to amend the Agreement as set forth herein.

A G R E E M E N T:

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

1. Definitions. All capitalized terms used in this Amendment, to the extent not otherwise expressly defined herein, shall have the same meaning ascribed to such terms in the Agreement.

2. Inspection Period. Seller and Purchaser hereby extend the expiration date of the Inspection Period, as defined in Paragraph 3.01 of the Agreement, to November 3, 2021.

3. Closing Date. The first sentence of Paragraph 4.02 of the Agreement is hereby amended to read as follows:

"This transaction shall close through escrow with the Title Company or as otherwise acceptable to the Parties on or before November 19, 2021."

Except as so modified and amended hereby, the Agreement is otherwise unchanged and the parties hereby RATIFY and AFFIRM the same.

Each party hereto shall be authorized to rely upon the signatures of all of the parties hereto on this Amendment which are delivered by facsimile or by email as a PDF copy as constituting a duly authorized, irrevocable, actual, current delivery of this Amendment with original ink signatures of each person and entity. This Amendment may be executed in multiple counterparts, all of which, when put together, will constitute one.

EXECUTED the 4th day of October, 2021.

PURCHASER:

BG-QR GP, LLC,
a Delaware limited liability company

By: /s/ Jason Polcaro
Name: Jason Polcaro
Title: Vice President

SELLER:

Santal, L.L.C., a Delaware limited liability company

By: STRS L.L.C., a Delaware limited liability company,
Manager

By: Stratus Properties Inc., a Delaware
corporation, Sole Member

By: /s/ Erin D. Pickens
Erin D. Pickens,
Senior Vice President

SECOND AMENDMENT TO
AGREEMENT OF SALE AND PURCHASE

This Second Amendment to Agreement of Sale and Purchase (this "Amendment") is made and entered into by and between **SANTAL, L.L.C.**, a Delaware limited liability company ("Seller") and **BERKSHIRE MULTIFAMILY INCOME REALTY-OP, L.P**., a Delaware limited partnership ("Purchaser").

R E C I T A L S:

A. Seller and BG-QR GP, LLC, a Delaware limited liability company, (the "Original Purchaser") previously entered into an Agreement of Sale and Purchase dated September 20, 2021 as amended by First Amendment to Agreement of Sale and Purchase dated October 4, 2021 (collectively, the "Original Agreement"), whereby Seller agreed to sell to Original Purchaser, and Original Purchaser agreed to purchase from Seller, certain real property located in Austin, Travis County, Texas, as more particularly described therein. The Original Purchaser assigned the Original Agreement to Purchaser and Purchaser assumed Original Purchaser's obligations under the Original Agreement in accordance with Assignment and Assumption of Agreement of Sale and Purchase dated November 3, 2021 (the "Assignment"). The Original Agreement, as assigned by the Assignment, is referred to herein as the "Agreement."

B. Seller and Purchaser wish to amend the Agreement as set forth herein.

A G R E E M E N T:

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

1. Definitions. All capitalized terms used in this Amendment, to the extent not otherwise expressly defined herein, shall have the same meaning ascribed to such terms in the Agreement.

2. Repair Credit. At Closing, Seller will provide Purchaser with a repair credit against the Purchase Price in the amount of Seven Hundred Thousand and 00/100 Dollars ($700,000.00). Except for any repair obligation of Seller under Section 5.07 of the Agreement for any casualty that occurs on or after the date of this Second Amendment and on or before the Closing Date, Purchaser acknowledges and agrees that Seller will have no obligation to make any repairs or renovations to the Property including any repairs or renovations arising out of or resulting from any casualty event occurring prior to the date of this Second Amendment.

3. Inspection Period. The Parties hereby agree that this Amendment shall

serve as Purchaser's Notice to Proceed pursuant to Section 3.01 of the Agreement.

4. Master Declaration. Purchaser acknowledges and agrees that the Property is subject to that certain Master Declaration of Covenants, Conditions and Restrictions, Barton Creek Commercial recorded under Document No. 2014185935 of the Official Public Records of Travis County, Texas (as amended and supplemented from time to time, the "Master Declaration") and that, in accordance with Barton Creek Commercial Supplemental Covenant and Notice of Designation of Unit Budget Share recorded under Document No. 2019150528 of the Official Public Records of Travis County, Texas, the Unit Budget Share (as defined therein) for the Property is capped at no more than 9.45% (herein referred to as the "Unit Budget Share Cap"). Seller hereby agrees to cause the Master Declaration to be amended at or prior to Closing to replace the current Unit Budget Share Cap with an annual cap of Ten Thousand Dollars ($10,000), plus an annual escalator of 1.5% for each successive year after the first full calendar year after the Closing (the "Revised Unit Budget Share Cap"), as more particularly set forth in the form of amendments attached hereto as Exhibit A (the "Master Declaration Amendments").

5. Service Contracts.

(a) Seller is a party to that certain Greenfield Development Multiple Dwelling Unit ("MDU") Access Agreement, dated September 14, 2015, made by and between Google Fiber Inc. and its subsidiaries ("Google Fiber") and Barton Creek Tecoma I, L.L.C., as predecessor in interest to Seller (the "Fiber Agreement"). Seller hereby agrees that prior to Closing, Seller will obtain and deliver to Purchaser a fully executed amendment to the Fiber Agreement in the form attached hereto as Exhibit B (such amendment, the "Fiber Amendment").

(b) The Parties hereby agree that this Amendment shall serve as Purchaser's notice as to Purchaser's Accepted Service Contracts, which are listed on Exhibit C attached hereto, pursuant to Section 3.07 of the Agreement.

(c) Seller agrees to indemnify and hold Purchaser harmless from any loss, cost, expense or liability incurred by Purchaser under the ATT Agreement to the extent that such loss, cost, expense or liability is due to a breach by Purchaser under the ATT Agreement as a result of Google Fiber exercising its right under the Google Fiber Agreement to market its Services (as defined in the Google Fiber Agreement) to Occupants (as defined in the Google Fiber Agreement) via direct mail, Internet presentation, or other off-Property means as allowed under Article 4 of the Google Fiber

Agreement. This indemnity obligation will only apply to any breach of the ATT Agreement that accrues during the primary term of the ATT Agreement. For purposes of this paragraph, the term "ATT Agreement" means, collectively, that certain AT&T Connected Communities MDU Exclusive Marketing Contract New Construction Property dated September 28, 2015 and that certain AT&T Connected Communities MDU Exclusive Marketing Contract New Construction Property dated April 20, 2017 and the term "Google Fiber Agreement" means, collectively, that certain Greenfield Multiple Dwelling Unit Access Agreement dated September 14, 2015, as it may be amended by the Fiber Amendment, and that certain Greenfield Multiple Dwelling Unit Access Agreement dated January 22, 2018. Seller's indemnity obligations under this paragraph is referred to as the "Seller Google Fiber Indemnity Obligations").

6. Conditions Precedent Favoring Purchaser. Section 4.01 (b) of the Agreement is hereby amended to include the following additional conditions precedent favoring Purchaser:

"(4) Purchaser's receipt, and the recordation in the Travis County Records, of the duly executed and acknowledged Master Declaration Amendments."

"(5) Purchaser's receipt of the duly executed Fiber Amendment and/or, if applicable, evidence of termination of the Google Agreements."

7. Closing Date. The first sentence of Paragraph 4.02 of the Agreement is hereby amended to read as follows:

"This transaction shall close through escrow with the Title Company or as otherwise acceptable to the Parties on or before December 10, 2021."

Except as so modified and amended hereby, the Agreement is otherwise unchanged and the parties hereby RATIFY and AFFIRM the same.

Each party hereto shall be authorized to rely upon the signatures of all of the parties hereto on this Amendment which are delivered by facsimile or by email as a PDF copy as constituting a duly authorized, irrevocable, actual, current delivery of this Amendment with original ink signatures of each person and entity. This Amendment may be executed in multiple counterparts, all of which, when put together, will constitute one.

[*Remainder of Page Blank; Signature Pages Follow*]

EXECUTED the 3rd day of November, 2021.

PURCHASER:

Berkshire Multifamily Income Realty-OP, L.P.,
a Delaware limited partnership

By: Berkshire Multifamily Income Realty Fund OP GP, L.L.C., a Delaware limited liability company

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

SELLER:

Santal, L.L.C., a Delaware limited liability company

By: STRS L.L.C., a Delaware limited liability company,
Manager

By: Stratus Properties Inc., a Delaware
corporation, Sole Member

By: /s/ Erin D. Pickens
Erin D. Pickens,
Senior Vice President

LIMITED JOINDER AND GUARANTY

Stratus Properties Inc., a Delaware corporation, ("**Guarantor**") hereby joins in the execution of that certain Second Amendment to Agreement of Sale and Purchase by and between **Santal, L.L.C.,** a Delaware limited liability company, ("**Seller**") and **BERKSHIRE MULTIFAMILY INCOME REALTY-OP, L.P**., a Delaware limited partnership ("**Purchaser**") dated November 3, 2021 (the "**Second Amendment**"; capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Agreement) for the benefit of Purchaser for the purpose of guaranteeing certain indemnity obligations of Seller under the Agreement.

1. Joinder. Guarantor hereby guaranties the Seller's performance and payment of the Seller Google Fiber Indemnity Obligations as defined in the Second Amendment, if and to the extent that the Closing occurs.

2. Representations and Warranties. Guarantor hereby represents and warrants to Purchaser that, on the date hereof:

(a) Due Formation, Authorization and Enforceability. Guarantor is duly organized and validly existing under the laws of the jurisdiction of its incorporation or formation, as the case may be. Guarantor has all requisite power and authority to enter into this Limited Joinder and Guaranty, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Limited Joinder and Guaranty and the consummation of the transactions provided for herein have been duly authorized by all necessary action on the part of Guarantor. This Limited Joinder and Guaranty has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms.

(b) Benefit to Guarantor. Guarantor hereby acknowledges that the Purchaser would not enter into the Second Amendment but for the personal liability undertaken by Guarantor under this Limited Joinder and Guaranty. Guarantor (i) is an Affiliate of Seller and (ii) has received, or will receive, direct and/or indirect benefit from Seller entering into the Second Amendment.

(c) Solvency. Guarantor is not presently insolvent, and the execution and delivery of this Limited Joinder and Guaranty will not render Guarantor insolvent.

(d) No Conflicts. Guarantor's execution, delivery and compliance with, and performance of the terms and provisions of, this Limited Joinder and Guaranty will not (i) conflict with or result in any violation of its organizational documents, (ii) conflict with or result in any violation of any provision of any bond, note or other instrument of indebtedness, contract, indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which Guarantor is a party in its individual capacity, or (iii) violate any Laws relating to Guarantor or its assets or properties.

(e) Consents. No consent, license, approval, order, permit or authorization of, or registration, filing or declaration with, any court, administrative agency or commission or

other Governmental Entity, is required to be obtained or made in connection with the execution, delivery and performance of this Limited Joinder and Guaranty by Guarantor or any of Guarantor's obligations in connection with the transactions required or contemplated hereby.

(f) Bankruptcy. Guarantor has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Guarantor's creditors (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Guarantor's assets, which remains pending or (iv) suffered the attachment or other judicial seizure of all, or substantially all of Guarantor's assets, which remains pending.

(g) Survival. All representations and warranties made by Guarantor herein shall survive the execution hereof.

3. Waivers. In connection with this Limited Joinder and Guaranty, Guarantor hereby waives and agrees not to assert or take advantage of the following defenses:

(a) Any defense that may arise by reason of the incapacity, lack of authority, death or disability of any Person, or revocation hereof by any Person, or the failure of any Person to file or enforce a claim against the estate (either in administration, bankruptcy, or any other proceeding) of any other Person;

(b) Diligence, presentment, notice of acceptance, notice of dishonor, notice of default, notice of presentment, and other suretyship defenses generally;

(c) Protest and notice of dishonor or of default to Guarantor or to any other Person with respect to the performance of obligations guaranteed under this Limited Joinder and Guaranty;

(d) Any action required by any statute to be taken against Guarantor;

(e) The dissolution or termination of the Purchaser or any other entity;

(f) The voluntary or involuntary liquidation, sale, or other disposition of all or substantially all of the assets of the Purchaser or any other entity;

(g) The voluntary or involuntary receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, assignment, composition, or readjustment of, or any similar proceeding affecting, the Purchaser or any other entity, or their respective assets; and

(h) Any amendments, modifications and/or supplements to the Agreement.

4. Notices. All notices required, permitted or desired to be given under this Limited Joinder and Guaranty shall be given in accordance with the Agreement, and notices to Guarantor shall be delivered to the address for notice to Seller.

GUARANTOR:

Stratus Properties Inc., a Delaware corporation,

By: /s/ Erin D. Pickens
Name: Erin D. Pickens
Title: Senior Vice President

LIST OF EXHIBITS
TO
Second Amendment to
Agreement of Sale and Purchase
By and Between Santal, L.L.C., as Seller, and
Berkshire Multifamily Income Realty-OP, L.P., as Purchaser

The following list of exhibits is provided pursuant to Item 601(a)(5) of Regulation S-K. These exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K because the information contained therein is not material and is not otherwise publicly disclosed. The registrant undertakes to furnish supplementally a copy of the exhibits to the Securities and Exchange Commission upon request.

Exhibit A – Form of Master Declaration Amendment

Exhibit B – Form of Fiber Agreement

Exhibit C – Accepted Services Contracts

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

LOAN NO. 40305

DLA Piper LLP (US)
444 West Lake Street, Suite 900
Chicago, Illinois 60606
Attention: Alison M. Mitchell

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Property Address: The Santal
7624 Tecoma Circle
Austin, Texas 78735

MODIFICATION OF LOAN AGREEMENT, NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS

THIS MODIFICATION OF LOAN AGREEMENT, NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS (this "**Agreement**") is made as of the 20th day of September, 2021, by and among **SANTAL, L.L.C.**, a Delaware limited liability company ("**Borrower**"), **STRATUS PROPERTIES INC.**, a Delaware corporation ("**Guarantor**"), and **ACRE COMMERCIAL MORTGAGE 2017-FL3 LTD.** ("**Lender**"), successor in interest to ACRC Lender LLC, a Delaware limited liability company ("**Original Lender**").

RECITALS

A. Original Lender made a loan to Borrower (the "**Loan**") in the original stated principal amount of Seventy-Five Million and no/100 Dollars ($75,000,000.00) pursuant to the terms and conditions of a Loan and Security Agreement dated as of September 30, 2019 (the "**Loan Agreement**"). The Loan is evidenced by a Note dated September 30, 2019 (the "**Note**") executed by Borrower made payable to Original Lender in the original amount of the Loan.

B. The Loan is secured by (i) a Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "**Mortgage**") dated as of September 30, 2019, executed by Borrower for the benefit of Original Lender and recorded on October 1, 2019 with the Official Public Records of Travis County, Texas as Document No. 219151610, which Mortgage encumbers the real property legally described on attached Exhibit A (the "**Property**"); (ii) a Guaranty dated as of September 30, 2019 executed by Guarantor in favor of Original Lender (the "**Guaranty**"); (iii) an Environmental Indemnity Agreement dated as of September 30, 2019 executed by Borrower and Guarantor in favor of Original Lender ("**Environmental Indemnity**"); and (iv) certain other loan documents (the Note, Mortgage, Guaranty, Environmental Indemnity, Loan Agreement and the other documents evidencing

securing and guarantying the Loan, in their original form and as amended from time to time, are sometimes collectively referred to herein as the "**Loan Documents**").

C. Original Lender assigned its interest in the Loan Documents to Lender.

D. Certain of the Loan Documents were amended by Modification Of Loan Agreement, Note, Mortgage And Other Loan Documents dated April 1, 2021 by and among Borrower, Guarantor and Lender.

E. Borrower has requested that Lender agree to certain additional modifications to the Loan Documents to permit prepayment between the date of this Agreement and December 31, 2021 (the "Negotiated Open Period") as further specified hereinbelow, and Lender has agreed to such modifications, subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the Recitals set forth above, the agreements by Lender to modify the Loan Documents, as provided herein, the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, Guarantor and Lender hereby agree as follows:

1. **Affirmation of Recitals**. The recitals set forth above are true and correct and are incorporated herein by this reference.

2. **Definitions**. Capitalized terms used but not defined in this Agreement shall have the meanings ascribed to such terms in the Loan Agreement.

3. **Prepayment During the Negotiated Open Period**. The Loan Agreement is hereby amended to permit Borrower to voluntarily prepay the Loan in full (but not in part) prior to the expiration of the Negotiated Open Period in accordance with the following provisions:

> At any time during the Negotiated Open Period, upon not less than thirty (30) days prior written notice to Lender, Borrower may prepay the Loan in whole but not in part on any Business Day, provided that upon any such prepayment of the Loan, Borrower shall also pay in full (i) all Accrued Interest; (ii) if such prepayment is received by Lender on a date other than on a Scheduled Payment Date, the Interest Shortfall; (iii) all other Indebtedness; and (iv) the Negotiated Open Period Prepayment Fee (defined below). Without limiting the aforesaid, upon any payment of the Loan on any day that is not a Scheduled Payment Date (regardless of the source of such prepayment and whether voluntary, by acceleration or otherwise), Borrower shall pay Lender the Breakage Amount. For avoidance of doubt, (i) any prepayment under this provision will not require payment of the Closed Period Prepayment Fee, (ii) the Negotiated Open Period Prepayment Fee is not applicable for any prepayment of the Loan after the expiration of the Negotiated Open Period, (iii) if an Acceleration Event occurs during the Lockout Period, in addition to the Breakage Amount, the Closed Period Prepayment Fee shall be due pursuant to Section 2.4.2 of the Loan Agreement and (iv) Borrower shall have no right to prepay the Loan between January 1, 2022 and the Scheduled Payment Date in June, 2022.

"Negotiated Open **Period Prepayment Fee**" means: With respect to any voluntary prepayment of the Loan by Borrower made prior to the expiration of the Negotiated Open Period, (i) the amount of Interest which would have been required to be paid from the date of prepayment through the expiration of the Lockout Period on the amount of principal being prepaid (if such prepayment had not been made), at the Interest Rate in effect at the time of said prepayment, plus (ii) $187,500.

4. **Representations and Warranties of Borrower**. Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Loan Agreement, the Mortgage and the other Loan Documents are true and correct in all material respects as of the date hereof.

(b) There is currently no Event of Default under the Note, the Loan Agreement, the Mortgage or the other Loan Documents and Borrower does not have knowledge of any event or circumstance which with the giving of notice or the passage of time, or both, would constitute an Event of Default under the Note, the Loan Agreement, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, the Loan Documents continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by bankruptcy, insolvency, other debtor relief laws and general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, Borrower has no claims, counterclaims, defenses or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) Borrower validly exists under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement by Borrower and the performance by Borrower of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

5. **Reaffirmation of Guarantor Documents**. Guarantor hereby ratifies and affirms the Guaranty and the Environmental Indemnity (collectively, the "**Guarantor Documents**") and agrees that each of the Guarantor Documents is in full force and effect following the execution and delivery of this Agreement. To Guarantor's actual knowledge, the representations and warranties of Guarantor as contained in the Guarantor Documents are, as of the date hereof, true

and correct and Guarantor does not have actual knowledge of any default thereunder. Each of the Guarantor Documents continues to be the valid and binding obligations of Guarantor, enforceable in accordance with their respective terms, subject to limitations imposed by bankruptcy, insolvency, other debtor relief laws and principles of equity, and Guarantor has no claim or defense to the enforcement of the rights and remedies of Lender thereunder, except as specifically provided otherwise in the Guarantor Documents. The execution and delivery of this Agreement by Guarantor and the performance by Guarantor of its respective obligations under the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Guarantor. This Agreement has been duly executed and delivered on behalf of Guarantor.

6. **Loan Fees and Expenses**. As a condition precedent to Lender's agreement to enter into this Agreement, Borrower hereby agrees to pay, promptly upon request therefor Lender's legal costs and expenses incurred in connection with this Agreement.

7. **Release of Claims**. Borrower, Guarantor and any other obligors, on behalf of themselves and their respective successors and assigns (collectively and individually, "**Borrower Parties**"), hereby fully, finally and completely RELEASE AND FOREVER DISCHARGE Lender and its successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, servicers, attorneys, agents and properties, past, present and future, and their respective heirs, successors and assigns (collectively and individually, "**Lender Parties**"), of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, debts, liens, actions and causes of action of any and every nature whatsoever, known or unknown, whether at law, by statute or in equity, in contract or in tort, under state or federal jurisdiction, and whether or not the economic effects of such alleged matters arise or are discovered in the future, which Borrower Parties have as of the date of this Agreement or may claim to have against Lender Parties arising out of or with respect to any and all transactions relating to the Loan or the Loan Documents occurring on or before the date of this Agreement, including any loss, cost or damage of any kind or character arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of Lender Parties occurring on or before the date of this Agreement. The foregoing release is intended to be, and is, a full, complete and general release in favor of Lender Parties with respect to all claims, demands, actions, causes of action and other matters described therein, including specifically, without limitation, any claims, demands or causes of action based upon allegations of breach of fiduciary duty, breach of any alleged duty of fair dealing in good faith, economic coercion, usury, or any other theory, cause of action, occurrence, matter or thing which might result in liability upon Lender Parties arising or occurring on or before the date of this Agreement. Borrower Parties understand and agree that the foregoing general release is in consideration for the agreements of Lender contained herein and that they will receive no further consideration for such release.

8. **Miscellaneous**.

(a) An default hereunder shall be an "Event of Default" under Section 7.1(n) of the Loan Agreement.

(b) This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to its conflict of law principles.

(c) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledge and waive any claim contesting the existence and adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represent that it has been advised by its respective counsel of the legal and practical effect of this Agreement and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The Borrower, Lender and Guarantor hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(d) The execution of this Agreement by Lender shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(e) Borrower, Guarantor and Lender acknowledge that there are no other understandings, agreements or representations, either oral or written, express or implied, with respect to the Loan that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender with respect to the Loan; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(f) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(g) Any references to the Note, the Mortgage, the Loan Agreement or the Loan Documents, contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage, the Loan Agreement and the other Loan Documents as amended hereby. This Agreement shall be deemed a "Loan Document" and accordingly, the definition of the term "Loan Documents" appearing in the Loan Documents is hereby amended to include, in addition to the documents already covered thereby, this Agreement. The paragraph and section heading used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(h) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

(i) Time is of the essence of each of Borrower's obligations under this Agreement.

(j) All of the Property shall remain in all respects subject to the lien, charge and encumbrance of the Mortgage and the other Loan Documents, and, nothing herein contained and nothing done pursuant hereto shall affect the lien, charge or encumbrance of the Mortgage or the priority thereof with respect to other liens, charges, encumbrances or conveyances, or release or affect the liability of any party or parties whomsoever who may now or hereafter be liable under or on account of the Loan Documents.

(k) If one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

9. **No Novation**. THE PARTIES DO NOT INTEND THIS AGREEMENT NOR THE TRANSACTIONS CONTEMPLATED HEREBY TO BE, AND THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL NOT BE CONSTRUED TO BE, A NOVATION OF ANY OF THE OBLIGATIONS OWING BY BORROWER UNDER OR IN CONNECTION WITH THE NOTE, THE MORTGAGE, OR ANY OF THE OTHER LOAN DOCUMENTS. FURTHER, THE PARTIES DO NOT INTEND THIS AGREEMENT NOR THE TRANSACTIONS CONTEMPLATED HEREBY TO AFFECT THE PRIORITY OF ANY OF LENDER'S LIENS IN ANY OF THE COLLATERAL SECURING THE NOTE IN ANY WAY, INCLUDING WITHOUT LIMITATION, THE LIENS, SECURITY INTERESTS AND ENCUMBRANCES CREATED BY THE MORTGAGE AND THE OTHER LOAN DOCUMENTS.

[signature page to follow]

[Signature Page to Modification of Loan Agreement, Note, Mortgage and Other Loan Documents]

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

BORROWER:

SANTAL, L.L.C., a Delaware limited liability company

By: STRS L.L.C., a Delaware limited liability company, Manager

By: Stratus Properties Inc., a Delaware corporation, Sole Member

By: /s/ Erin D. Pickens
Name: Erin D. Pickens
Its: Senior Vice President

GUARANTOR:

STRATUS PROPERTIES INC., a Delaware corporation

By: /s/ Erin D. Pickens
Name: Erin D. Pickens
Its: Senior Vice President

LENDER:

ACRE COMMERCIAL MORTGAGE 2017-FL3 LTD.

By: Ares Commercial Real Estate Servicer LLC, as special servicer

By /s/ Elaine McKay
Name: Elaine McKay
Its: Director

LIST OF EXHIBITS
TO
Modification of Loan Agreement, Note, Mortgage and Other Loan Documents
By and Among Santal, L.L.C., as Borrower,
Stratus Properties Inc., as Guarantor, and
ACRE Commercial Mortgage 2017-FL3 Ltd., as Lender

The following list of exhibits is provided pursuant to Item 601(a)(5) of Regulation S-K. These exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K because the information contained therein is not material and is not otherwise publicly disclosed. The registrant undertakes to furnish supplementally a copy of the exhibits to the Securities and Exchange Commission upon request.

Borrower's Acknowledgement

Guarantor's Acknowledgement

Lender's Acknowledgement

Legal Description

Certain identified information has been excluded from this exhibit because it is both not material and is the type that the registrant customarily and actually treats as private or confidential. Information that was omitted has been noted in this document with a placeholder identified by the mark "[***]".

AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT

OF

STRATUS BLOCK 150, L.P.,

a Texas limited partnership

THE LIMITED PARTNERSHIP INTERESTS REPRESENTED BY THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE TEXAS SECURITIES ACT OR OTHER APPLICABLE STATE STATUTES AND RELATED RULES AND REGULATIONS (COLLECTIVELY, THE "SECURITIES LAWS") IN RELIANCE UPON EXEMPTIONS FROM REGISTRATION AS PROVIDED IN THE SECURITIES LAWS. THE SALE OR OTHER DISPOSITION OF THE LIMITED PARTNERSHIP INTERESTS IS RESTRICTED, AS SET FORTH IN THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT, AND IN ANY EVENT IS PROHIBITED UNLESS THE GENERAL PARTNER RECEIVES AN OPINION OF COUNSEL SATISFACTORY TO THE GENERAL PARTNER AND ITS COUNSEL THAT SUCH SALE OR OTHER DISPOSITION CAN BE MADE WITHOUT REGISTRATION UNDER THE SECURITIES LAWS. BY ACQUIRING THE LIMITED PARTNERSHIP INTERESTS REPRESENTED BY THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT, EACH LIMITED PARTNER REPRESENTS THAT IT WILL NOT SELL OR OTHERWISE DISPOSE OF ITS LIMITED PARTNERSHIP INTEREST WITHOUT REGISTRATION OR OTHER COMPLIANCE WITH THE SECURITIES LAWS AND THE TERMS AND PROVISIONS OF THIS AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT.

SEE ARTICLE TWELVE FOR REPRESENTATIONS AND WARRANTIES REQUIRED WITH RESPECT TO AN INVESTMENT IN THIS LIMITED PARTNERSHIP.

AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT
OF
STRATUS BLOCK 150, L.P.

TABLE OF CONTENTS

List of Exhibits* and Appendices:

** Certain exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K because the information contained therein is not material and is not otherwise publicly disclosed. The registrant undertakes to furnish supplementally a copy of the exhibits to the Securities and Exchange Commission upon request.*

AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT

OF

STRATUS BLOCK 150, L.P.

Dated effective as of August 31, 2021 (the "**Effective Date**")

This Amended and Restated Limited Partnership Agreement (this "**Agreement**"), is made and entered into by and among **STATUS BLOCK 150 GP, L.L.C.**, a Texas limited liability company, as the general partner (the "**General Partner**"), **STRATUS PROPERTIES OPERATING CO., L.P.**, a Delaware limited partnership (the "**Class A Limited Partner**"), and each of the persons listed on Exhibit A to this Agreement and signing this Agreement as of the Effective Date or thereafter in connection with a subscription as a Class B limited partner (referred to collectively as the "**Class B Limited Partners**" and individually as a "**Class B Limited Partner**"). The Class A Limited Partner and the Class B Limited Partners are referred to collectively as the "**Limited Partners**" and individually as a "**Limited Partner**." The General Partner and the Limited Partners are referred to collectively as the "**Partners**" and individually as a "**Partner**." In addition to being the Class A Limited Partner, if Stratus Properties Operating Co., L.P., a Delaware limited partnership ("**SPOC**"), is also a Class B Limited Partner as set forth on Exhibit A, then SPOC's Interests as a Class B Limited Partner will be separate and distinct from SPOC's Interests as a Class A Limited Partner.

RECITALS:

A. The General Partner and the Class A Limited Partner formed STRATUS BLOCK 150, L.P. (the "**Partnership**") as a Texas limited partnership on June 22, 2021 (the "**Organization Date**") pursuant to that certain Certificate of Formation filed with the Secretary of State of the State of Texas on June 22, 2021 (the "**Certificate**").

B. The General Partner and the Class A Limited Partner executed that certain Limited Partnership Agreement dated as of the Organization Date (the "**Original Partnership Agreement**").

C. The Partners desire to amend and restate the Original Partnership Agreement to reflect (i) the admission of the Class B Limited Partners as Limited Partners of the Partnership on the terms and conditions set forth in this Agreement and (ii) the agreements among the Partners as forth in this Agreement.

For and in consideration of the mutual covenants, rights, and obligations set forth in this Agreement, the benefits to be derived from this Agreement, and other good and valuable consideration, the receipt and sufficiency of which each Partner acknowledges, the Partners hereby agree as follows:

ARTICLE 1

FORMATION OF PARTNERSHIP AND AMENDMENT AND RESTATEMENT

1.1 Formation. The Partners ratify and confirm the formation of the Partnership as a limited partnership under the provisions of the Texas Business Organizations Code (the "**TBOC**").

1.2 **Amended and Restated Partnership Agreement**. The Original Partnership Agreement is hereby amended and restated in its entirety as set forth in this Agreement.

1.3 **Name**. The name of the Partnership is STRATUS BLOCK 150, L.P.

1.4 **Term**. The term of the Partnership commenced on the Organization Date and will exist until terminated as provided in Article Fourteen.

1.5 **Organizational Certificates**. The Partners ratify and confirm the Certificate filed on the Organization Date. The Partners will execute amendments to the Certificate and other certificates and instruments as required by this Agreement, or the TBOC, and will file, record, and publish those certificates and instruments and do such other acts in connection therewith, as required by this Agreement, the TBOC, or other applicable laws for the formation, continuation, preservation, and/or operation of the Partnership as a limited partnership.

1.6 **Assumed Names**. The General Partner may execute and file in the appropriate place or places an assumed or fictitious name certificate or such other certificate or instrument required by applicable laws of the State of Texas with respect to the use of an assumed or fictitious name by the Partnership.

1.7 **Ownership**. All property and interests in property, real or personal, tangible or intangible, owned by the Partnership will be deemed owned by the Partnership as an entity, and no Partner, individually, will own such property or interests. A Partner's Interest will be personal property for all purposes.

1.8 **Limits of Partnership**. The relationship between and among the Partners will be limited to carrying on the business of the Partnership in accordance with the terms of this Agreement. Such relationship will be construed and deemed to be a partnership for the sole and limited purpose of carrying on such business. Nothing contained in this Agreement will be construed to create a general partnership between the parties nor to authorize any party to act as general agent for any other party.

1.9 **No Individual Authority**. No Partner, acting alone, will have any authority to act for, or to undertake or assume any obligation, debt, duty, or responsibility on behalf of, the other Partner(s) or the Partnership, except as otherwise expressly provided for in this Agreement.

1.10 **Partner's Commitments Outside the Partnership**. The Partnership is not and will not be responsible or liable for any indebtedness or obligation of any Partner(s) incurred either before or after the Effective Date, except for those responsibilities, liabilities, debts, and obligations undertaken or incurred before the Effective Date by the General Partner or the Class A Limited Partner in good faith in carrying out the purpose of the Partnership, or undertaken or incurred on or after the Effective Date on behalf of the Partnership under the terms of this Agreement, or assumed in writing by the Partnership. Each Partner agrees to indemnify, hold harmless, and defend the Partnership and each other Partner from the obligations and indebtedness described above that the Partnership will not be responsible or liable for.

1.11 **Outside Activities of Partners**. Except as otherwise expressly set forth in this Agreement or otherwise agreed in writing, each Partner and each Partner's Affiliates: (i) may carry on and conduct in any way or in any capacity, including, but not limited to, for such Partner's (or Affiliate's) own right and for such Partner's (or Affiliate's) own personal account, as a partner in any other partnership, as a venturer in any joint venture, as a member or manager in any limited liability company, as an employee, officer, director, or stockholder of any corporation, or as a participant in any syndicate, pool, trust, association, or other business organization, a business that competes, directly or indirectly,

with the business of the Partnership; (ii) will be free in any capacity to conduct business activities the same or similar as conducted by the Partnership; (iii) may make investments in any kind of property; and (iv) will have no obligation to disclose, to give notice of, offer a participation in, or to account to the Partnership or any other Partner for any such business, activity, or investment. The Partnership will have no claim or right to any such business, activity, or investment.

1.12 No Distribution Intent. The Partners hereby represent and warrant to the Partnership and to each other that they are acquiring their respective interests in the Partnership for their respective individual purposes only and without a view to the distribution (as such term is used in the Securities Laws) thereof.

ARTICLE 2

PURPOSE

2.1 General. The principal purposes of the Partnership will be to acquire, own, hold for investment, finance, improve, lease, manage, maintain, and sell all or part of that certain real property located in Travis County, Texas, together with all improvements thereon and appurtenances thereto, as more fully described on Exhibit B, attached hereto and incorporated herein (the "**Real Property**"), as well as any other property and contract rights necessary or desirable for the acquisition, ownership, investment, financing, improvement, leasing, management, maintenance, and sale of the Real Property (the Real Property and other such property and rights are collectively referred to as the "**Property**"), together with such other activities related to the Property that the General Partner determines to be in the best interests of the Partnership or deems to be necessary, advisable, or convenient to the promotion or conduct of the business of the Partnership, including, without limitation, incurring indebtedness and granting liens and security interests in real and personal property of the Partnership to secure such indebtedness (collectively, the "**Partnership Activities**").

2.2 Specific Purposes. Without limiting the generality of Section 2.1, but subject to the express restrictions contained in Section 7.4, the Partnership may, as determined by the General Partner: (i) enter into, approve, consent to, perform, enforce, and carry out contracts of any kind necessary or desirable to, or in connection with, or incidental to, accomplishing the general purposes of the Partnership, including any contract or action required or desirable under any mortgage, pledge, or security document encumbering the Property and including any note, deed of trust, or loan agreement in connection therewith; (ii) acquire any property, real or personal, in fee or under lease appurtenant to the Property (which shall be deemed to be a part of the Property); (iii) own, operate, manage, develop, lease, and/or sell any of the Property; and (iv) borrow money and issue evidence of indebtedness, and secure the same by mortgage, deed of trust, pledge, security agreement, other lien, or security interest, in furtherance of all of the permitted purposes of the Partnership. If the Partnership obtains the necessary entitlements and approvals and sufficient additional equity and debt financing, then the Partnership may construct a high-rise, multi-family building with ground-floor retail and related improvements on the Property (the "**Project**"). The period before obtaining sufficient additional equity and debt financing to start material construction of the Project is referred to as the "**Land Partnership Phase**." The period after obtaining sufficient additional equity and debt financing to start material construction of the Project is referred to as the "**Development Partnership Phase**."

2.3 Property Purchase and Loan Authorization. Without limiting the generality of Sections 2.1 and 2.2 above, the General Partner is hereby authorized and empowered, for and on behalf of the Partnership, without the consent, approval, or joinder of any other Partner, to: (i) accept the contribution of property and funds described as capital contributions on Exhibit A (and as otherwise provided by this Agreement), make all reimbursements of costs and expenses required or permitted under

this Agreement to the General Partner and its Affiliates pursuant to Section 7.10; (ii) enter into, amend, and/or accept assignment of, assume obligations and liabilities under, and perform under any contract or agreements (collectively, the "**Purchase Contracts**") to acquire the Real Property on terms and conditions acceptable to the General Partner; (iii) facilitate and/or close the purchase of the Real Property under the Purchase Contracts, as amended; (iv) enter into, amend, and perform under any acquisition, development, construction, and/or permanent financing, as evidenced by written instruments, agreements and documents required by lenders selected by the General Partner ("**Lender**") to finance the purchase, improvement, or construction of or upon the Real Property or related to the Property and with any such financing terms and conditions and with such collateral as required by the Lender and deemed necessary or desirable by the General Partner in connection with any such loan, including, without limitation, promissory notes, mortgages, deeds of trust, security agreements, loan agreements, assignments, financing statements, bills of sale, and such other documents to contain such terms and provisions as the General Partner may deem necessary, proper or advisable; (v) enter into, amend, and perform under any management, development, consulting, marketing and sales agreements related to the Property or the Partnership, including such agreements with Affiliates of the General Partner or the Limited Partners, but subject to any express limitations contained in this Agreement; and (vi) admit Partners to the Partnership pursuant to the terms of this Agreement. Any such action, execution, acknowledgment, and/or delivery by the General Partner, for and on behalf of the Partnership, shall be conclusive evidence that the General Partner deems such actions and deliveries reasonable and necessary for the benefit of the Partnership.

ARTICLE 3

PRINCIPAL PLACE OF BUSINESS

3.1 **Place of Business**. The principal place of business of the Partnership will be as set forth in the Certificate. The General Partner may change the principal place of business at any time and from time to time. The General Partner will deliver written notice to the Limited Partners promptly after any change of the principal place of business of the Partnership. The Partnership may also have such other places of business as the General Partner determines to be appropriate.

3.2 **Registered Office; Registered Agent**. The address of the registered office of the Partnership in the State of Texas is as set forth in the Certificate, and the name and address of the registered agent for service of process on the Partnership in the State of Texas is as set forth in the Certificate. The General Partner may, from time to time, change the registered office and the registered agent. If the General Partner changes the Partnership's registered agent (or if the General Partner is notified of a change in the registered agent's office address), the General Partner will notify the Limited Partners in writing of any such change.

ARTICLE 4

PARTNERSHIP INTERESTS AND CAPITAL CONTRIBUTIONS

4.1 **Capital Interests; Distribution Interests; and Voting Interests**.

(a) Subject to the terms and provisions of this Agreement, each Partner will have the following: (i) a capital interest in the Partnership based on the relative total Capital Contributions of the Partners, which initially will be reflected opposite each of such Partner's name on Exhibit A upon execution of this Agreement by all of the Partners (such capital interests are referred to collectively as "**Capital Interests**" and individually as a "**Capital Interest**"); (ii) an interest in distributions of the Partnership to such Partner as set forth in Article Six (referred to collectively as "**Distribution Interests**" and individually as a "**Distribution Interest**"); and (iii) a voting

interest in the Partnership based on such Partner's Capital Interest (referred to collectively as "**Voting Interests**" and individually as a "**Voting Interest**"), which initially will be reflected opposite such Partner's name on Exhibit A upon execution of this Agreement by all of the Partners. The Partners' respective Capital Interest(s), Distribution Interest(s), and Voting Interest(s), and all other rights, titles, and interests associated therewith under this Agreement, are sometimes referred to collectively as the "**Interest(s)**" and individually as an "**Interest**."

(b) The initial Capital Interests and initial Voting Interests held by the Partners as of the Effective Date are as set forth on Exhibit A. The Interests of the Partners will be adjusted from time to time to reflect (i) additional Capital Contributions made to the Partnership in accordance with this Agreement; (ii) the admission of new Partners in accordance with this Agreement; (iii) transfers by the Partners of their Interests in accordance with this Agreement; and (iv) such other events as otherwise may give rise to a change in any Partner's ownership of Interests under this Agreement. Upon any such adjustment, the General Partner is hereby authorized and empowered to make appropriate amendments to this Agreement and revisions to Exhibit A and provide a copy thereof to each Partner.

4.2 Initial Capital Contributions.

(a) General. Within two (2) days after the execution and delivery of this Agreement or on such other date determined by the General Partner upon written notice to the Partners, each Partner must make the initial capital contributions to the Partnership as set forth opposite such Partner's name on Exhibit A (the "**Initial Capital Contributions**"). The Initial Capital Contributions of the Partners and all other cash and property contributed to the Partnership pursuant to this Article Four are collectively referred to as "**Capital Contributions**."

(b) General Partner. The Partnership offered certain Interests in the Partnership as Class B Limited Partners pursuant to that certain Confidential Investment Memorandum dated as of August 2, 2021, as amended (the "**Memorandum**"). The Partnership intends for the General Partner and the Class A Limited Partner to collectively make Capital Contributions of twenty-five percent (25%) of the total Capital Contributions of the Partners to the Partnership (i.e., thirty-three and 1/3 percent (33.3%) of the total Capital Contributions of the Class B Limited Partners to the Partnership) as Capital Contributions are made by the Class B Limited Partners during the offering period provided in the Memorandum (the "**Offering Period**"). The General Partner will contribute one tenth percent (0.1%) of the total Capital Contributions of the Partners to the Partnership (i.e., approximately 0.1333% of the total Capital Contributions of the Class B Limited Partners to the Partnership) as Capital Contributions are made by the Class B Limited Partners during the Offering Period. The General Partner will be obligated to make total Capital Contributions in the minimum amount of (and the maximum amount of) $21,000 during the Offering Period. If the offering under the Memorandum (the "**Offering**") is fully subscribed as of the Effective Date, the General Partner will make an Initial Capital Contribution of $21,000 in cash. If the Offering is not fully subscribed as of the Effective Date, the General Partner will make an Initial Capital Contribution in its percentage amount as described above as of the Effective Date and will contribute its applicable percentage amount as new Class B Limited

Partners make Capital Contributions during the Offering Period. If the Offering is not fully subscribed during the Offering Period, then, at the end of the Offering Period, the General Partner will make Capital Contributions in the amount equal to the difference between $21,000 and the amount contributed by the General Partner during the Offering Period.

(c) Class A Limited Partner.

(i) *General*. As noted in Section 4.2(b) above, the Partnership intends for the General Partner and the Class A Limited Partner to collectively make Capital Contributions of twenty-five percent (25%) of the total Capital Contributions of the Partners to the Partnership (i.e., thirty-three and 1/3 percent (33.3%) of the total Capital Contributions of the Class B Limited Partners to the Partnership) as Capital Contributions are made by the Class B Limited Partners during the Offering Period. The Class A Limited Partner will contribute twenty-four and nine tenths percent (24.9%) of the total Capital Contributions of the Partners to the Partnership (i.e., 33.2% of the total Capital Contributions of the Class B Limited Partners to the Partnership) as Capital Contributions are made by the Class B Limited Partners during the Offering Period. The Class A Limited Partner will be obligated to make total Capital Contributions in the minimum amount of (and the maximum amount of) $5,229,000 during the Offering Period.

(ii) *Pursuit Costs*. Before the Effective Date, the General Partner, the Class A Limited Partner, and their Affiliates paid costs and expenses in connection with the organization, due diligence, site planning, entitlement, financing, and related pursuit work for the Partnership, Property, and Partnership Activities ("**Pursuit Costs**"). In connection with the execution of this Agreement, affiliates of the General Partner and Class A Limited Partner assigned to the Partnership all of their rights, titles, and interests in and to documents and agreements related to the Property and the Partnership Activities. The Partnership is assuming all of the General Partner's and the Class A Limited Partner's affiliates liabilities and obligations under such documents and agreements.

(iii) *Cash*. If the Offering is fully subscribed as of the Effective Date, the Class A Limited Partner will make an Initial Capital Contribution of approximately $2,294,000 (subject to the amount of Pursuit Costs and subscriptions for Interests as Class B Limited Partners as of the Effective Date). If the Offering is not fully subscribed as of the Effective Date, the Class A Limited Partner will make an Initial Capital Contribution in its percentage amount as described above as of the Effective Date and will contribute its applicable percentage amount as new Class B Limited Partners make Capital Contributions during the Offering Period. If the Offering is not fully subscribed during the Offering Period, then, at the end of the Offering Period, the Class A Limited Partner will make Capital Contributions in the amount equal to the difference between $5,229,000 and the amount contributed by the Class A Limited Partner during the Offering Period.

(iv) *Pursuit Costs Credit and True Up*. The Class A Limited Partner will receive a credit for the amount of the Pursuit Costs paid as part of the Class A Limited Partner's Initial Capital Contributions. The total Pursuit Costs paid through June 30, 2021 were approximately $1,986,000. On or around the Effective Date, the General Partner will estimate the total Pursuit Costs incurred through the Effective Date and include such amount on Exhibit A, which amount will be included in the Class A Limited Partner's Initial Capital Contributions; provided that, within a reasonable time after the

Effective Date, the General Partner will compute and determine the actual amount of the total Pursuit Costs and adjust the Class A Limited Partner's Initial Capital Contribution to equal the actual amount of total Pursuit Costs plus the cash contribution of the Class A Limited Partner. To the extent the total Pursuit Costs paid plus the cash contribution of the Class A Limited Partner is less than the amount of the Initial Capital Contribution listed on Exhibit A, the Class A Limited Partner will promptly contribute the difference. To the extent the total Pursuit Costs paid plus the cash contribution of the Class A Limited Partner is more than the amount of the Initial Capital Contribution listed on Exhibit A, the Class A Limited Partner will receive a credit to its Capital Commitment for the difference.

4.3 Additional Capital Contributions.

(a) General. Except as set forth in Section 4.3(b), no Partner will have any obligation to contribute additional capital to the Partnership.

(b) General Partner and Class A Limited Partner Capital Commitments. As described in Sections 4.2(b) and 4.2(c)(i) above, (i) the General Partner will have the obligation to contribute one tenth percent (0.1%) of the total Capital Contributions of the Partners to the Partnership (i.e., approximately 0.1333% of the total Capital Contributions of the Class B Limited Partners to the Partnership) as capital is contributed by the Class B Limited Partners during the Offering Period for a total minimum (and maximum) amount of $21,000 and (ii) the Class A Limited Partner will have the obligation to contribute twenty-four and nine tenths percent (24.9%) of the total Capital Contributions of the Partners to the Partnership (i.e., 33.2% of the total Capital Contributions of the Class B Limited Partners to the Partnership) as capital is contributed by the Class B Limited Partners during the Offering Period for a total minimum (and maximum) amount of $5,229,000 during the Offering Period (individually, a "**GP and Class A Limited Partner Capital Commitment**", and collectively the "**GP and Class A Limited Partner Capital Commitments**").

(c) Class A Limited Partner Secondary Capital Contributions.

(i) *Generally*. To the extent subscriptions for Interests in the Partnership as Class B Limited Partners are less than $15,750,000 pursuant to the offering described in the Memorandum, the Class A Limited Partner may (i) purchase Interests in the Partnership as a Class B Limited Partner and/or (ii) make additional Capital Contributions to the Partnership under this Section 4.3(c) (the "**Secondary Capital Contributions**") at any time before the end of the Offering Period (as defined in the Memorandum). Any purchase by the Class A Limited Partners of Interests in the Partnership as a Class B Limited Partner will be on the same terms and conditions as a Class B Limited Partner under this Agreement for such purchase. Any Secondary Capital Contributions by the Class A Limited Partner under this Section 4.3(c) will be on the terms and conditions set forth in this Section 4.3(c). If the Class A Limited Partner purchases Interests as a Class B Limited Partner and/or makes any Secondary Capital Contribution as of the Effective Date, then on or about the Effective Date, the General Partner will set forth on Exhibit A the amount of the purchase by the Class A Limited Partner of Interests as a Class B Limited Partner and the amount of any Secondary Capital Contribution. Additionally, the Class A Limited Partner may make additional Capital Contributions under Section 4.3(e) and elect, at any time before the end of the Offering Period, to treat such Capital Contributions as Secondary Capital Contributions under this Section 4.3(c).

(ii) *Distribution of Proceeds in Return of Secondary Capital Contribution and Deferred Return*. To the extent the Partnership receives subscriptions for Interests in the Partnership as Class B Limited Partners after the Effective Date but on or before the end of the Offering Period, then, notwithstanding any provision in Article Six to the contrary, the Partnership will distribute the proceeds from such subscriptions to the Class A Limited Partner in return of the Secondary Capital Contributions, but not more than the amount of the Secondary Capital Contributions. During the period from the Effective Date until the end of the Offering Period, the 8% Return (as defined below) will accrue on the Secondary Capital Contributions from the date of contribution until the date the Class A Limited Partner receives distributions for the full amount of the Secondary Capital Contributions (based on the daily outstanding balance and calculated in the same manner as the 8% Return for all Partners) or a book up of the Class A Limited Partner's Capital Account as contemplated under Section 4.10(e). However, distributions of the 8% Return on the Secondary Capital Contributions (the "**Deferred Return**") will be deferred until distributions of the 8% Return are made to all Partners under Section 6.3(b) or the Partner's Capital Account are booked-up as contemplated under Section 4.10(e). At the time distributions are made to the Partners under Section 6.3(b), the Partnership will distribute the Deferred Return to the Class A Limited Partner in proportion to the relative Unreturned 8% Return as provided in Sections 6.3(b). During the period and to the extent Secondary Capital Contributions are unreturned under this Section 4.3(c)(ii), the Capital Interests and Voting Interests of the Class A Limited Partner will reflect the Secondary Capital Contributions as Capital Contributions of the Class A Limited Partner. To the extent any Secondary Capital Contributions are returned under this Section 4.3(c)(ii), (i) the Capital Interests and Voting Interests of the Class A Limited Partner will be reduced and (ii) the amount calculated for the total Capital Contributions of the Class A Limited Partner will not include Secondary Capital Contributions returned under this Section 4.3(c)(ii) (i.e., no double counting for the Class A Limited Partner and Class B Limited Partners for which subscription proceeds are used to return any Secondary Capital Contributions under this Section 4.3(c)(ii)).

(iii) *Secondary Capital Contributions Unreturned by end of Offering Period Treated Economically the Same as Class B.* To the extent the Partnership does not receive subscriptions for Interests in the Partnership as Class B Limited Partners after the Effective Date but on or before the end of the Offering Period to fully return the Secondary Capital Contributions, the Secondary Capital Contributions will thereafter be treated economically on par, in all respects, with the Interests of the Class B Limited Partners (including, without limitation, accrual and distribution of the 8% Return from the initial date of contribution, the calculation of Capital Interests, Voting Interests, distributions under Section 6.3(d)(i), and any book up of Capital Accounts under Section 4.10(e)).

(d) Additional Class B Limited Partners after the Effective Date. The Partnership may continue to admit Class B Limited Partners on the same terms and conditions in this Agreement until the end of the Offering Period. For clarity, accrual of the 8% Return for such Class B Limited Partners will begin on the date such Class B Limited Partners make their respective Capital Contributions to the Partnership. Upon such admission, the General Partner will deliver to the Partners an amendment to this Agreement signed by the General Partner reflecting the applicable adjustments to Exhibit A.

(e) Requests for Additional Capital Contributions. If the amounts of Capital Contributions, loan proceeds, and net cash flow from operations received by the Partnership, less any distributions to the Partners, are not adequate to meet the Partnership's current or future

anticipated costs, expenses, or obligations for the improvement, management, operation, protection, maintenance, or utilization of the Property or the Partnership Activities (a "**Funding Deficit**") as determined by the General Partner, then upon written notice from the General Partner to the Partners that additional funds are necessary to pay for such Funding Deficit, the Partners will have the option, but not the obligation, to make additional Capital Contributions to the Partnership in such amount(s) as specified by the General Partner for the Funding Deficit and in such proportions as the Partners' respective Capital Interests bear to each other. All such additional Capital Contributions must be made within fifteen (15) days after the General Partner has sent written notice thereof to the Partners. Additional Capital Contributions under this Section 4.3(e) are optional, therefore, the Partners will not have any liability for such additional Capital Contributions; provided that the failure of a Partner to contribute additional Capital Contributions to the Partnership may result in the dilution of such Partner's Interest as provided in this Agreement. The right and power of the General Partner to make calls for additional Capital Contributions under this Agreement is personal to the General Partner existing on the Effective Date and such right and power is not delegable or assignable to, nor exercisable by, any other party, without the express written consent of the Partners. Any attempt or effort to assign or delegate this right or power is void.

(f) Guaranty Contributions. If any of the General Partner, Class A Limited Partner, or their Affiliates makes a payment directly to a creditor in satisfaction of any indebtedness of the Partnership pursuant to any indemnity, guaranty, or contribution obligation (a "**Guaranty Payment**") of such General Partner, Class A Limited Partner, or Affiliate (a "**Credit Guarantor**"), and the Guaranty Payment is not required as a result of the Credit Guarantor's actual and intentional fraud, willful misconduct, or gross negligence, the Class A Limited Partner will be deemed to have made an additional Capital Contribution equal to the Guaranty Payment amount and will be entitled to a priority distribution of such amount under Section 6.3(a) plus distributions of the 8% Return on such amount under Section 6.3(b). In connection with any Guaranty Payment by a Credit Guarantor, the General Partner will request additional Capital Contributions from the Partners pursuant to Section 4.3(e) so all Partners will have the opportunity to contribute additional Capital Contributions to the Partnership to avoid dilution as provided in this Agreement. Any such additional Capital Contributions received from Partners pursuant to such request will be paid to the Class A Limited Partner to reimburse (or partially reimburse to the extent of such additional Capital Contributions) the Guaranty Payment.

4.4 Returns on Capital Contributions.

(a) 8% Return. All Capital Contributions of the Partners will accrue a cumulative return calculated in the manner of simple interest at the rate of eight percent (8.0%) per annum (based on a 365-day year), beginning on the date of the applicable Partner's Capital Contribution to the Partnership and calculated based on the initial daily balance of the Unreturned Capital Contributions, and not compounded (the "**8% Return**"); provided, however, the Class A Limited Partner's Pursuit Costs will not accrue the 8% Return for periods before the Effective Date. The 8% Return will only apply during the Land Partnership Phase. If the Partnership starts the Development Partnership Phase, then the 8% Return will be included in the calculations to determine the relative book up of the Partner's Capital Accounts as contemplated under Section 4.10(e), but will not otherwise accrue or be paid after the start of the Development Partnership Phase.

(b) Payment of 8% Return. The 8% Return will be payable out of the Net Cash Flow, if any, of the Partnership when distributed in accordance with Section 6.3. The 8% Return will not be deemed guaranteed payments under Code §707(c).

(c) Definitions. For purposes of this Agreement, the following terms and phrases have the meanings set forth below:

"**Unreturned Additional Capital Contributions**" means each Partner's respective Additional Capital Contributions under Section 4.3(e) less amounts distributed to such Partner under Section 6.3(a).

"**Unreturned Capital Contributions**" means each Partner's respective Capital Contributions less amounts distributed to such Partner under Section 6.3(c).

"**Unreturned 8% Return**" means each Partner's respective 8% Return less amounts distributed to such Partner under Section 6.3(b).

4.5 Loans to the Partnership.

(a) Operating Loans. In addition to the right of the General Partner to request additional Capital Contributions under Section 4.3(e), if the amounts of Capital Contributions, loan proceeds, and net cash flow from operations received by the Partnership, less any distributions to the Partners, are not adequate to meet a Funding Deficit as determined by the General Partner, then upon written notice from the General Partner to the Partners that additional funds are necessary to pay for such Funding Deficit, the Partners will have the option, but not the obligation, to loan funds ("**Operating Loan(s)**") to the Partnership as set forth in this Section 4.5. Unless otherwise agreed by the Partners, Operating Loans will bear simple interest at a floating rate per annum equal to the thirty (30)-day London Interbank Offered Rate ("**LIBOR**") calculated by the Intercontinental Exchange Benchmark Administration Limited (or its successor) applicable to such date plus five percent (5%) (the "**General Interest Rate**"). If the General Partner reasonably determines that LIBOR is not available or not appropriate, then the General Partner will reasonably determine an alternative benchmark rate in lieu of LIBOR that would generally achieve a similar yield as LIBOR. Operating Loans will be repaid in full (both principal and interest) before any cash is distributed to the Partners in their capacity as such pursuant to Section 6.3. Operating Loans will be expressly subordinate to any third-party lender to the Partnership and will be treated as equity in the Partnership to the extent required by any third-party lender to the Partnership. Partners making Operating Loans to the Partnership will execute and deliver any documents and agreements evidencing such subordination to the extent required by any third-party lender to the Partnership.

(b) Participation in Operating Loans. Upon written notice from the General Partner to the Partners of an Funding Deficit or anticipated Funding Deficit and request for an Operating Loan(s) ("**Operating Loan Offer Notice**"), if any Partner desires to make an Operating Loan, then such Partner must deliver written notice to the General Partner within five (5) days after the Operating Loan Offer Notice ("**Loan Offering Period**") requesting participation in the Operating Loans and the amount such Partner desires to loan. Unless otherwise agreed by the Partners providing Operating Loans, the relative percentages of the amount of Operating Loans to be funded by the Partners will be based on the relative Capital Interests of the Partners participating in such Operating Loans. After the Loan Offering Period, the General Partner will deliver written notice to the Partners who requested participation in the Operating Loans stating the amounts that each of such participating Partners will be providing as Operating Loans ("**Operating Loan Funding Notice**"). Within five (5) days after the Operating Loan Funding Notice, the Partners participating in the Operating Loans will deliver funds to the Partnership for the Operating Loans as set forth in the Operating Loan Funding Notice.

4.6 **Restrictions on Loans**. Except as otherwise specifically provided by this Agreement, no Partner may make any loan to the Partnership without the approval of the General Partner.

4.7 **Liability of Limited Partners**. The respective liabilities of the Limited Partners for obligations and liabilities of the Partnership will be as provided in this Agreement or as required by the TBOC. The liability of the Limited Partners for obligations and liabilities of the Partnership will be limited in all respects to the amount of actual Capital Contributions that the Limited Partners make or have made to the Partnership, except as may otherwise be required by the TBOC. Except as otherwise provided in this Agreement or required by the TBOC, the Limited Partners cannot be required to make any additional Capital Contribution to the Partnership.

4.8 **Failure to Make Additional Capital Contributions – Dilution**. If any Partner does not contribute such Partner's entire proportionate share of any additional Capital Contribution within the applicable time and in the manner specified in Section 4.3(e) (a "**Non-Contributing Partner**"), the General Partner will send a notice of such non-contribution to each Non-Contributing Partner and to each Partner contributing their respective requested additional Capital Contributions to the Partnership (the "**Contributing Partners**"), advising that the Non-Contributing Partners have not made the requested additional Capital Contributions and the amount of the shortfall. Upon contribution of additional Capital Contributions by the Contributing Partners, each Partner's respective Capital Interest, Voting Interest, and Distribution Interest will be adjusted to reflect the relative total Capital Contributions of all of the Partners. Additionally, the Contributing Partners (or such of them as elect to do so) will have the right (but not the obligation) to contribute the Non-Contributing Partner's requested additional Capital Contribution. The Contributing Partners who elect to elect to contribute will have the right to contribute in such proportions as they agree upon among themselves, or in the absence of such agreements, then in proportion to their respective Capital Interests. Upon such additional Capital Contributions, each Partner's respective Capital Interest, Voting Interest, and Distribution Interest will be adjusted to reflect the relative total Capital Contributions of all of the Partners. The provisions of this Section 4.8 are self-operative, and concurrently with the advance of a Capital Contribution on behalf of a Non-Contributing Partner.

4.9 **Admission of Additional Limited Partners – Land Partnership Phase**.

(a) If, after requests for additional Capital Contributions under Section 4.3(e) and Operating Loans under Section 4.5, the amounts of Capital Contributions, loan proceeds, and net cash flow from operations received by the Partnership, less any distributions to the Partners, are not adequate or will not be adequate to meet a Funding Deficit as determined by the General Partner, then additional Interests may be issued to existing or new Limited Partners (including options, warrants, convertible debt instruments, and other rights to acquire such Interests) by the Partnership and additional persons and entities may be admitted to the Partnership as additional Limited Partners on such terms and conditions as the General Partner determines; provided that the Partnership must first comply with the requirements of this Section 4.9 and Section 4.11 below.

(b) The General Partner is authorized to and will reflect the issuance of any such additional Interests in an amendment to this Agreement setting forth any changes to this Agreement (including changes in classes of Capital Interests, Distributions Interests, and Voting Interests reflected on Exhibit A and changes in the priority of payments and distributions under Sections 6.2, 6.3 or 6.4 or any similar or successor provision) necessary or appropriate to reflect the issuance of such additional Interests or the creation of additional classes of such Interests.

(c) The Limited Partners acknowledge and agree that the General Partner may create new classes of Interests that rank senior, equal, or junior to the Limited Partner's Interests and that may participate in the Capital Interests, Distributions Interests, and Voting Interests under Sections 6.2, 6.3, or 6.4 or any similar or successor provision, thereby lowering the Interests to which the Partners are entitled under this Agreement; provided that the Partnership first complies with the requirements of Section 4.11 below.

4.10 Admission of Additional Limited Partners – Development Partnership Phase.

(a) New Interests. As noted in Section 2.2, in connection with the Development Partnership Phase, the Partnership will need to obtain additional equity capital. In connection with the Development Partnership Phase, additional Interests may be issued to existing or new Limited Partners (including options, warrants, convertible debt instruments, and other rights to acquire such Interests) by the Partnership (e.g., Class C Units) and additional persons and entities may be admitted to the Partnership as additional Limited Partners (e.g., Class C Limited Partners) on such terms and conditions as the General Partner determines; provided that the Partnership must first comply with the requirements of this Section 4.10 and Section 4.11 below.

(b) Amendment/Restatement – Changes in Rights and Priorities. The General Partner is authorized to and will reflect the issuance of any such additional Interests in an amendment to this Agreement (or an amendment and restated of this Agreement) setting forth any changes to this Agreement (including changes in classes of Capital Interests, Distributions Interests, and Voting Interests reflected on Exhibit A and changes in the priority of payments and distributions under Sections 6.2, 6.3 or 6.4 or any similar or successor provision) necessary or appropriate to reflect the issuance of such additional Interests or the creation of additional classes of such Interests.

(c) Senior, Equal, or Junior Rights. The Limited Partners acknowledge and agree that the General Partner may create new classes of Interests that rank senior, equal, or junior to the Limited Partner's Interests and that may participate in the Capital Interests, Distributions Interests, and Voting Interests under Sections 6.2, 6.3, or 6.4 or any similar or successor provision, thereby lowering the Interests to which the Partners are entitled under this Agreement; provided that the Partnership first complies with the requirements of this Section 4.10 and Section 4.11 below.

(d) Same Relative Distribution Rights Among Partners in Land Partnership Phase, Except Promote. Notwithstanding the foregoing, the General Partner agrees that the relative distribution rights among the General Partner, Class A Limited Partner, and Class B Limited Partners as provided in this Agreement will be maintained in connection with any new offering of Interests as provided in this Section 4.10 unless approved by the Partners (other than a promoted/carried interest for the General Partner or Class A Limited Partner anticipated to be included in the revised distribution waterfall structure determined in connection with the Development Partnership Phase, of which the Class B Limited Partners would receive 20%). To the extent the General Partner or Class A Limited Partner (or the General Partner or Class A Limited Partner and Class B Limited Partners) are entitled to receive distributions under Sections 6.3 and 6.4 (or similar successor provisions) from the Partnership during the Development Partnership Phase for a promoted/carried interest (i.e., distributions in excess of a pro rata return of or on capital contributions), then such distributions for a promoted/carried interest will be split 80% to the Class A Limited Partner and 20% to the Class B Limited Partners (pro rata based on the relative total Capital Contributions of the Class B Limited Partners and accrued 8% Return as of the date of the initial issuance of new Interests under this Section 4.10). The 20% share of the promoted/

carried interest described above is based on Capital Contributions by Class B Limited Partners totaling $15,750,000, and to the extent Class B Limited Partners contribute less than $15,570,000 of Capital Contributions, the 20% share of the promoted/carried interest would be proportionately reduced.

(e) Book Up of Capital Accounts of Partners in Land Partnership Phase. The General Partner intends to book up the Capital Accounts of all Partners participating during the Land Partnership Phase to the current net value of the Property in connection with the start of the Development Partnership Phase (as agreed by the General Partner and the Partners purchasing the new Interests at that time), so the Partners during the Land Partnership Phase get credit for the increased net value of the Property between their initial Capital Contributions and the start of the Development Partnership Phase. The General Partner does not guarantee any amount of book up of the Capital Accounts. Subject to any adjustments required under the Code, any book up would be pro rata based on the Partners' relative total Capital Contributions and accrued 8% Return as of the date of the initial issuance of new Interests under this Section 4.10. If the total book up is less than the total Capital Contributions and accrued 8% Return of all of the Partners in the Land Partnership Phase, then 50% of the Voting Interests of the Class B Limited Partners must approve the book up amount. In connection with the start of the Development Partnership Phase, the book up of the Capital Accounts of the Partners (and book value of the Partnership's assets) shall be restated or revalued in accordance with the principles of Treasury Regulations Section 1.704-1(b)(2)(iv)(f), and the rules set forth under Code Section 704(c) and Treasury Regulations Section 1.704-1(b)(2)(iv)(f) shall be taken into account with respect to such adjustments. For clarity, the 8% Return would be used to calculate the book up described above, but would not continue to accrue after such book up.

4.11 Right of First Offer.

(a) Offer. If the Partnership proposes to offer any additional Interests, or securities convertible into or exchangeable or exercisable for Interests in the Partnership ("**Additional Offered Interests**"), the General Partner will first offer the Additional Offered Interests to the Limited Partners by delivering written notice ("**Offering Notice**") to the Limited Partners stating (i) its bona fide intention to offer such Additional Offered Interests; (ii) the amount of Additional Offered Interests to be offered; and (iii) the price and terms upon which it proposes to offer the Additional Offered Interests.

(b) Election. Each Limited Partner may elect to purchase or obtain, at the price and on the terms specified in the Offering Notice, up to the portion of Additional Offered Interests that equals their Capital Interest, by delivering written notice of such election (the "**Election Notice**") to the General Partner within fifteen (15) days after receipt of the Offering Notice. If any Limited Partner does not fully subscribe for the amount of Additional Offered Interests such Limited Partner is entitled to purchase, then each other participating Limited Partner will have the right to purchase the percentage of the Additional Offered Interests not so subscribed for determined by dividing (x) the Capital Interest held by such fully participating Limited Partner by (y) the aggregate Capital Interests then held by all fully participating Limited Partners who elected to purchase Additional Offered Interests. The procedure described in the preceding sentence will be repeated until there are no remaining Additional Offered Interests that the Limited Partners have elected to purchase. Any Limited Partner electing to purchase Additional Offered Interests must purchase such Additional Offered Interests on the terms and conditions of the Additional Offered Interests within the timeframe as specified by the General Partner in the Offering Notice. If any Limited Partner fails to timely deliver the Election Notice to the General

Partner, the right of such Limited Partner to purchase such Additional Offered Interests will automatically lapse and be deemed waived.

(c) Sale to Other Parties. Following application of Section 4.11(b), the General Partner may offer the remaining unsubscribed portion of such Additional Offered Interests to any persons or entities at a price not less than, and upon terms not materially more favorable to the offeree than, those specified in the Offering Notice. If the General Partner does not consummate the sale of the Additional Offered Interests within one hundred eighty (180) days after completion of the offering process described above in Sections 4.11(a) and (b), the rights provided hereunder will be deemed to be revived and such Additional Offered Interests will not be offered unless first reoffered to the Limited Partners in accordance with Section 4.11(b).

(d) Not Applicable to Capital Contributions. Notwithstanding anything to the contrary in this Agreement, this Section 4.11 will not apply to calling for, making, or accepting additional Capital Contributions by Partners under this Agreement.

ARTICLE 5

CAPITAL ACCOUNTS AND ALLOCATIONS

5.1 Capital Account Computations and Adjustments. Each Partner's Capital Account, Adjusted Capital Account, and Adjusted Capital Account Deficit will be defined and determined consistent with the Internal Revenue Code of 1986, as amended (the "**Code**") and the Treasury Regulation(s) ("**Treasury Regulations**") promulgated thereunder and as further specified in Appendix A attached hereto and incorporated herein. The General Partner may treat a Partner that owns more than one Interest in the Partnership as having a single Capital Account reflecting all such Interests, regardless of class of such interest and regardless of the time or manner acquired.

5.2 Computations of Income and Losses. Income, gains, losses, deductions, and credits as set forth on the books of account of the Partnership will be computed in the same manner as income, gains, losses, deductions, and credits are computed for federal income tax purposes, except that items of tax-exempt income and non-deductible expense will be taken into account.

5.3 Allocations Generally. The items of income, gain, loss, deduction, and credit of the Partnership comprising profit or loss for a fiscal year of the Partnership shall be allocated among the Partners in a manner that will, as nearly as possible, cause the Capital Account balance of each Partner at the end of such fiscal year to equal the excess (which may be negative) of:

(a) the hypothetical distribution (if any) that such Partner would receive if, on the last day of the fiscal year, (i) all Partnership assets, including cash, were sold for cash equal to their book basis for federal income tax purposes, taking into account any adjustments thereto for such fiscal year; (ii) all Partnership liabilities were satisfied in cash according to their terms (limited, with respect to each non-recourse liability to the book basis of the assets securing such liability); and (iii) the net proceeds thereto (after satisfaction of such liabilities) were distributed in full pursuant to Section 6.4; over

(b) the sum of (i) such Partner's share of "partnership minimum gain" as such term is defined in Treasury Regulations Section 1.704-2(b) and determined pursuant to Treasury Regulations Sections 1.704-2(d) and (g), and (ii) such Partner's share of Partner "non-recourse debt minimum gain" as such term is defined in Treasury Regulations Section 1.704-2(i)(2) and

determined pursuant to Treasury Regulations Section 1.704-2(i)(5), all computed immediately prior to the hypothetical sale described above.

5.4 Profit and Loss Allocations.

(a) In the event that the Partnership has profit for a fiscal year,

(i) for any Partner as to whom the allocation pursuant to Section 5.3 is negative, such allocation shall be comprised of a proportionate share of each of the Partnership's items of expense or loss entering into the computation of profit for such fiscal year; and

(ii) the allocation pursuant to Section 5.3 in respect of each Partner shall be comprised of a proportionate share of each Partner item of income, gain, expense and loss entering into the computation of profit for such fiscal year (other than the portion of each Partnership item of expense or loss, if any, that is allocated pursuant to Section 5.4(a)(i).

(b) In the event that the Partnership has loss for a fiscal year,

(i) for any Partner as to whom the allocation pursuant to Section 5.3 is positive, such allocation shall be comprised of a proportionate share of the Partnership's items of income and gain entering into the computation of loss for such fiscal year; and

(ii) the allocation pursuant to Section 5.3 in respect of each Partner (other than a Partnership referred to in Section 5.4(b)(i)) shall be comprised of a proportionate share of each Partnership item of income, gain, loss and expense entering into the computation of loss for such fiscal year (other than the portion of each Partnership item of income and gain, if any, that is allocated pursuant to Section 5.4(b)(i)).

5.5 Regulatory Allocations. The allocations set forth in this Article Five and Appendix A (the "**Regulatory Allocations**") are intended to comply with certain requirements of the Code and Treasury Regulations. The Partners intend that, to the extent possible, (i) all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Partnership income, gain, profit, loss, deduction, or credit pursuant to this Section 5.5 and (ii) all allocations made will comply with the provisions of the Code and Treasury Regulations. Therefore, notwithstanding any other provision of this Agreement (other than the Regulatory Allocations), the General Partner shall make such offsetting allocations of Partnership income, gain, profit, loss, deduction, or credit in whatever manner the General Partner determines appropriate so that, after such offsetting allocations are made, each Partner's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Partner would have had if the Regulatory Allocations were not part of this Agreement and all allocations made have the effect of complying with the Code and the Treasury Regulations.

5.6 Other Allocation Rules.

(a) The Partners intend that the allocations provided in this Article Five will result in the Partner's respective Capital Account balances being equal to the aggregate distributions required pursuant to Article Six and Article Fourteen. However, if after giving effect to the allocations required under this Article Five, the Capital Account balances of the Partners are not (or the General Partner reasonably determines that they may not be) equal to the distributions required under Article Six and Article Fourteen and notwithstanding anything herein to the contrary: (i) all distributions required under Article Six and Article Fourteen shall be made to the

Partners pursuant to Article Six and Article Fourteen and (ii) the allocation provisions of this Article Five shall be amended by the General Partner if and to the extent necessary to produce positive Capital Account balances equal to the distributions required or reasonably anticipated by the General Partner pursuant to Article Six and Article Fourteen.

(b) For purposes of determining the profits, losses, or any other items allocable to any period, profits, losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the General Partner using any permissible method under Code §706 and the Treasury Regulations thereunder.

(c) The Partners are aware of the income tax consequences of the allocations made by this Article Five and hereby agree to be bound by the provisions of this Article Five in reporting their shares of Partnership income and loss for income tax purposes.

(d) For purposes of determining a Partner's proportionate share of "excess non-recourse liabilities" of the Partnership within the meaning of Treasury Regulations §1.752-3(a)(3), the Partners' interests in Partnership profits shall be deemed to be in proportion to their Capital Interests.

(e) To the extent permitted by Treasury Regulations §§1.704(2)(h)(3) and 1.704-2(h)(3), the General Partner shall endeavor to treat distributions as having been made from the proceeds of a non-recourse liability only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Partner.

5.7 Reliance on Advice of Accountants and Attorneys. The General Partner will have no liability to the Limited Partners or the Partnership to the extent the General Partner relies upon the written advice of tax counsel or accountants retained by the Partnership with respect to all matters (including disputes) relating to computations and determinations required to be made under this Article Five or other provisions of this Agreement.

ARTICLE 6

DISTRIBUTIONS

6.1 Net Cash Flow Defined. "**Net Cash Flow**" means, with respect to any fiscal year, the sum of: (i) all cash received by the Partnership from any source except Capital Contributions, mortgage proceeds, or other proceeds of any Partnership obligations to the extent used to finance capital expenditures or improvements or to fund operating deficits, and (ii) any other funds deemed available for distribution by the General Partner, including any amounts previously set aside as reserves from Net Cash Flow; less (i) cash disbursements for any and all items that are customarily considered to be "operating expenses," including, without limitation, taxes, legal and accounting fees, utility charges, repairs and maintenance, management expenses, consulting fees, and interest payments on obligations of the Partnership; (ii) consulting fees and expense reimbursements payable by the Partnership; (iii) other commissions and fees, if any, payable by the Partnership; (iv) payments by the Partnership on the principal of any mortgages or notes or on other matured obligations of the Partnership; (v) payments for capital outlays; (vi) security deposits until the same are forfeited by the person making such deposit; (vii) payments of the Guaranty Fee (as defined below); and (viii) such reserves for improvements, replacements, repairs, working capital requirements, debt service, and anticipated expenses, as the General Partner deems necessary or desirable for the conduct of the Partnership Activities, or as required by any loan agreements or similar arrangement that the Partnership is subject.

6.2 Priority Payments. Before any distributions are made under Section 6.3, the Partnership, at such times as the General Partner reasonably determines, will pay available Net Cash Flow in the following order and priority:

(a) Development Management Fee. During the Development Partnership Phase, to the extent not already fully paid, to the General Partner (or other Affiliate of the General Partner) for the Development Management Fee (as defined below) in accordance with the Development Management Agreement (as defined below) until the Development Management Fee is fully paid. The Partners acknowledge and agree that the Development Management Fee will be paid as an expense of the Partnership, and, unless otherwise agreed to be deferred by the General Partner, will be paid before Net Cash Flow is available; then

(b) Asset Management Fee. During the Development Partnership Phase, to the General Partner (or other Affiliate of the General Partner) for the Asset Management Fee (as defined below) in accordance with the Asset Management Agreement (as defined below) until the Asset Management Fee accrued through the applicable date of payment under this Section 6.2(b) is fully paid; then

(c) Loans. To the Partners in repayment of all outstanding Operating Loans, and unpaid interest accrued thereon, made by the Partners to the Partnership, if any, pursuant to Section 4.5, with such payments made, *pro rata*, based on the amounts due to the respective Partners on such outstanding Operating Loans.

6.3 Distributions - Net Cash Flow. Subject to the payments set forth in Section 6.2, the Partnership, at such times as the General Partner reasonably determines, will distribute and apply available Net Cash Flow in the following order and priority:

(a) Return of Additional Capital. To all of the Partners, in proportion to each Partner's relative Unreturned Additional Capital Contributions, until each Partner's amount of Unreturned Additional Capital Contributions are reduced to zero (but not below zero); then

(b) 8% Return. To all of the Partners, in proportion to each Partner's relative Unreturned 8% Return, until each Partner has achieved the 8% Return (but not more than the 8% Return); then

(c) Return of Capital. To all of the Partners, in proportion to each Partner's relative Unreturned Capital Contributions, until each Partner's amount of Unreturned Capital Contributions are reduced to zero (but not below zero); then

(d) Residual. To all of the Partners, in proportion to each Partner's relative total Capital Contributions.

Attached as Exhibit C is an example of the calculation for the 8% Return and the distributions under this Section 6.3.

6.4 Distributions - Sale Proceeds/Liquidation. The net cash proceeds of the Partnership from the sale of all or substantially all of the Property upon the liquidation and winding up of the Partnership pursuant to Section 14.3 below ("**Sale Proceeds**"), after adjusting Capital Accounts of the Partners for all prior distributions made under Section 6.3 above and all allocations under Article Five and Appendix A, will be paid, distributed, and applied in the following order of priority:

(a) To the payment of all debts and liabilities of the Partnership, including payments under Section 6.2(a) and 6.2(b), but excluding: (i) Operating Loans or advances made by any Partner to the Partnership, and (ii) any other accrued but unpaid fees to any Partner; then,

(b) To any reserve fund the General Partner reasonably determines is necessary or convenient for any known, contingent, or unforeseen liabilities or obligations of the Partnership; then,

(c) To the payment of (i) any Operating Loans or advances made by any Partner to the Partnership, and (ii) any other accrued but unpaid fees to any Partner; then,

(d) To the Partners, in accordance with Section 6.3.

6.5 Tax Distributions. To the extent that for any fiscal year the amount of net income and gains of the Partnership allocated to the Partners exceeds the amount of losses, deductions, and credits of the Partnership for prior fiscal years reduced by the amount of net income and gains of the Partnership for prior fiscal years allocated to the Partners, upon determination by the General Partner, the Partnership may, but will not be obligated to, distribute to the Partners an amount of Net Cash Flow, if any, equal to: (a) the amount reasonably calculated by the General Partner based upon an assumed uniform tax rate for all Partners estimated to equal the amount of the Partners' tax liability on the excess allocated to the Partners, less (b) the aggregate amount of prior distributions by the Partnership to the Partners that were not required by this provision; except that no such distributions will be made to the extent that (x) the Partnership is restricted from payment of distributions under the terms of any note or agreement relating to borrowings by the Partnership, or (y) the General Partner reasonably determines that the cash is necessary or desirable for the current or future operation of the Partnership Activities. Distributions, if any, under this Section 6.5 will be made in the same order and priority as, and treated and applied as, distributions under Section 6.3. If the Partnership makes such distributions permitted under this Section 6.5, the Partnership will use commercially reasonable efforts to make such distributions for any year by April 1 of the following year, but the Partnership may, to the extent the General Partner determines to be practical, make such distributions quarterly based on projections of income. Any distributions made to a Partner under this Section 6.5 will be offset against and reduce subsequent distributions due to that Partner under this Article Six (except as to subsequent distributions required under this Section 6.5).

6.6 Withholding. Notwithstanding any provision of this Agreement to the contrary, the Partnership may withhold and remit to the applicable taxing authority all amounts required by any local, state, federal or foreign law to be withheld and remitted by the Partnership with respect to a Partner on account of dispositions of Partnership property, distributions to a Partner, or allocations to a Partner of Partnership taxable income, gain, loss, deduction, or credit. Each Partner will timely provide to the General Partner all information, forms, and certifications necessary or appropriate to enable the General Partner and the Partnership to comply with any such withholding obligation and represents and warrants that the information, forms, and certifications furnished by it will be true and accurate in all material respects. Each Partner will, upon demand, indemnify the Partnership for any amounts so withheld and remitted by the Partnership in respect of the Partner from sources other than current distributions to the Partner, together with any related costs, expenses, interest, penalties, and additions to tax incurred by the Partnership.

6.7 Distributions With Respect to Transferred Interests. Distributions will be made to the Partners of record on the record date for the distribution without regard to the length of time the record holder has been such; provided that any distribution due to a Partner in default in payment of such Partner's Capital Contribution, or any other sum owed from the Partner to the Partnership, will be retained by the Partnership and offset against the amount due from such Partner.

6.8 **Distributions in Kind**. If any assets of the Partnership are distributed in kind, such assets will be distributed to the Partners entitled to distributions as tenants-in-common in the same proportions as such Partners would have been entitled to cash distributions.

6.9 **No Demand**. No Partner may demand and receive property other than cash in return for such Partner's Capital Contributions to the Partnership, and no Partner will be entitled to any distributions from the Partnership (whether in return of such Partner's Capital Contributions or otherwise) except as provided in this Agreement.

6.10 **Change in Distribution Waterfall Structure for Development Partnership Phase**. As noted in Section 4.10, the Partnership expects that additional equity capital raised by the Partnership for the Development Partnership Phase to be from the sale of additional limited partnership interests in the Partnership in the form of "Class C Units" to "Class C Limited Partners" with terms and conditions to be determined at that time of sale of the Class C Units, including, without limitation, changes to the return percentages and hurdles and distribution priorities and splits as provided in Sections 6.3 and 6.4. The terms and conditions of any offering of such equity and amendments (or restatements) to this Agreement in connection with such equity will be determined by the General Partner in its sole discretion as may be agreed with purchasers of Class C Units. Class B Limited Partners will have the opportunity, but not the obligation, to purchase Class C Units on the same terms as other purchasers of Class C Units, as more particularly described in Section 4.11.

ARTICLE 7

CONTROL AND MANAGEMENT

7.1 **General Partner's Responsibilities**. Subject to Section 7.4, the General Partner will have (i) the full, exclusive, and complete control in the planning and management of the Partnership's day-to-day operations and (ii) the authority to take any action it deems necessary, convenient, or advisable in connection with the planning and management of the Partnership. In dealing with the General Partner acting on behalf of the Partnership, no person will be required to inquire into the authority of the General Partner or officers of the General Partner to bind the Partnership. Persons dealing with the Partnership are entitled to rely conclusively on the power and authority of the General Partner as set forth in this Agreement. The General Partner will manage and control the affairs of the Partnership, and will conduct the operations contemplated under this Agreement in a reasonably prudent manner and in accordance with industry practice.

7.2 **Powers**. Subject to Section 7.4 and any other limitations expressly set forth in this Agreement, the General Partner will have the authority to perform or cause to be performed, at the expense of the Partnership, the coordination of all management and operational functions relating to the purposes of the Partnership as set forth in Article Two. Without limiting the generality of the foregoing but subject to any limitations expressly set forth in this Agreement, the General Partner is authorized on behalf of the Partnership, without the joinder, consent, approval, or agreement of any other Partner, to:

(a) Operate, maintain, and manage the Partnership Activities and the Property in the interests of the Partnership, and to that end to negotiate, enter into and supervise any and all contracts and agreements, upon such terms as the General Partner reasonably determines, with respect to the operation, maintenance, and management of the Partnership Activities and to perform the obligations, and exercise the rights and privileges, of the Partnership under such contracts and agreements;

(b) Spend the capital, loan proceeds, if any, and net income of the Partnership for the Partnership Activities and for the ownership, management, development, improvement, maintenance, and sale of the Property, and in the exercise of any other rights or powers possessed by the General Partner under this Agreement;

(c) Coordinate all accounting and clerical functions of the Partnership and employ or engage, compensate, and supervise contractors, consultants, accountants, attorneys, managers, agents, and other management or service personnel (including any General Partner Affiliate subject however to Section 7.10 below) as may from time to time be required to carry on the Partnership Activities;

(d) Borrow funds upon such terms and conditions as the General Partner approves, in its sole discretion, for: (i) the financing and refinancing of the Property; (ii) discharging the Partnership's obligations; (iii) protecting and preserving the assets of the Partnership; (iv) refinancing any loans or other indebtedness of the Partnership; or (v) operating the Partnership in the ordinary course of business and grant liens and security interests in and collaterally assign Property of the Partnership to secure such indebtedness;

(e) Purchase, lease, rent or otherwise acquire or obtain the use of office equipment, materials, supplies, and other kinds and types of real or personal property, and to incur expenses for travel, phone, and such other things, services, and facilities as may be deemed necessary, convenient, or advisable for carrying on the Partnership Activities;

(f) Lease, sell, transfer, assign, dispose of, trade, exchange, quitclaim, surrender, release, or abandon Property, or any interest therein, to any person, and, in connection therewith, to receive such consideration as it deems fair and in the best interests of the Partnership;

(g) Sue and be sued, complain, and defend in the name and on behalf of the Partnership;

(h) Do all acts, take part in any proceedings, and exercise all rights and privileges as could an absolute owner of Property, subject to the limitations expressly stated in this Agreement and the performance of the General Partner's obligations to the Partnership and the Partners;

(i) Take such other action and perform such other acts as the General Partner deems necessary, convenient, or advisable in carrying out the Partnership Activities, including the change or reorganization of the Partnership into any other legal form;

(j) Procure and maintain with responsible companies such insurance as may be available in such amounts and covering such risks as the General Partner determines to be appropriate;

(k) Take and hold all Property, real, personal, and mixed, tangible and intangible, in the name of the Partnership;

(l) Pay and distribute Net Cash Flow as provided in this Agreement;

(m) Execute any contracts, management agreements, and other documents as may be required in connection with the purposes of the Partnership;

(n) Employ, engage, compensate, supervise, or terminate such employees and contractors as may be required, from time to time, to carry on the Partnership Activities;

(o) Pay any and all fees and expenses incurred by the General Partner or its Affiliates in the organization and maintenance of the Partnership or in accomplishing the purposes and business of the Partnership;

(p) If any Affiliate that beneficially owns and controls the General Partner and the Class A Limited Partner is classified or intends to be classified as a real estate investment trust ("**REIT**") under the Code, the General Partner is authorized to take and may take any action on behalf of the Partnership reasonably necessary by the Partnership for such Affiliate to qualify as a REIT and comply with all REIT rules and regulations under the Code; provided, however, the General Partner will not take any action on behalf of the Partnership under this Section 7.1(p) that would materially affect a Class B Limited Partner's economic rights (i.e., capital contributions, return percentages, and distribution priorities and amounts) under this Agreement without such Class B Limited Partner's approval; and

(q) Delegate any and all of the General Partner's duties hereunder and, in furtherance of any such delegation, to appoint, employ, or contract with, and pay appropriate reasonable fees to, any person it may in its discretion deem necessary or desirable for the transaction of the Partnership Activities including persons who may: (i) serve as the Partnership's advisors and consultants in connection with policy decisions made by the General Partner; (ii) act as consultants, accountants, correspondents, attorneys, brokers, escrow agents, or in any other capacity deemed by the General Partner necessary or desirable; (iii) perform or assist in the performance of such administrative or managerial functions necessary in the management of the Partnership as may be agreed upon by the General Partner; and (iv) perform such other acts or services for the Partnership as the General Partner in its discretion may reasonably approve.

7.3 Duties of the General Partner.

(a) Management Duties. The General Partner will manage the Partnership and the Partnership Activities in a reasonable manner.

(b) Level of Duty. The General Partner will conduct, manage, and control the Partnership and its affairs with the degree of reasonable care that a prudent business person would use under similar circumstances.

(c) Time and Attention to Duties. The General Partner will devote such time and attention to the performance of its duties under this Agreement as are reasonably necessary. Notwithstanding the existence of this Agreement, the General Partner (and all Affiliates of the General Partner) may engage in such activities as it may choose, whether such activities are competitive with the Partnership or otherwise, without being under any obligations to offer any interest in such activities to the Partnership or the Limited Partners.

(d) Limitation of Duties. The General Partner will be obligated to perform the duties, responsibilities, and obligations of the General Partner under this Agreement only to the extent that funds of the Partnership are available therefor. The Limited Partners and the Partnership acknowledge and agree that the General Partner is not a fiduciary to the Partnership or the Limited Partners, nor does the General Partner owe the care and duties of a fiduciary to the Partnership or the Limited Partners; provided, however, the General Partner must still observe its duties of due care and loyalty to the extent required under the TBOC, subject to the provisions of

this Agreement. Notwithstanding any other provision of this Agreement, the General Partner will be liable only for damages to the extent caused by the actual and intentional fraud, willful misconduct, gross negligence, or material breach of an express provision of this Agreement by the General Partner, but in other respects will not be liable for a mistake in judgment. Neither the General Partner nor any owner, officer, employee, or Affiliate of any entity which owns any interest in the General Partner or in which the General Partner owns any interest will be liable, responsible, or accountable in damages or otherwise to any other Partner for any acts performed by it in good faith and within the scope of this Agreement.

(e) Reimbursement. The General Partner will be entitled to reimbursement by the Partnership for all expenses, fees, and costs incurred by the General Partner or its Affiliates in connection with the formation and operation of the Partnership and the Partnership Activities and in the performance of the General Partner's duties and obligations under this Agreement.

7.4 Prohibited Acts. Without the consent of the Partners, neither the General Partner nor any Partner will have the right, power, or authority, to do any act in violation of an express provision of this Agreement. Without the unanimous consent of one hundred percent (100%) of the Voting Interests, the Partnership may not sell all or substantially all of the Property to any Affiliate of the General Partner or the Class A Limited Partner.

7.5 Approval of the Partners. When the phrases "approved by the Partners," "approval of the Partners," "determined by the Partners," "agreed by the Partners," "consent of the Partners," or similar phrases are used in this Agreement, or when other language is used in this Agreement indicating that a particular matter, decision, or determination requires the consent, approval, or other joint action of the Partners, the same means that the matter in question must be approved by the General Partner and Limited Partners owning seventy-five percent (75%) or more of the Voting Interests (i.e., not measured by the number of Limited Partners).

7.6 Approval of the Limited Partners. When the phrases "approved by the Limited Partners," "approval of the Limited Partners," "agreed by the Limited Partners," "consent of the Limited Partners," or other similar phrases are used in this Agreement, or when other language is used in this Agreement indicating that a particular matter, decision, or determination requires the consent, approval, or other joint action of the Limited Partners, the same means that the matter in question must be approved by Limited Partners owning seventy-five percent (75%) or more of the Voting Interests of the Limited Partners (i.e., not measured by the number of Limited Partners).

7.7 No Limited Partner Control. The Limited Partners will not take part in any of the day-to-day conduct or control of the Partnership Activities and will not have any right, power, or authority to act for or to bind the Partnership in any manner. The exercise of any of the rights and powers of the Limited Partners pursuant to the terms of this Agreement will not be deemed taking part in the day-to-day affairs of the Partnership or the exercise of control over Partnership affairs. No Limited Partner may withdraw from the Partnership nor, except as provided in this Agreement, receive a return of any of its contributions to the Partnership until the Partnership is terminated and its affairs are wound up in accordance with this Agreement and the TBOC. No Limited Partner may cause the Partnership's dissolution in winding up by court decree or otherwise. A Limited Partner who breaches this Agreement or any subscription agreement executed in connection with this Agreement will be liable to the Partnership for damages caused by such breach. The Partnership may offset for any damages suffered by the Partnership against any distributions or capital otherwise payable to the Limited Partner who has breached this Agreement.

7.8 **Limited Partner Liability**. The Limited Partners will not be bound by, nor personally liable for, the expenses, liabilities, or obligations of the Partnership. Except for the Initial Capital Contributions and the GP and Class A Limited Partner Capital Commitments or as otherwise provided in this Agreement, the Limited Partners are not personally liable for and will not be required or obligated to make further additional Capital Contributions; provided, however, to the extent required by applicable law, any Limited Partner receiving a distribution from the Partnership at a time when the Partnership's liabilities exceed the fair value of its assets may be liable to the Partnership for the amount of such distribution.

7.9 **Return of Capital Contribution**. The General Partner will not be personally liable for the return of all or any portion of the Capital Contributions of the Limited Partners.

7.10 **Contracts with Affiliates**. No Affiliate of the General Partner nor the General Partner will be paid a development management fee or asset management fee during the Land Partnership Phase. The Partners acknowledge and agree that the Partnership is authorized to enter into following arrangements, contracts, and agreements with the General Partner or any Affiliate of the General Partner during the Development Partnership Phase, on terms and conditions reasonably determined by the General Partner, and pay the following fees to the General Partner or any Affiliate of the General Partner, as applicable: (i) a development management agreement for coordination and management of the development and construction of the Property (the "**Development Management Agreement**") with a fee of approximately 4.0% of hard construction costs (the "**Development Management Fee**") and, unless the General Partner approves any deferral of the Development Management Fee, paid as hard construction costs are paid, and (ii) an asset management agreement for the coordination and management of the Partnership (the "**Asset Management Agreement**") with a reasonable market fee as reasonably determined by the General Partner (the "**Asset Management Fee**"). Stratus Properties Inc., a Delaware corporation ("**Stratus**"), will be providing certain guarantees to the Lender for the land acquisition loan to purchase the Real Property (the "**Acquisition Loan**"). The Partnership will pay a loan guaranty fee (the "**Guaranty Fee**") to Stratus for providing such guarantees (or any successor in interest to Stratus providing such guarantees) of the Acquisition Loan in an amount equal to one percent (1.0%) of the outstanding principal balance of the Acquisition Loan per year and prorated on a monthly basis. The Partnership will pay the Guaranty Fee to Stratus monthly on or around the first of each month beginning the month of the Effective Date for any period the Acquisition Loan has an outstanding balance. For example, if the outstanding principal balance of the Acquisition Loan is $14,000,000, then 1.0% per year equals $140,000, which would be paid $11,666.67 per month.

7.11 **Indemnification**.

(a) Right to Indemnification. Subject to the limitations and conditions as provided in this Section 7.11, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative ("**Proceeding**"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that such person, or a person of whom he, she or it is the legal representative, is or was a general partner of the Partnership or while a general partner of the Partnership is or was serving at the request of the Partnership as a member, manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, shall be indemnified by the Partnership to the fullest extent permitted by the TBOC, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Partnership to provide broader indemnification rights than such law permitted the Partnership to provide prior to such

amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements, and reasonable expenses (including attorneys' fees) that are not attributable to the willful misconduct, gross negligence, or actual and intentional fraud by a party claiming or considered for indemnity actually incurred by such person in connection with such Proceeding, and indemnification under this Section 7.11 shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. The rights granted pursuant to this Section 7.11 shall be deemed contract rights, and no amendment, modification, or repeal of this Section 7.11 shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification, or repeal. The Partners agree that the indemnification provided in this Section 7.11 could involve indemnification for negligence or other theories of strict liability.

(b) Advance Payment. The right to indemnification conferred in this Section 7.11 shall include the right to be paid or reimbursed by the Partnership the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 7.11(a) who was, is, or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Partnership of a written affirmation by such person of its good faith belief that it has met the standard of conduct necessary for indemnification under this Section 7.11 and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Section 7.11 or otherwise.

(c) Indemnification of Officers, Employees and Agents. The Partnership, by approval of the General Partner, may indemnify and advance expenses to an officer, employee, or agent of the Partnership to the same extent and subject to the same conditions under which it may indemnify and advance expenses to the General Partner under this Section 7.11; and, the Partnership may indemnify and advance expenses to persons who are not or were not general partners, officers, employees, or agents of the Partnership but who are or were serving at the request of the Partnership as a member, manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise against any liability asserted against such person and incurred by such person in such a capacity or arising out of its status as such a person to the same extent that the Partnership may indemnify and advance expenses to the General Partner under this Section 7.11.

(d) Appearance as a Witness. Notwithstanding any other provision of this Section 7.11, the Partnership may pay or reimburse expenses incurred by a General Partner in connection with such General Partner's appearance as a witness or other participation in a Proceeding at a time when such General Partner is not a named defendant or respondent in the Proceeding.

(e) Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Section 7.11 shall not be exclusive of any other right which a General Partner or other person indemnified pursuant to Section 7.11(c) may have or hereafter acquire under any law, provision of the Certificate or this Agreement, other agreement, approval of the Partners, approval of the Limited Partners, or otherwise.

(f) Insurance. The Partnership may, but is not required to, purchase and maintain insurance, at the Partnership's expense, to protect the Partnership and any person who is or was

serving as a General Partner, Partner, officer, employee or agent of the Partnership or is or was serving at the request of the Partnership as member, manager, director, officer, general partner, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust employee benefit plan, or other enterprise against any expense, liability or loss, whether or not the Partnership would have the power to indemnify such person against such expense, liability or loss under this Section 7.11.

(g) Partner Notification. To the extent required by law, any indemnification of or advance of expenses to a General Partner in accordance with this Section 7.11 shall be reported in writing to the other Partners.

(h) Savings Clause. If this Section 7.11 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Partnership shall nevertheless indemnify and hold harmless each Partner or any other person indemnified pursuant to this Section 7.11 as to costs, charges, and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, to the full extent permitted by any applicable portion of this Section 7.11 not invalidated and to the fullest extent permitted by law.

7.12 Removal of General Partner. The General Partner may be removed and cease to be a general partner of the Partnership only upon:

(a) the complete liquidation or termination of the General Partner;

(b) the bankruptcy of the General Partner (as the term "bankruptcy" is defined in Section 14.1); or

(c) a final non-appealable determination by a court of competent jurisdiction of the actual and intentional fraud, gross negligence, or willful misconduct on the part of the General Partner that causes a material adverse effect on the Partnership.

7.13 Guarantor Releases and Conversion. If the General Partner is removed in accordance with the provisions of this Agreement, the General Partner's liability and responsibility for all matters shall cease and the Partnership shall promptly take all steps reasonably necessary under the TBOC to cause such cessation of liability and responsibility. In addition, as a condition precedent to any removal of the General Partner under Section 7.12, the Partnership must obtain written releases (the "**Guarantor Releases**") of the General Partner, the Class A Limited Partner, Stratus, and any of their Affiliates from any and all obligations as a guarantor of any debt of, or loan to, the Partnership. No removal of the General Partner shall be effective unless and until the required Guarantor Releases are delivered. If the General Partner is removed in accordance with the provisions of this Agreement, the General Partner's general partnership Interest in the Partnership will be converted to a Class B Limited Partner Interest, without any change in the amount of income, loss, or cash allocable or distributable to the General Partner and upon such conversion the General Partner shall be entitled to all of the rights, obligations, and duties of a Class B Limited Partner under this Agreement.

7.14 Election of Substitute General Partner.

(a) Continuation of the Partnership. If the General Partner is removed in accordance with this Agreement and the Limited Partners agree to continue the business of the Partnership, a

substitute General Partner will be elected by the Limited Partners within sixty (60) days after the date of such removal or resignation.

(b) Election Procedures. Any one or more of the Limited Partners may, promptly after the election to continue the Partnership, nominate a person or entity for election as a substitute General Partner. Such nominee will not become a General Partner unless and until the Limited Partners approve such appointment. In the event that such nominee is not elected, any one or more of the Limited Partners will as soon as practicable thereafter nominate another substitute General Partner and will continue to do so until a substitute General Partner is elected or the Partnership is dissolved. If a new General Partner has not been appointed or has not accepted and assumed the General Partner's obligations under this Agreement within sixty (60) days after any such resignation or removal, then, the Partners will be deemed to have elected to terminate the Partnership under Section 14.1.

(c) No Personal Liability of Limited Partner. The exercise of the right to elect a successor General Partner will not in any way constitute any Limited Partner as a general partner or impose personal liability on any Limited Partner.

7.15 Confidentiality.

(a) Proprietary Information. The term "**Proprietary Information**" means and includes all of the Partnership's confidential, trade secret or proprietary information, including without limitation, any reports, investigations, research or developmental work, work in progress, designs, business plans, proposals, notes, memoranda, files (including machine readable files), marketing and sales information, financial projections, cost summaries, and all concepts or ideas, materials, or information related to the Partnership Activities, except as otherwise determined by the General Partner. The term "**Proprietary Information**" does not apply to information which is or becomes general public knowledge other than by default on the part of any party, or is lawfully obtained by a Partner from a third party having no duty of confidentiality to the Partnership regarding such information.

(b) Confidentiality.

(i) Acknowledgment of Proprietary Information. Each Class B Limited Partner acknowledges that the Proprietary Information is valuable to the Partnership and the Partnership Activities. Each Class B Limited Partner agrees that all Proprietary Information shall be the sole and exclusive property of the Partnership and its assigns.

(ii) Non-Disclosure and Non-Use of Proprietary Information. Each Class B Limited Partner agrees at all times during the term of this Agreement to maintain the Proprietary Information in strict confidence, and not to disclose or allow to be disclosed, either directly or indirectly, any Proprietary Information to any third party, other than to persons engaged by the Partnership to further the Partnership Activities of the Partnership, and not to use directly or indirectly any Proprietary Information except as may be necessary in the ordinary course of performing such Partner's duties on behalf of the Partnership, all without the prior written consent of the General Partner.

(iii) Return of Materials at Termination. Each Class B Limited Partner hereby acknowledges that all documents and other tangible property, whether or not pertaining to Proprietary Information, furnished to such Partner by the Partnership or produced by such Partner in connection with such Partner's association with the

Partnership, shall be and remain the sole and exclusive property of the Partnership, except as otherwise determined by the General Partner. In the event of termination of a Class B Limited Partner as a partner in the Partnership, with or without cause and whatever the reason, each such Partner shall promptly deliver to the Partnership all such property, including all notebooks, records, data, notes, drawings, photographs, specifications, memoranda, files (including electronic media and machine readable files) and other information in tangible or electronic form, and all copies, excerpts or reproductions thereof, except as otherwise agreed by the General Partner.

ARTICLE 8

TRANSFER OF THE INTERESTS OF THE PARTNERS

8.1 **Prohibition Against Unauthorized Transfers**. Except as expressly provided in this Article Eight, no Partner may voluntarily, involuntarily, or by operation of law sell, assign, transfer, exchange, grant a lien on or otherwise encumber, or otherwise dispose of or alienate, all or any part of (each, a "**Direct Transfer**") such Partner's interest in the Partnership, including, but not limited to any Interests held by such Partner, without the prior written consent of the General Partner and any act or event in violation of this Article Eight will be null and void *ab initio*. No Partner that is an entity may voluntarily, involuntarily, or by operation of law permit the sale, assignment, transfer, exchange, granting a lien on or otherwise encumbering, or otherwise disposing of or alienating, all or any part of (each, an "**Indirect Transfer**") the beneficial ownership interest in such Partner that such Partner knows, or reasonably should know, will cause a default by the Partnership under any loan documents evidencing any material indebtedness of the Partnership without obtaining consent of the applicable Lender under such loan documents and any act or event in violation of this Article Eight will be null and void *ab initio*. A Direct Transfer and an Indirect Transfer are each referred to a "**Transfer**." Except as provided in Section 8.2, no Transfer will be valid unless such Transfer is to a "**Qualified Transferee**" as such term is defined in Section 8.9(a). No Limited Partner may, without the General Partner's prior written consent, withdraw from the Partnership nor receive a return of any of its contributions to the Partnership until the Partnership is terminated and its affairs are wound up in accordance with this Agreement and the TBOC. Upon approval of the General Partner, the Class A Limited Partner may Transfer all or any part of the Class A Limited Partner's Interest to any one or more Affiliates of the Class A Limited Partner and such Transfer will not be subject to the any of the options or restrictions set forth in this Article Eight.

8.2 **Permitted Assignments**. Any Limited Partner, who is an individual, may assign all or any portion of such Partner's Interest in the Partnership to a trust or family limited partnership for the benefit of one or more members of the immediate family of such Limited Partner with the consent of the General Partner, which consent will not be unreasonably withheld, and the consent of any applicable Lender if required under the any loan documents evidencing any material indebtedness of the Partnership. The phrase "immediate family" means the spouse ("**Spouse**"), parents, children, grandchildren, brothers, sisters, nieces, or nephews of the Limited Partner. Upon such assignment, the trust or family limited partnership ("**Permitted Assignee**") shall thereupon be entitled to the rights of a Partner as to the interest assigned, but only if and so long as the original assigning Limited Partner retains voting control of such trust or family limited partnership for purposes of the management of such Limited Partner's Interest. Without such voting control, such trust or family limited partnership shall automatically and immediately become an "assignee" of the Interest in the Partnership and such loss of control shall be deemed to be an event subject to Section 8.12, and the Class A Limited Partner, the Partnership, and the other Partners shall have the option to purchase such Interest pursuant to Sections 8.3 through 8.8 and including Sections 8.16 and 8.17. Any subsequent conveyance or assignment by the trust or family limited partnership shall be fully subject to the terms of this Agreement. Subject to the deemed offer and purchase rights set out in this Article Eight, upon the death of a Partner, such Partner's estate and heirs

may be an assignee under this Section 8.2. Upon such assignment, the estate shall be entitled to all the rights of an assignee and shall be bound by the terms and provisions of this Agreement, and subject to the option to purchase such Interest pursuant to Sections 8.3 through 8.8 and including Sections 8.16 and 8.17. Any such "assignee" to whom an interest in the Partnership has been validly transferred pursuant to this paragraph shall only: (i) be allocated income, gain, or loss and receive distributions as provided in this Agreement in the same manner as the Partner from whom such interest was transferred would have received such allocations and distributions; (ii) be credited with the Capital Account of the transferring Partner; and (iii) acquire all the rights, responsibilities and obligations of the Partner from whom such interest was transferred (including the obligations to contribute capital), but shall not have any right to participate in any management, operation, or administration of the Partnership.

8.3 Deemed Offer and Notice Requirement. If (i) a Partner makes any involuntary Transfer under Sections 8.10 or 8.11; (ii) a Partner dies, becomes permanently disabled, or loses control of an assignee by a Partner under Section 8.12, or, upon the death of a Partner's spouse, such Partner fails to inure to or purchase such Partner's spouse's interest in such Partner's Interest under Section 8.13; (iii) upon the divorce of a Partner, such Partner fails to purchase such Partner's spouse's interest in such Partner's Interest under Section 8.14; or (iv) after obtaining the requisite consent, a Partner elects to proceed under Section 8.9, then, in any such event, such Partner (the "**Offering Partner**") will be deemed to have offered all of such Offering Partner's Interest (the "**Offered Interest**") for sale to the Partnership and the other Partners. The Offering Partner or such Partner's representative shall (and the Partnership or the other Partner(s) may) give prompt written notice of any and all such events and advising the Partnership and the other Partners of such offer under this Section 8.3 (the "**Transfer Notice**"). The Transfer Notice will simultaneously constitute (i) an offer to sell to the Class A Limited Partner the Offered Interest pursuant to Section 8.5, at the price and on the terms described in Sections 8.16 and 8.17; (ii) an offer to sell to the Partnership the Offered Interest pursuant to Section 8.5, at the price and on the terms described in Sections 8.16 and 8.17; and (iii) an offer to sell the Offered Interest to the other Partners (subject to approval of the Partners) pursuant to Section 8.6, at the price and on the terms described in Sections 8.16 and 8.17.

8.4 Option Period. Except as otherwise provided in this Article Eight, the period beginning on the date the Partnership and the other Partners receive the Transfer Notice and ending on the first anniversary of such date shall be the "**Option Period**;" provided, however, that notwithstanding the foregoing, the Option Period shall not end earlier than one hundred twenty (120) days after the determination of the "**Purchase Price**" for such Offered Interest as determined under Section 8.16 and to the extent necessary to accommodate such timing the Option Period shall be extended.

8.5 Class A Limited Partner and Partnership's Option to Purchase.

(a) Class A Limited Partner Option. During the Option Period, the Class A Limited Partner will have the first exclusive right and option, but not the obligation, to elect to purchase all or any portion of the Offered Interest at the price and on the terms determined under Sections 8.16 and 8.17. If the Class A Limited Partner desires to exercise its option, as determined by the General Partner, to purchase the Offered Interests, then no later than 11:59 P.M. Austin, Texas time on the sixtieth (60th) day before the Option Period ends ("**Class A Option Period**"), the Class A Limited Partner must deliver written notice to the Offering Partner and the other Partners which will indicate (i) the number or percentage, if any, of the Offered Interests that the Class A Limited Partner has elected to purchase and (ii) the number of Offered Interests that the Class A Limited Partner has not elected to purchase and that are available for purchase by the Partnership or other Partners.

(b) Partnership Option. During the Option Period but after the Class A Option Period, the Partnership will have the exclusive right and option, but not the obligation, to elect to purchase all or any portion of the Offered Interest to the extent the Class A Limited Partner elects not to purchase as provided in Section 8.5(a) at the price and on the terms determined under Sections 8.16 and 8.17. If the Partnership desires to exercise its option, as determined by the General Partner, to purchase the Offered Interests, then no later than 11:59 P.M. Austin, Texas time on the thirtieth (30th) day before the Option Period ends, the Partnership must deliver written notice to the Offering Partner and the other Partners which will indicate (i) the number or percentage, if any, of the Offered Interests that the Partnership, by determination of the General Partner, has elected to purchase and (ii) the number of Offered Interests that the Partnership has not elected to purchase and that are available for purchase by the other Partners.

8.6 Partners' Option to Purchase. If and to the extent the Class A Limited Partner and the Partnership elect under Section 8.5 to purchase less than one hundred percent (100%) of the Offered Interests and Offered Interests remain (the "**Remaining Interest**") available for purchase by the other Partners, the other Partners (upon approval of Partners) will have the exclusive right and option, but not the obligation, to elect to purchase all or any portion of the Remaining Interest at the price and on the terms determined under Sections 8.16 and 8.17. Upon such approval, if any other Partner desires to exercise, in whole or in part, such Partner's option in whole or in part to purchase the Remaining Interest ("**Buying Partner**"), then no later than 11:59 P.M. Austin, Texas time on the last day of the Option Period, the Buying Partner must deliver written notice to the Partnership and the Offering Partner that indicates the Buying Partner's acceptance of the offer to purchase the Remaining Interest, and the maximum number of the Remaining Interest that such Partner has elected to purchase. Unless otherwise agreed by all of the Buying Partners, the actual number of the Remaining Interest that each Buying Partner who has delivered such notice will be entitled to purchase will be equal to the product of (1) the lesser of (i) the number of the Remaining Interests or (ii) the total number of the Remaining Interests which all Buying Partners have elected to purchase, multiplied by (2) a fraction, the numerator of which shall be the total number of Interests held by the subject Buying Partner (measured by Capital Interests) and the denominator of which shall be the total number of Interests held by all Buying Partners (measured by Capital Interests). If as a result of such allocation any Buying Partner is allocated a percentage or number of Interests to purchase that is greater than the number of Interests that such Buying Partner committed to purchase, then the excess Interests will be reallocated in one or more successive allocations on the same basis among the remaining Buying Partners who were not allocated the full number of Interests that they committed to purchase using the formula specified above, except that item (1) will be replaced with the total number of excess Interests and the term "Buying Partner" will refer to the remaining Buying Partners who were not allocated the full number of committed Interests.

8.7 Allocation Notices. With respect to the Partnership and the Partners who have timely delivered notice of exercise of their respective options in accordance with this Article Eight (the "**Exercising Parties**"), the Partnership and the Offering Partner shall, within ten (10) business days after the last day of the Option Period, consult to determine (i) the allocation of Offered Interests to those of the Exercising Parties who have timely elected to purchase Offered Interests, and (ii) the number of Offered Interests which each Offering Partner may sell. Within ten (10) business days after the last day of the Option Period, either the Partnership or the Offering Partner shall notify each of the Exercising Parties and the Offering Partner of the number of Offered Interests, if any, which it shall be obligated to purchase, and the number of Offered Interests which each Offering Partner shall be obligated to sell, which notice shall disclose the underlying calculations. Notwithstanding any other provision of this Article Eight, an Exercising Party shall be obligated to purchase or sell, as the case may be, the number of Offered Interests that is determined in accordance with the provisions of this Article Eight that such Exercising Party is entitled to purchase or sell.

8.8 **Lapse**. If and to the extent that the Class A Limited Partner, the Partnership, and the other Partners do not timely notify the Offering Partner of their respective elections to purchase Offered Interests or elect not to purchase all of the Offered Interests, the right of the Class A Limited Partner, the Partnership, and the Partners to purchase the balance of the Offered Interests will lapse and be void and the Offering Partner shall have the right to continue to hold the balance of the Offered Interests regardless of the event giving rise to the offer.

8.9 **Right of First Refusal for Transfers**. Except as otherwise provided and expressly permitted or authorized in this Agreement, no Partner will make any Transfer of any Interest without (i) delivering prior written notice to the other Partners of such intended transfer, which notice must include the proposed price and all other material terms and conditions of the proposed Transfer, and including without limitation the information set out in Section 8.9(b) ("**ROFR Notice**") and (ii) obtaining the written consent of the General Partner ("**Consent to Transfer**"). If the Consent to Transfer is granted, as a condition precedent to any such Transfer, the Partner desiring to make a Transfer must also meet all of the requirements of this Section 8.9.

(a) Transferee Qualifications. No Transfer of Interests will be valid unless, in addition to meeting all other requirements of this Agreement, the prospective transferee (i) agrees in writing prior to any Transfer to assume and be bound by the terms and provisions of this Agreement; (ii) is acceptable to any third-party lenders of the Partnership as a Partner in the Partnership; and (iii) is a Person reasonably acceptable to the General Partner. Any prospective transferee meeting all of the requirements of this Section 8.9(a) will be deemed to be a "**Qualified Transferee**."

(b) Deemed Offering Partner. Any Partner delivering a ROFR Notice or otherwise desiring to make a Transfer of an Interest ("**Selling Partner**"), including a written request to be bought out by the Class A Limited Partner, the Partnership, or the other Partners (a "**Buy-out Request**"), upon delivery of any such notice or request, will be deemed to be an Offering Partner under Section 8.3 and must comply with Sections 8.3 through 8.8. The ROFR Notice or Buy-out Request must state, as applicable, the amount of Interests involved, the price asked or offered ("**Asking Price**"), and the full names and addresses of, and any and all prices, terms and conditions offered to or by the subject transferee, as well as for any proposed or prospective purchasers of any Interest of the Selling Partner within one (1) year prior to the ROFR Notice or Buy-out Request, as applicable. Any proposed purchaser (if not the Partnership or a Partner) must then be (or must covenant in writing to become and actually become) (i) a party to this Agreement and (ii) a Qualified Transferee. Unless agreed to in writing by the General Partner, the Transfer of Interests will be for all of such Offering Partner's Interests. The Offering Partner may withdraw the ROFR Notice or the Buy-out Request as to all offerees by giving written notice of withdrawal to the Class A Limited Partner, the Partnership, and all other Partners any time before the exercise, by written notice of exercise, by the Class A Partner, the Partnership, or any offeree of such Partner's election to purchase.

(c) Transfer Under ROFR Notice to Qualified Transferee. With respect to any Offered Interests subject to a valid ROFR Notice not purchased by the Class A Limited Partner, the Partnership, or a Buying Partner under this Article Eight, if, and only if, the required Consent to Transfer to a sale of the Offered Interests has been received by the Offering Partner, the Offering Partner will then be permitted, at any time or times within, but not after, one hundred eighty (180) days after the expiration of the Option Period, to sell the remaining Offered Interests; provided, however, that no such sale will be made at a lower price or on more favorable terms (to the purchaser), to any other person, or for a different number of Interests than as specified in the ROFR Notice, unless a difference in number of Interests is caused solely by a purchase of the

Offered Interests by the Partnership or the Buying Partner. Such sale will not be consummated until the purchaser and such purchaser's spouse, if any, will have entered into a written agreement in form satisfactory to counsel for the Partnership whereby they agree to be bound by the provisions of this Agreement. If after the lapse of the one hundred eighty (180)-day period, such Offered Interests have not been sold as permitted by this Agreement, the Offering Partner must deliver a new ROFR Notice pursuant to and again comply with this Article Eight prior to making a Transfer of any Offered Interests.

(d) Failure of Requisite Consent. If the required Consent to Transfer to the sale of Offered Interests is not received by the Offering Partner or if the Offering Partner and applicable transferee do not strictly comply with the requirements of this Section 8.9, the Offering Partner shall continue as a Partner without completing the sale of any Offered Interests.

8.10 Involuntary Transfers. Whenever a Partner has any notice or knowledge of any attempted, impending or consummated involuntary Transfer of, or lien or charge upon any of, it's Interests, whether by operation of law or otherwise, such Partner must give immediate written notice to the Partnership specifying the number of Interests which are subject to such involuntary Transfer. Whenever the Partnership has notice or knowledge of any such attempted, impending or consummated involuntary Transfer, lien or charge, the Partnership will promptly give written notice to the other Partners specifying the number of Interests which are subject to such involuntary Transfer. In either case, the Partner subject to the involuntary transfer agrees to immediately disclose to the Partnership and the other Partners all pertinent information in such Partner's possession relating to the Transfer. If any Interest is subjected to an involuntary Transfer, lien or charge, the Partner(s) and/or other record owner of such Interests shall be deemed an Offering Partner(s), and commencing with the determination of the purchase price under Section 8.16, the Class A Limited Partner, the Partnership, and the other Partners shall at all times have the immediate and continuing exclusive option, but not the obligation, to purchase the subject Interests in the priorities of, and in accordance with Sections 8.3 through 8.8 at the purchase price determined pursuant to Section 8.16 and on the terms as described in Section 8.17, and any Interests so purchased shall in every case be free and clear of the Transfer, lien or charge. The purchase price may first be paid directly to the holder of the encumbrance on the Interests in an attempt (but not a requirement) to discharge the obligation underlying, and release the encumbrance, if sufficient. The balance of the purchase price, if any, shall be paid to the Offering Partner.

8.11 Transfers in Bankruptcy. If a Partner or Spouse is the named debtor in bankruptcy or receivership proceedings and a Transfer of Interests is proposed or directed, commencing with the determination of the purchase price under Section 8.16, the Partnership and the other Partners shall have an exclusive option to purchase the named debtor's Interests at the purchase price determined in accordance with Section 8.16 and on the terms described in Section 8.17, to the same extent as if such Transfer constituted an offer to sell Interests under Section 8.3, and the provisions of Sections 8.3 through 8.8 shall accordingly control the exercise of this Option.

8.12 Death, Permanent Disability, or Loss of Control of Partner. Upon (i) the death or permanent disability of any Partner (with any determination of permanent disability reasonably made by the General Partner), or (ii) loss of control as provided in Section 8.2, the applicable Partner and the Partnership shall promptly send written notice to the Partners, specifying the date of death, determination of permanent disability, or loss of control and the Interests owned by such Partner (the "**Notice**"). Upon such event, the Class A Limited Partner, the Partnership, and the other Partners (upon approval of the Partners) shall have the option, but not the obligation, to purchase all of the Interests owned by such Partner on the date of such Partner's death, permanent disability, or loss of control in the priorities of, and in accordance with the provisions of Sections 8.3 through 8.8, at the purchase price determined pursuant to Section 8.16 and on the terms described in Section 8.17, except that, in the case of death, the Offering

Partner shall be the legal representative or trustee of the deceased Partner. Upon the election under the option granted under this section or article such Partner, or the legal representative or trustee of the deceased Partner's estate, shall sell the applicable Partner's Interest to the Partnership and/or the other Partners, as the case may be, and perform any further acts and execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

8.13 Death of Spouse. Upon the death of a Spouse of any Partner in whose name Interests are issued and held, if any, the community interest of such Spouse and the Interests held as community property shall pass to and devolve upon the Partner, and each Spouse, by executing this Agreement and in consideration of the benefits to be received hereunder, agrees to make and keep unrevoked at death a valid will containing a provision to this effect; but, the nonexistence of a valid will containing such a provision shall not relieve the heirs, personal representatives, assigns, or devisees of such deceased Spouse of a Partner of the obligations to fully perform the terms of this Agreement. If the Spouse predeceases the Partner and the Spouse's interest in the Interests are not Transferred directly to such Partner, then such surviving Partner shall have the exclusive right to purchase, and such Partner shall purchase, all of such Partner's deceased spouse's retained interest in the Interest of such Partner at the purchase price determined pursuant to Section 8.16 and on the terms described in Section 8.17. If the surviving Partner does not succeed to such interest automatically under a will or promptly exercise, by written notice to the other Partners, the Partnership, and such spouse's estate, such Partner's right to purchase all of such retained interest and close such purchase within one hundred eighty (180) days after the death of such spouse, then commencing with the one hundred eight-first (181st) day after such Spouse's death, such Partner shall be in default under this Agreement, and the Class A Limited Partner, the Partnership, and the other Partners (without any other Partner consent or approval) shall have the exclusive and continuing option and right, but not the obligation, to purchase all or any portion of the Spouse's interest in the Interests under the terms of Sections 8.3 through 8.8 and at the price and on the terms set out in Sections 8.16 and 8.17. Upon the exercise of any such option, the legal representative, trustee or heirs of the deceased Spouse's estate shall be obligated to sell such interest, and perform any further acts and execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement. In all other respects, the interest in the Interests of the Spouse shall be subject to the restrictions and terms of this Agreement.

8.14 Divorce from Partner or Spouse. If any Interests are owned by a Partner and such Partner's Spouse jointly, and the marriage of that Partner and such Partner's Spouse is terminated by divorce or annulment, and that Partner does not obtain all of his or her Spouse's interest in the Interests incident to the divorce or annulment, then such Partner shall and any Partner may simultaneously give written notice to the Partnership and the other Partners within sixty (60) days after the effective date of the final, non-appealable divorce decree or of the annulment. The written notice shall specify the effective date of termination of the marriage and the number of Interests to which any interest retained by the Partner's former Spouse relates. For a period of one hundred eighty (180) days after the effective date of the divorce or annulment, the divorced Partner shall have an exclusive right to purchase, and such Partner shall purchase, all of such Partner's former Spouse's retained interest in the Interests at the purchase price determined pursuant to the divorce decree or if no such value is determined then pursuant to purchase price determined under this Agreement. The divorced Partner's one hundred eighty (180) day exclusive right shall be exercised by delivering to such Partner's former Spouse, the Partnership, and the other Partners a written notice of such exercise. If the divorced Partner does not timely elect to purchase and purchase all of his former Spouse's interest in the Interests within one (1) year after the date such divorce or annulment is final, then such Partner shall be in default under this Agreement and the Partner's Spouse shall be deemed an Offering Partner as to the Class A Limited Partner, the Partnership, and the other Partners, and commencing with the expiration of the divorced Partner's one hundred eighty (180) day purchase right, or if the right is exercised but not timely closed, commencing with the end of the one (1) year period, the Class A Limited Partner, the Partnership, and other Partners shall have an

exclusive and continuing option and right (without any other Partner consent or approval), but not the obligation, to purchase all or any portion of the former Spouse's retained interest in the Interests in the priorities of, and in accordance with the provisions of Section 8.3 through 8.8, at the purchase price described pursuant to Section 8.16, and on the terms described in Section 8.17. If any option is exercised pursuant to this Section 8.14, then the former Spouse shall sell any and all interest in the Interests retained incident to divorce or annulment.

8.15 Estate, Assigns, and Beneficiaries Bound. Until the Class A Limited Partner, the Partnership, or the other Partners purchase all of the Offering Partner's Interests in accordance with this Agreement, the Offering Partner's estate, assigns, and any beneficiaries of the estate to whom the estate distributes or holds Interests shall be bound by and subject to the restrictions and provisions of this Agreement, and within ten (10) business days after the request by the Partnership, such estate and any and all of such assigns and beneficiaries shall execute and deliver to the Partnership a written agreement acknowledging that they are merely "assignees" of and not partners in the Partnership and agreeing to be bound by and assuming all obligations with respect to such Interests under this Agreement in form and content acceptable to the Partnership.

8.16 Determination of Purchase Price. The total "**Purchase Price**" of all of the Interests transferred pursuant to this Agreement (including all assets owned by the Partnership to be valued hereunder) shall be determined as of the last day of the month immediately preceding the date of the event triggering the notice requirement and the optional or required purchase or transfer of the subject Interest ("**Valuation Date**") under this Article Eight, as follows:

(a) Right of First Refusal. The total purchase price of all Interests purchased pursuant to a ROFR Notice under Section 8.9 hereof shall be the lesser of the following: (i) the "Computed Value" of such Interests as determined under Section 8.16(d), or (ii) the Asking Price.

(b) Involuntary Transfer and Other Transfer Purchase Price. The total purchase price of all the Interests transferred pursuant to Section 8.10 (involuntary transfers) or Section 8.11 (bankruptcy), or otherwise without the requisite consent of the General Partner shall be the Computed Value of such Interests determined as of the last day of the month immediately preceding the date of occurrence of the Transfer or deemed Transfer. Provided, that for purposes of this Section 8.16(b), the Computed Value of such Interest shall include and be reduced by all market factors and discounts, including, without limitation, lack of control, lack of liquidity and lack of marketability, which the Partners acknowledge may result in a significant reduction in the Computed Value determined under Section 8.16(d).

(c) Purchase Price on Death, Disability or Divorce (Non-Default). The total purchase price of all the Interests transferred or deemed transferred pursuant to Section 8.12, Section 8.13, or Section 8.14 will be the Computed Value of such Interests.

(d) Computed Value. The "**Computed Value**" shall be determined as follows:

(i) Agreed Value. On an agreed date in the month of January (or other month agreed by the Partners) of each year during the term of this Agreement, the Partners, by written agreement of the Partners, may determine the "**Agreed Asset Value**" of all of the Property of the Partnership. The written agreement of Agreed Asset Value may be obtained at any Partnership meeting of the Partners, at any meeting of any other partnership, or other meeting or meetings attended by the Partners or by written resolution(s) without a meeting signed in multiple counterparts by the Partners. An original or copy of such written agreement of Agreed Asset Value shall be maintained by

the Partnership in the records of the Partnership. The Agreed Asset Value less the sum of all secured and unsecured debt and liabilities of the Partnership will equal the "**Agreed Equity Value**". The "**Computed Value**" will be the amount that the Partner would receive if the Partnership were liquidated pursuant to Article Six (including distributions to the Partner and payments of outstanding debts and liabilities owed by the Partnership to the Partner) and the total liquidation proceeds to the Partnership were equal to the Agreed Equity Value.

(ii) Valuation. If no written agreement fixing the Agreed Asset Value of the Partnership has been agreed by the Partners within six (6) months prior to the Valuation Date, then the fair market value of all of the Property of the Partnership, determined pursuant to this Section 8.16(d) as of the Valuation Date, shall be set out in a written valuation report. Such valuation report will be prepared by a duly qualified valuation consultant with no less than ten (10) years of experience appraising property similar to the property owned by the Partnership ("**Valuation Consultant**") selected by the General Partner. The Valuation Consultant will prepare such valuation report according to the valuation rules and provisions of this Section 8.16(d), including without limitation subsections (iii) and (iv) below. The value of the Partnership's Property determined as provided above in this Section 8.16(d)(ii) shall equal the "**Consultant's Asset Valuation**". The Partners acknowledge and agree that a "Restricted Appraisal" (as such term is defined or used in the appraisal industry) is sufficient for any valuation or appraisal under this Section 8.16. The Consultant's Asset Valuation less the sum of all debt and payables owed by the Partnership to the Partners shall be deemed to be the "Sale Proceeds" for a deemed liquidating distribution for the Partnership under Section 6.4, with the resulting proceeds deemed distributed with respect to the Interest(s) which is the subject of the valuation shall be the "**Gross Computed Value**" of such Interest(s). The Gross Computed Value less any amounts due to the Partnership from the Offering Partner or such Partner's successors as Capital Contributions, loans, or otherwise, including without limitation all closing costs due to the Partnership from the Offering Partner (or successor) or to be borne by the Offering Partner under Section 8.17(d), plus any then remaining liquidated amounts due and payable from the Partnership to the Offering Partner (after all offsets to which the Partnership is entitled) shall be the "**Computed Value**" and the purchase price for such Interest(s).

(iii) Liabilities. Liabilities, for purposes of this Section 8.16, shall include the full amount of any prepayment penalties provided by the terms of notes and obligations of the Partnership as if such notes and obligations were paid off on the date of sale of the Interest of the Partner.

(iv) Other Valuation Rules. The Valuation Consultant shall be governed by the following in the determination of the Computed Value:

(1) Except as otherwise provided in this Section 8.16(d), the Consultant's Asset Valuation shall be the fair market value of the assets of the Partnership;

(2) The Consultant's Asset Valuation shall exclude any value for goodwill, future earnings, "in place" or going concern value of the Partnership or any subsidiary;

(3) All securities held by the Partnership, if any, which are traded on any exchange or market for which prices are regularly published shall be valued based on the published market value thereof on the Valuation Date;

(4) The value of a partnership, corporate or limited liability company ownership interest held by the Partnership (not included in Item (3) above), if any, shall be determined as follows:

(A) The value of the tangible and intangible property of such subsidiary shall be determined in the manner provided in this Section 8.16(d);

(B) The liabilities of such subsidiary shall be deducted from the values of such property so determined under (A) above;

(C) The amount derived as a result of (B) above shall be multiplied by the Partnership's percentage ownership interest in such subsidiary; and

(D) The value of the Partnership's interest in such subsidiary shall be the lesser of (i) the product determined under (B) above and (ii) the value or price payable to the Partnership from such subsidiary (or its owners) in the event of a sale of such interest due to a transfer or sale of such interest (at the lowest applicable valuation formula therefor in the subsidiaries governing documents). Provided that, for purposes of this Section 8.16(d)(iv)(4)(D), the value of such subsidiary shall include and be reduced by all applicable market factors and discounts, including, without limitation, lack of control, lack of liquidity and lack of marketability, which the Partners acknowledge may result in a significant reduction in value for such subsidiary interest.

8.17 Payment of Purchase Price and Closing. Payment of the purchase price for Interests purchased pursuant to this Agreement shall be made as follows provided that the purchasing party, whether the Class A Limited Partner, the Partnership, or a Buying Partner, may always elect to pay the purchase price in full in cash instead of on the following terms:

(a) Payment of Purchase Price. On the closing date (as provided in Section 8.17(c)), the Partnership or the Buying Partners shall deliver to the Offering Partner the full purchase price payment in cash or other immediately available funds. Provided, further, the Partnership may elect to offset any amounts due from the Selling Partner to the Partnership from the purchase price, in whole or in part, and, at the election of the Partnership, the Buying Partners shall have and exercise that offset right and shall pay such offset amounts directly to the Partnership.

(b) Interest Transfer. At closing, the Offering Partner shall deliver to the Class A Limited Partner, the Partnership, or the Buying Partners, as the case may be, the Interests purchased, a properly executed and notarized assignment of the Interest to be assigned and transferred with general warranties of full, good and indefeasible title, free and clear of any and all liens, security interests and claims and with all other customary terms, representations, warranties and indemnities as requested by and in form and content reasonably acceptable to the Partnership or the Buying Partners, as applicable.

(c) Closing Date and Place. The closing date for the Transfer of an Interest under this Agreement (for delivery of the Interest transfer documents and the Purchase Price) shall be a

date mutually acceptable to the buyer(s) and seller(s) of such Interest, but in no event later than one hundred eighty (180) days after the later to occur of (i) the end of the Option Term, as applicable; (ii) the exercise of the subject purchase or sale option under this Article Eight; and (iii) the determination of the Purchase Price for the Interest to be Transferred. The closing shall occur in the offices of the Partnership unless otherwise designated by the General Partner. The determination of the "effective" date of the closing date is subject to Section 8.18 below.

(d) Closing Costs. With respect to any Transfer of an Interest under this Agreement, all closing costs and expenses incurred by the Partnership with respect to such Transfer, valuation and closing, including without limitation, the Valuation Consultant fees, appraisal fees, accounting fees, legal fees and costs, survey costs and any UCC search fees or costs (collectively, the "**Closing Costs**") shall be borne and paid as follows:

(A) if the purchase price for the subject Transfer is determined under Section 8.16(c), then the Closing Costs for such Transfer shall be shared and paid equally by the Partnership or the purchasing Partners, on the one hand, and the selling Partner or its successor, on the other hand; and, all such Closing Costs shall be paid or reimbursed to the Partnership at closing, which may be by way of offset of the amount due hereunder by the Selling Partner or successor against the purchase price payable at closing; or

(B) if the purchase price for the subject Transfer is determined under Section 8.16(a) or (b), then the Closing Costs for such Transfer shall be borne and paid entirely by the selling Partner or its successor; and, all such Closing Costs shall be paid or reimbursed to the Partnership at closing which may be by way of offset of the amount due hereunder by the selling partner or successor against the purchase price payable at closing.

8.18 Rights and Restrictions Between Valuation Date and Closing. Notwithstanding any term or provision in this Agreement to the contrary, with respect to any and all Interests subject to this Article Eight, during the time period beginning on the Valuation Date and running through the earlier to occur of (i) the closing date for the purchase or sale of the subject Interest pursuant to the exercise of any option or right to purchase or sell under this Article Eight and (ii) the date that all options and rights to purchase or sell the subject Interest under this Article Eight lapse and terminate (the "**Interim Period**"), all Interests (and the Partner(s),or their successors, holding such Interests) shall be subject to the following provisions and restrictions:

(a) The Partnership will not be obligated to make, and such Interests and such Partners (or successors) shall not be entitled to receive, any distributions from the Partnership under Article Six, whether cash or in-kind, on such Interests during the Interim Period (or from operations of the Partnership from any prior period) (except pursuant to Section 6.4 on sale of all or substantially all of the Property);

(b) If any distribution is made on such Interest during the Interim Period, the Partner or other recipient of such distribution shall immediately return such distribution to the Partnership upon the General Partner's request; and

(c) The rights of the Partner(s) owning such Interest under Article Four and this Article Eight shall be suspended to the effect that such Partner(s) may not exercise rights or options to contribute, to dilute, to purchase or to vote on determinations under Article Four or this Article Eight.

Further, at the closing of an Interest purchased by the Class A Limited Partner, the Partnership, or the Partners under this Article Eight or otherwise under this Agreement, the Partnership, at the sole discretion of the General Partner, may elect to (i) treat the Valuation Date as the "effective date" of such closing, in which event the Selling Partner, or its successor, will not be entitled to any distributions nor receive any allocations of income, gain or loss attributable to the Interim Period or (ii) treat the closing date determined under Section 8.17(c) as the effective date of Closing, in which event the Selling Partner, or its successor seller, will be allocated income, gain and/or loss attributable to the Interim Period to the full extent of the Interest, but (y) in the event the Selling Partner, or its successor, is allocated a net gain or income, such person will only be entitled to "tax distributions" in cash, as calculated and distributed under Section 6.5 and with respect to only those net gain or income allocations attributable to the Interim Period or (z) in the event the Selling Partner, or its successor, is allocated a net loss or credit, such person will be subject to a credit or reduction in the Purchase Price payable at closing for the Interest conveyed.

8.19 Put Right on Stratus Change of Control.

(a) Definitions. For purposes of this Agreement, the following terms and phrases have the meanings set forth below:

"**10% Return**" means a cumulative return accruing on all Capital Contributions of each Class B Limited Partner calculated in the manner of simple interest at the rate of ten percent (10.0%) per annum (based on a 365-day year), beginning on the date of the applicable Partner's Capital Contribution to the Partnership and calculated based on the initial daily balance of the Unreturned Capital Contributions, and not compounded;

"**Stratus Change of Control**" means the acquisition of more than fifty percent (50%) of the publicly traded stock of Stratus by a single Person (excluding any reorganization of Stratus in which the beneficial ownership interest of Stratus is substantially the same after such reorganization).

"**Put Closing Date**" means the closing date for the purchase of the Interests of the applicable Class B Limited Partner under this Section 8.19.

"**Put Exercise Period**" means the period beginning on the date a Stratus Change of Control occurs and ending thirty (30) days after the date a Stratus Change of Control occurs.

"**Put Purchase Price**" means the total amount of the Unreturned Capital Contributions and Unreturned 10% Return (as defined below) for the applicable Class B Limited Partner as of the Put Closing Date under this Section 8.19.

"**Unreturned 10% Return**" means each Class B Limited Partner's respective 10% Return less amounts distributed to such Partner under Section 6.3.

The 10% Return and the Unreturned 10% Return are used only for the calculation of the Put Purchase Price under this Section 8.19 and for no other purpose.

(b) Put Right. If a Stratus Change of Control occurs, then each Class B Limited Partner will have the right (the "**Put Right**") to require the Class A Limited Partner to purchase all, but not less than all, of such Class B Limited Partner's Interests for the Put Purchase Price, exercisable by such Class B Limited Partner only by written notice exercising such Class B Limited Partner's Put Right under this Section 8.19(b) ("**Put Notice**") timely delivered to the

Class A Limited Partner during the Put Exercise Period. The Put Right for each Class B Limited Partner is separate and independent from each other Class B Limited Partner. Any Transfer under this Section 8.19 will not be subject to the transfer restrictions, purchase options, or rights of first refusal under this Article Eight.

(c) Lapse of Put Right. If the Put Notice for any Class B Limited Partner is not timely delivered to the Class A Limited Partner during the Put Exercise Period, then the Put Right for such Class B Limited Partner will automatically expire and lapse at the end of the Put Exercise Period and will have no further force or effect.

(d) Closing Date. The closing of the purchase by the Class A Limited Partner of all of the Interests of the applicable Class B Limited Partner properly and timely exercising the Put Right under this Section 8.19 (the "**Put Closing**") will occur on or before ninety (90) days after the receipt of the Put Notice by the Class A Limited Partner. The Put Closing will occur in the office of the Partnership, unless otherwise agreed by the Class A Limited Partner. The Put Closing Date will be determined by the Class A Limited Partner by written notice to the applicable Class B Limited Partner no less than two (2) business days before the Put Closing Date.

(e) Closing Deliveries. At the Put Closing, (i) the Class B Limited Partner will deliver an assignment as described in Section 8.17(b) to the Class A Limited Partner (or its assigns) and (ii) the Class A Limited Partner (or its assigns) will deliver the Put Purchase Price to the Class B Limited Partner.

ARTICLE 9

COSTS, OBLIGATIONS AND RESERVES

9.1 **Costs**. The Partnership will be responsible for paying all direct costs and expenses of the organization and operations of the Partnership, including, without limitation, organizational costs, filing fees, compensation of supervisory personnel, bookkeeping, accounting, office supplies, legal fees and costs, and all other fees, costs, and expenses directly attributable to the Partnership business. If any such costs and expenses are or have been advanced and paid by any Partner from such Partner's own funds on behalf of the Partnership, then, subject to the approval of the General Partner, such Partner will be entitled to reimbursement by the Partnership for such payment if such payment is reasonable in amount and reasonably necessary for Partnership business (excluding any costs and expenses of the Class A Limited Partner or its Affiliates already included in the Pursuit Costs for which the Class A Limited Partner received credit as an Initial Capital Contribution pursuant to Section 4.2(b)).

9.2 **Reserves**. The General Partner may establish book-entry reserves or a separate reserve account and may deposit in such account from time to time such amounts as the General Partner reasonably determines to be appropriate or desirable.

ARTICLE 10

ACCOUNTING

10.1 **Books of Account**. The General Partner will cause the Partnership to maintain complete and accurate books and records of the Partnership and will cause the Partnership's books and records and this Agreement to be maintained at the principal office of the Partnership. Each Partner, and such Partner's representative or designee, will have access to the books and records of the Partnership to the

extent required by the TBOC. If any Partner reasonably believes any information that was supplied to them by the General Partner to be inadequate for any reason, such Partner will have the right, exercisable by delivering written notice to the General Partner, to inspect the Partnership's books and records, at the sole expense of the Partner requesting the inspection, and the General Partner will within a reasonable time make the books, records, and all supporting documents and materials fully available to such Partner at the principal place of business of the Partnership, subject to Section 7.15. The books and records of the Partnership will be kept in accordance with sound and consistently applied accounting principles, reflect all Partnership transactions, and be appropriate and adequate to reflect the results of the Partnership's operations and its financial condition in all material respects.

10.2 **Fiscal Year**. The fiscal year of the Partnership will be the calendar year (or such other annual period as the General Partner may determine).

10.3 **Tax Returns**. The General Partner will use reasonable efforts to cause a certified public accountant approved by the General Partner to prepare and timely file, at the Partnership's expense, all tax returns and statements, if any, that must be filed on behalf of the Partnership with any taxing authority. The Partners will timely furnish to the General Partner all information and data required to prepare such tax returns and statements, and the General Partner will use commercially reasonable efforts to furnish to the Partners, within ninety (90) days after the end of each fiscal year of the Partnership, all information and data pertaining to the Partnership required to prepare the tax returns of the Partners. The General Partner will deliver copies of all tax returns filed by the General Partner on behalf of the Partnership to the Partners.

10.4 **Tax Matters Representative**. The General Partner (or its designee) will be designated as the "**Partnership Representative**" in accordance with the rules prescribed in Section 6223 of the Code.

(a) The Partnership Representative is authorized and required to do the following: (i) to represent the Partnership (at the Partnership's expense) in all disputes, controversies, or proceedings with tax authorities; (ii) to make any available election with respect to the Partnership Adjustment Procedures (as defined in in Section 6223 of the Code); (iii) to take any action the Partnership Representative deems necessary or appropriate to comply with the requirements of the Code; (iv) to conduct the Partnership's affairs with respect to the Partnership Adjustment Procedures; and (v) to expend Partnership funds for professional services and costs associated therewith. The Partnership will indemnify and reimburse the Partnership Representative for all losses, claims, liabilities, damages, and expenses, including legal and accounting fees, incurred as a Partnership Representative pursuant to this Agreement, including in connection with any examination or proceeding.

(b) Each Person who holds or has held any Interest in the Partnership will promptly provide such cooperation and assistance, including executing and filing forms or other statements and providing information about such Person, as is reasonably requested by the Partnership Representative in connection with a Partnership audit or to enable the Partnership to satisfy any applicable tax reporting or compliance requirements, to evaluate or make any tax election available to the Partnership under the Partnership Adjustment Procedures, to qualify for an exception from or reduced rate of tax or other benefit, or be relieved of liability for any tax regardless of whether such requirement, tax benefit, or tax liability existed on the date such Person was admitted to the Partnership. Such information shall include, but not be limited to, if such Person is an entity, providing the Partnership Representative with the type of entity, its federal income tax classification, the names of its direct and indirect owners and, if such direct or indirect owners are entities, with the types of entities and their respective federal income tax classifications.

(c) The Partnership Representative may, in the Partnership Representative's sole discretion, cause the Partnership to (i) elect out of the Partnership Adjustment Procedures under Code Section 6221(b); (ii) push out the final partnership adjustments to Partners under Code Section 6226(a); or (iii) pay such liability at the Partnership level.

(d) To the extent the Partnership Representative elects to have such liability paid at the Partnership level, the Partnership shall make any payments of imputed underpayment, and penalties and interest thereon, that it may be required to make under the Partnership Adjustment Procedures (the "**Tax Payment Amount**"), and the Tax Payment Amount shall be allocated by the Partnership Representative among the Persons who held any Interest in the Partnership for the reviewed year in a manner that reflects such Persons' respective interests in the Partnership for the reviewed year, adjusted by taking into account any attributes or actions taken by such Persons (including without limitation their tax-exempt status) that resulted in a reduction in the imputed underpayment, including but not limited to under Section 6225(c)(3) of the Code and the Regulations and administrative guidance thereunder. In making the allocation of imputed underpayment hereunder, the Partners intend that such allocation be made in the manner that would result in each Person being allocated a share of the imputed underpayment that is, as closely as possible, equal to the tax liability such Person would have with respect to the adjustment giving rise to the imputed underpayment if the Partnership Adjustment Procedures were not in effect. For the avoidance of doubt, if any Person (whether a current or former owner of an Interest) provides information to the Partnership Representative regarding its tax attributes or its amended U.S. federal income tax return for the reviewed year that directly results in a reduction in the imputed underpayment, such Person shall receive credit for such reduction in determining its share, if any, of the Tax Payment Amount.

(e) Each Person holding any Interest in the Partnership agrees to indemnify and hold harmless the Partnership Representative and the Partnership from and against any liability with respect to such Person's proportionate share of any Tax Payment Amount imposed at the Partnership level in connection with a Partnership-level tax audit of a taxable period during which such Person owned any Interest in the Partnership, regardless of whether such Person owns an Interest in the Partnership in the year in which such tax is actually imposed on the Partnership or becomes payable by the Partnership as a result of such audit. The Partnership may offset a Person's share of any such Tax Payment Amount against any distribution from the Partnership. If not offset against a distribution, the General Partner, or if the Partnership Representative is not then the General Partner, the Partnership Representative, may deliver a written demand for payment to such Person to pay the Partnership in immediately available funds the amount that the General Partner or Partnership Representative determines is needed by the Partnership to discharge those obligations and to otherwise pay and reimburse, indemnify, and hold the Partnership harmless with respect to such Person's share of any such Tax Payment Amount. If such a Person fails to timely pay the full amount of the required payment to the Partnership as so directed, such Person shall pay the Partnership interest at the General Interest Rate, on the amount under this Section 10.4 that such Person fails to timely pay. Any amount paid by (or any distribution retained from) a Person under this Section 10.4 will not be treated as a Capital Contribution or otherwise added to the Person's Capital Account, except to the extent (if at all) the General Partner or Partnership Representative determines that such characterization or treatment is necessary or appropriate.

The obligations under this Section 10.4 of a Person holding any Interest will survive the liquidation, termination, or other transfer of all or any portion of the Person's Interest in the Partnership and the dissolution, liquidation, winding up, and termination of the Partnership (which will be deemed to continue in existence for such purpose). The Partnership, the General Partner and the Partners who satisfied their obligations under this Section 10.4 may pursue and enforce all rights and remedies that they may have against a Person who holds or formerly held an Interest in the Partnership under this Agreement,

including instituting a proceeding to collect any payments they or the Partnership are owed under this Section 10.4 with interest at the General Interest Rate, and exercising any other remedies they may have under this Agreement or applicable law. If the Partnership has terminated, this section shall be applied as if the Partnership continued to exist to the extent possible under applicable law.

10.5 Reports and Statements. Within forty-five (45) days after the end of each calendar quarter of the Partnership, the General Partner will exert commercially reasonable efforts, at the expense of the Partnership, to generate and distribute to the Partners (i) either internally or independently prepared unaudited financial statements, which financial statements will set forth as of the end of and for such quarter a profit and loss statement and a balance sheet of the Partnership; (ii) an executive summary of the operations of the Partnership for such quarter; and (iii) such other information as in the judgment of the General Partner is reasonably necessary for the Partners to be advised of the results of operations of the Partnership.

10.6 Tax Elections. Upon the request of any Partner or of any transferee of an Interest in the Partnership or assets of the Partnership, the General Partner may cause the Partnership to make an election to adjust the basis of the assets of the Partnership for federal income tax purposes, as provided in Code §754, if the General Partner determines, in the General Partner's sole discretion, that such election is acceptable to the General Partner. Any adjustments to the tax basis of Property made as a result of such election will not be reflected in the Capital Account of the transferee Partner or on the books of the Partnership, and subsequent Capital Account adjustments for distributions and for depreciation, amortization, and gain or loss with respect to such property will disregard the effect of such basis adjustments. With respect to basis adjustments allocated to the common basis of Property, the provisions of Treasury Regulations §1.704-1(b)(2)(iv)(m) will apply. Any expenses of such election and any additional accounting or bookkeeping costs of the Partnership resulting from such election will be reimbursed to the Partnership by the party requesting that the election be made.

10.7 General Partner's Authority to File Combined Report. If, for any tax period, the Partnership (i) is part of a combined group for Texas franchise tax purposes (the "**Combined Group**"), and (ii) is required to be included in the filing of a combined report for Texas franchise tax purposes for such period, or is permitted to do so and the General Partner, in its sole discretion, determines that such a filing is desirable, the General Partner is authorized to file on behalf of the Partnership any consents, elections, and other documents and take such other action as may be necessary or appropriate to file, or be included in the filing of, a combined report. For purposes of this Section 10.7, any period for which the Partnership is included in a combined report for Texas franchise tax purposes is hereinafter referred to in this Agreement as a "**Combined Report Year**."

10.8 Liability to Other Combined Group Partners for Partnership Combined Report Years. If the Partnership is included in a Combined Group for a Combined Report Year, the Partnership shall be responsible for paying and shall indemnify any other Partners of the Combined Group for any Texas franchise taxes for which the Partnership would have been liable for that year, computed as though the Partnership had filed a separate franchise tax return for such Partnership Combined Report Year (such amount, the "**Separate Return Tax**"). The General Partner is authorized to calculate the Separate Return Tax by choosing deductions that are appropriate in the General Partner's reasonable discretion. To the extent another Partner of the Combined Group pays the Partnership's Separate Return Tax for any Combined Report Year (such Partner is referred to as the "**Paying Group Partner**"), the General Partner is authorized to reimburse the Paying Group Partner for such tax. Further, if the Partnership is included in a Combined Group for a Combined Report Year and the Paying Group Partner is required to pay Texas franchise tax attributable to the Partnership as the result of the Partnership's inclusion in the Combined group in excess of the Separate Return Tax (such amount, the "**Excess Combined Return Tax**"), then at the sole and exclusive election of the General Partner, the Partnership will be responsible for paying and

shall indemnify any other Partners of the Combined Group for any such Excess Combined Return Tax directly attributable to the Partnership's inclusion in the Combined Group. The Partners acknowledge and accept the risks, uncertainties, and potential costs that the Texas franchise tax laws and the applicable combined reporting requirements present to the Partnership and any decision or determination by the General Partner to pay all or any portion of any such Excess Combined Return Tax shall not be a breach or violation of any duty or obligation that the General Partner owes, or might owe, to the Partnership or any Partner, even if such determination and payment benefits the sole interests of the General Partner or its Affiliates and does not benefit the Partnership or any other Partner. To the extent a Paying Group Partner pays an Excess Combined Return Tax attributable to the Partnership for any Combined Report Year, the General Partner is authorized to reimburse the Paying Group Partner for all or any portion of such Tax.

10.9 Interim Estimated Payments. If the Combined Group is required to make estimated franchise tax payments during a Combined Report Year, the Partnership shall reimburse the Paying Group Partner, if any, for the portion of the estimated tax payments that are attributable to the inclusion of the Partnership in the Combined Group (calculated in accordance with the principles set forth in Section 10.7. Any such reimbursed amounts so paid by the Partnership in any year shall operate to reduce the Separate Return Tax and, if applicable, the Excess Combined Return Tax obligation of the Partnership pursuant to Section 10.7. The General Partner shall request a refund from the Paying Group Partner in the event the total estimated tax payments for a Combined Report Year exceed the Separate Return Tax or Excess Combined Return Tax for such year.

10.10 Tax Adjustments. In the event of any adjustment to the tax returns of the members of the Combined Group as filed (by reason of an amended return, claim for refund, or an audit by the Office of the Texas Comptroller (the "**Comptroller**"), the liability of the members of the Combined Group under Sections 10.8 shall be redetermined to give effect to any such adjustment as if it has been made as part of the original computation of tax liability, and members of the Combined Group shall satisfy any underpayments or overpayments within the Combined Group with thirty (30) days after any deficiency payments are made to the Comptroller or refunds are received from the Comptroller, or, in the case of contested proceedings, within thirty (30) days after a final determination of the contest.

10.11 Partnership Subsidiaries. All taxable entities owned by the Partnership that are includable as members of the Combined Group shall be subject to this Agreement. If at any time the Partnership acquires or creates one or more taxable entities that are includable as members of the Combined Group, such entities shall be subject to these Sections 10.7 through 10.13 regardless if the entity qualifies as a "passive entity" in any year. All references to the Partnership herein shall thereafter be interpreted to refer to the Partnership and such entities as a group.

10.12 Intent and Interpretation. The intent of this Section 10.12 is that the Partnership should make the Paying Group Member whole, without more, by reimbursing the Paying Group Member only to the extent of the Partnership's Separate Return Tax, except if an Excess Combined Return Tax is paid, and then to the extent of the additional Excess Combined Return Tax, as determined by the General Partner, pursuant to Section 10.8. Any ambiguity in the interpretation hereof shall be resolved, with a view to effectuating such intent, in favor of the Paying Group Member.

10.13 Combined Group Reporting Agreement. The General Partner, is authorized and empowered to enter into a "**Combined Group Reporting Agreement**" with other members of the Combined Group setting forth terms and conditions acceptable to the General Partner, to implement the provisions of Sections 10.7 through 10.13.

ARTICLE 11

POWERS OF ATTORNEY

11.1 **Power of Attorney**. Each Limited Partner hereby makes, constitutes, and appoints the General Partner its true and lawful attorney-in-fact, for it and in its name, place, and stead and for its use and benefit, from time to time:

(a) To make and execute all agreements amending this Agreement and the Certificate, as now or hereafter executed or amended, that may be appropriate to reflect:

(i) A change of the name or location of the principal or registered place of business of the Partnership;

(ii) The disposal by a Limited Partner of its Interest in the Partnership in any manner permitted by this Agreement;

(iii) A person becoming an additional or a substituted Limited Partner of the Partnership, provided that such admission or substitution will be in accordance with this Agreement; and/or

(iv) A change in any provision of this Agreement adopted in accordance with the provisions hereof, or the exercise by any person of any right or rights hereunder.

(b) To make such certificates, instruments, and documents as required by, or appropriate under, the laws of any state or other jurisdiction that the Partnership is doing or intends to do business, in connection with the use of the name of the Partnership by the Partnership; and

(c) To make such certificates, instruments, and documents as the Limited Partner may be required, or as may be appropriate for a Limited Partner to make, by the laws of any state or other jurisdiction to reflect:

(i) A change of name or address of the Limited Partner, or

(ii) Any changes in or amendments to this Agreement.

Each of such agreements, certificates, instruments, and documents will be in such form as such attorney-in-fact and counsel for the Partnership deems appropriate. The powers herein conferred to make agreements, certificates, instruments, and documents will be deemed to include without limitation the powers to sign, execute, acknowledge, swear to, verify, deliver, file, record, or publish the same.

Each Limited Partner hereby: (a) authorizes such attorney-in-fact to take any further action which such attorney-in-fact considers necessary or advisable in connection with any of the foregoing; (b) gives such attorney-in-fact full power and authority to do and perform each and every act or thing whatsoever requisite or advisable to be done in and about the foregoing as fully as though the Limited Partner might or could do if personally present; and (c) ratifies and confirms all that such attorney-in-fact may lawfully do or cause to be done by virtue hereof.

11.2 **Duration of Power**. The power of attorney granted herein:

(a) Is a special power of attorney coupled with an interest, is irrevocable, and will survive the death, incapacity, bankruptcy, or insolvency of the Limited Partner; and

(b) Will survive the delivery of an assignment by the Limited Partner of the whole or a portion of its Interest, except that where such assignment is of the Limited Partner's entire Interest and the purchaser, transferee, or assignee thereof, with the consent of the General Partner, is admitted as a substituted Limited Partner, the power of attorney will survive the delivery of such assignment for the sole purpose of enabling such attorney-in-fact to execute, acknowledge, and file any such agreement, certificate, instrument, or document necessary to effect such substitution.

ARTICLE 12

PARTNER REPRESENTATIONS AND WARRANTIES

12.1 **Representations and Warranties**. Each of the Partners, by execution of this Agreement, hereby severally (but not jointly) represents and warrants to and covenants with the Partnership and the other Partners as follows:

(a) Organization and Good Standing. Such Partner, if a corporation, partnership, limited liability company, trust, or other entity, is duly organized or formed, validly existing, and in good standing under the law of the state of its incorporation, formation, or organization, and if required by law is duly qualified to do business and in good standing in the jurisdiction of its principal place of business (if not formed in that jurisdiction).

(b) Authority; No Conflict. Such Partner has the right, power, legal capacity, and authority to execute and deliver this Agreement and to consummate any transactions contemplated by this Agreement. This Agreement has been duly and validly executed and delivered by such Partner, and constitutes the valid, legal, and binding agreement of such Partner. The individual or individuals executing this Agreement, and any and all documents contemplated in it, on behalf of such Partner has or have the legal power, right, and actual authority to bind such Partner to the terms and conditions in this Agreement and in those documents. No authorization, consent, or approval of, notice to, or filing with, any other person, entity, or governmental authority, is required for the execution, delivery, and performance by such Partner of this Agreement. Neither the execution, delivery, or performance by such Partner of this Agreement, nor compliance of the terms and provisions of this Agreement, conflicts or will conflict with, or will result in, a breach or violation of any of the terms, conditions, or provisions of any law, governmental rule or regulation, or any other agreement of such Partner, or any order, writ, injunction, or decree of any court or governmental authority against such Partner, or by which it or any of its properties is bound, or any indenture, mortgage, contract, or other agreement or instrument to which such Partner is a party or by which it or any of its properties is bound, or constitutes or will constitute a default thereunder or will result in the imposition of any lien upon any of its properties. No further approval of any person or entity is required for the execution and delivery of this Agreement by such Partner or the consummation of any of the transactions contemplated by this Agreement.

(c) No Distribution. Such Partner, and each assignee or transferee of such Partner by acceptance of the rights and interests of such Partner in the Partnership, represents and warrants to and covenants and agrees with the Partnership and the other Partners, with the intent that the same be relied upon in determining suitability as a Partner in the Partnership, that such Partner's Interest has been acquired under this Agreement for such Partner's own account, for investment,

and not with a view to or for sale in connection with any distribution thereof, or with any present intention of distributing or selling such Interest, and that such person will not sell or assign any Interest in the Partnership without having first delivered to the General Partner and the Partnership an opinion of counsel satisfactory to the General Partner that such sale or assignment does not violate the Securities Laws, or the registration or qualification provisions of any other securities law, state or federal, applicable thereto or any of the other provisions of this Agreement.

(d) Accredited Investor. Such Partner is of legal age and is an "ACCREDITED INVESTOR" as that term is defined in Regulation D promulgated under the Securities Act of 1933, as amended (the "**Act**"). That is, such Partner is:

(i) a bank as defined in Section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity;

(ii) a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934;

(iii) an investment adviser registered pursuant to Section 203 of the Investment Advisers Act of 1940 or registered pursuant to the laws of a state;

(iv) an investment adviser relying on the exemption from registering with the Securities and Exchange Commission under Section 203(l) or (m) of the Investment Advisers Act of 1940;

(v) an insurance company as defined in Section 2(a)(13) of the Act;

(vi) an investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that act;

(vii) a Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958;

(viii) a Rural Business Investment Company as defined in Section 384A of the Consolidated Farm and Rural Development Act;

(ix) a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000;

(x) an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(xi) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;

(xii) an organization described in Section 501(c)(3) of the Code, corporation, Massachusetts or similar business trust, partnership, or limited liability company that was not formed for the specific purpose of acquiring the Interests, with total assets in excess of $5,000,000;

(xiii) a director or executive officer of the Partnership or the General Partner;

(xiv) a natural person (not an entity) whose individual net worth, or joint net worth with such Partner's spouse or spousal equivalent, presently exceeds $1,000,000;

Note. For purposes of calculating net worth under this category, (i) such Partner's primary residence will not be included as an asset; (ii) indebtedness that is secured by such Partner's primary residence, up to the estimated fair market value of the primary residence on the date of this Agreement will not be included as a liability (except that if the amount of such indebtedness outstanding on the date of this Agreement exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess will be included as a liability); and (iii) indebtedness that is secured by such Partner's primary residence in excess of the estimated fair market value of the primary residence on the date of this Agreement will be included as a liability. "Spousal equivalent" means a cohabitant occupying a relationship generally equivalent to that of a spouse. "Joint net worth" can be the aggregate net worth of a person and spouse or spousal equivalent; assets do not need to be held jointly to be included in the calculation.

(xv) a natural person (not an entity) who had an individual income in excess of $200,000 in each of the two most recent years and reasonably expects an individual income in excess of $200,000 in the current year;

(xvi) a natural person (not an entity) who, together with such Partner's spouse or spousal equivalent, had joint income in excess of $300,000 in each of the two most recent years and reasonably expects joint income in excess of $300,000 for the current year;

(xvii) a trust with total assets in excess of $5,000,000 that was not formed for the specific purpose of acquiring the Interests, whose purchase is directed by a "sophisticated person" as described in Rule 506(b)(2)(ii) under the Act;

(xviii) an entity of which all of the equity owners are "accredited investors";

(xix) an entity, of a type not listed in categories (i) through (xii), (xvii), or (xviii) above, not formed for the specific purpose of acquiring the Interests, owning investments in excess of $5,000,000;

(xx) a natural person who holds, in good standing, one of the following professional licenses: (i) the General Securities Representative license (Series 7); (ii) the Private Securities Offerings Representative license (Series 82); or (iii) the Investment Adviser Representative license (Series 65);

(xxi) a natural person who is a "knowledgeable employee," as defined in Rule 3c-5(a)(4) under the Investment Company Act of 1940, of the Partnership;

(xxii) a "family office," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, that (i) has assets under management in excess of $5,000,000; (ii) is not formed for the specific purpose of acquiring the Interests; and (iii) has a person directing the prospective investment who has such knowledge and experience in financial and business matters so that the family office is capable of evaluating the merits and risks of the prospective investment; or

(xxiii) a "family client," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, of a family office meeting the requirements of the family office category above and whose prospective investment in the Partnership is directed by that family office pursuant to clause (iii) of the family office category above.

(e) High Risk Venture. Such Partner understands that the Partnership has no financial or operating history and limited assets, that this is the Partnership's first venture, and that there are very high risks incident to the ownership of an Interest in the Partnership. Such Partner has carefully reviewed and understands the high degree of risk and speculative nature of, and other considerations relating to, a purchase of an Interest in the Partnership, including the tax risks.

(f) Substantial Transfer Restrictions. Such Partner understands that an investment in the Partnership is not a liquid investment. In particular, such Partner recognizes that:

(i) Such Partner must bear the economic risk of investment in the Partnership for an indefinite period of time, since the Interests in the Partnership have not been registered under any Securities Laws and cannot be sold unless they are either subsequently registered under such Securities Laws (which is neither contemplated by nor required of the General Partner) or an exemption from such registration is available;

(ii) No federal or state agency has made any finding or determination as to the fairness of an investment in, nor any recommendation or endorsement of, an investment in the Partnership. Such Partner understands that its Interest has not been registered under any Securities Laws in reliance upon applicable exemptions;

(iii) There is no established market for an investment in the Partnership and that it is not anticipated that any public market for such investment will develop in the near future;

(iv) The right to transfer an Interest in the Partnership is restricted, as described in this Agreement; and

(v) The tax effects that may be expected from investment in an Interest in the Partnership are not susceptible to firm prediction, and new developments and rulings of the Internal Revenue Service, audit adjustments, court decisions, or legislative changes may have an adverse effect on one or more of the tax consequences expected by the Partnership.

(g) No Representations. Such Partner represents that none of the following have been represented, guaranteed or warranted to such Partner by any broker, the General Partner, its agents or employees, or any other person, expressly or by implication:

(i) The length of time that such Partner will be required to remain as the owner of an Interest in the Partnership;

(ii) The percentage profit and/or the amount or type of consideration, profit or loss (including tax write-offs and/or tax benefits) to be realized, if any as a result of an investment in the Partnership; or

(iii) That the past performance or experience on the part of the General Partner or any officer, director or affiliate, any securities broker or finder, their partners, associates, agents, or employees or any other person, will in any way indicate the predictable results of the ownership of an Interest in the Partnership.

(h) Investing Experience. Such Partner, or representative therefor, has such knowledge and experience in financial and business matters, including investing in or dealing with businesses and activities similar to those of the Partnership, that such Partner is capable of evaluating the merits and risks of an investment in the Partnership. Such Partner is able to bear the economic risk of an investment in the Partnership, including the risk of holding indefinitely any Interest acquired by such person. Such Partner has made other speculative investments and together with a Purchaser representative, if any, has the capacity to evaluate the risks and merits of this investment and to make an informed investment decision.

(i) No Reliance; Full Access. Such Partner has relied on its own professional advisors for legal, tax, and investment advice in evaluating an investment in the Partnership, and has not relied on another Partner for such advice. Such Partner has been afforded full access to representatives of the General Partner for purposes of such inquiry as such Partner deems appropriate, and all information requested by such Partner concerning the Partnership has been supplied.

(j) Illiquidity. Such Partner has adequate means of providing for current needs and all possible personal contingencies and has no need for liquidity in an investment in the Partnership. Such Partner could afford to sustain a loss of the entire investment in the Partnership if such loss should occur.

(k) Inspection. Such Partner is familiar with the existing or proposed business, financial condition, properties, operations, and prospects of the Partnership and has asked such questions, and conducted such due diligence concerning such matters and concerning its acquisition of its Interest as it has desired to ask and conduct, and all such questions have been answered to its full satisfaction. Such Partner understands that all documents, records, and books pertaining to the Partnership and the Partnership Activities have been made available for inspection by such Partner or such Partner's attorney, accountant, and advisors, and that the books and records of the General Partner will be available, upon reasonable notice, for inspection by Partners during reasonable hours at the General Partner's principal place of business. Such Partner has had an opportunity to ask questions of and receive answers from the General Partner, or a person or persons acting on such Partner's behalf, concerning the terms and conditions of an investment in the Partnership.

12.2 Reimbursement Obligation. If the Partnership is required to expend any sum or incur any expense as a result of any particular reporting requirements for any Limited Partner, other than reporting requirements that can be satisfied or extrapolated from data and reports required pursuant to this Agreement, such as the preparation of an annual estimate of the market value of a Limited Partner's

Interest, such expense will be borne solely by the Limited Partner requiring such report. Such Limited Partner agrees to promptly reimburse the Partnership for such cost and expense.

12.3 **Indemnification of Partnership, General Partner and Others**. Each Limited Partner understands the meaning and legal consequences of the representations and warranties contained herein, and hereby agrees to indemnify and hold harmless the General Partner and the Partnership and their officers, directors, agents, and employees from and against any and all loss, damage or liability due to or arising out of a breach of any representation or warranty of such Limited Partner contained in this Agreement. Notwithstanding any of the representations, warranties, acknowledgements, or agreements made herein, the Partners do not in any manner waive any non-waivable rights granted under federal or state securities laws.

12.4 **Represented Parties**. In connection with the preparation and execution of this Agreement, the formation of the Partnership, and any investment in the Partnership, Armbrust & Brown, PLLC (the "**Firm**") has represented only the General Partner, the Class A Limited Partner, and the Partnership (collectively in such capacity, the "**Represented Parties**"). The Firm has not represented and does not intend to represent any Partner other than the General Partner and the Class A Limited Partner, and has not provided legal, tax, or business advice to any other Partner in connection with this Agreement, the formation of the Partnership, any investment in the Partnership, and the Transactions. Each Class B Limited Partner has been advised to retain and is, and will be, relying on separate counsel in connection with this Agreement, the formation of the Partnership, any investment in the Partnership, and the Transactions (or has had the opportunity to retain separate counsel and declined to do so). The Partnership and each Partner hereby acknowledges that it has read and agrees to the provisions of Exhibit D, attached hereto and incorporated herein, concerning the Firm's continued representation of the Represented Parties and/or the Partnership on future matters, as requested by those parties, and consents to such representation as set forth in Exhibit D.

ARTICLE 13

DEFAULT BY A PARTNER

13.1 **Events of Default**. Each of the following events shall be deemed to be an "**Event of Default**" by a Partner:

(a) Failure of a Partner to fund the Initial Capital Contribution or fund the GP and Class A Limited Partner Capital Commitments when due and the continuance of such failure for a period of two (2) days after written notice thereof has been given to such Partner.

(b) Material violation of any provision of this Agreement (not involving capital contributions addressed in Section 13.1(a)) or any provisions of any subscription agreement executed in connection with this Agreement and failure to remedy or commence curative action for such violation within thirty (30) days after written notice thereof has been given to such Partner and thereafter diligently pursue such curative action to remedy thereof.

(c) The making of an assignment for benefit of creditors or the filing of a petition under any section or chapter of the Bankruptcy Code (Title 11, USCS), as amended, or under any similar law or statute of the United States or any state thereof.

(d) Adjudication of a Partner as bankrupt or insolvent in proceedings filed against the Partner under any section or chapter of the Bankruptcy Code (Title 11, USCS), as amended,

or under any similar law or statute of the United States, or any state thereof without further possibility of appeal or review.

(e) The appointment of a receiver for all or substantially all of the assets of a Partner and the failure to have such receiver discharged within thirty (30) days after appointment.

(f) Any Transfer or attempted Transfer in violation of Article Eight.

13.2 Effect of Default. Upon the occurrence of an Event of Default by a Partner and written notice from the General Partner, the defaulting Partner shall automatically forfeit for the duration of the default any of the following rights: (i) to receive distributions from the Partnership and (ii) to vote on, consent to, or approve any Partnership action. Upon the occurrence of an Event of Default by a Partner and written notice from the General Partner, the non-defaulting Partner(s) shall have the right, but not the obligation, to purchase the Interest of the defaulting Partner for a price equal to eighty percent (80%) of its Computed Value, as such value is determined in Section 8.16. If there is more than one (1) non-defaulting Partner, each non-defaulting Partner shall have the right, but not the obligation, to purchase the Interest of the defaulting Partner in the ratio their respective Capital Interest bears to the total Capital Interests of all non-defaulting Partners desiring to purchase or in such other ratio as they may agree. Such option to purchase may be exercised by the non-defaulting Partner(s) by the delivery of written notice of intent to purchase under this Section 13.2 to the defaulting Partner at any time prior to the time that all such default(s) are cured by the defaulting Partner. The sale and purchase of the defaulting Partner's Interest under this Section 13.2 will be closed within one hundred fifty (150) days thereafter on the date selected in the sole discretion of the purchasing non-defaulting Partner(s). The purchase price shall be payable in the manner provided in Section 8.17.

ARTICLE 14

WINDING-UP AND TERMINATION

14.1 Winding Up and Termination. The Partnership will be wound up and its existence terminated, upon the earliest to occur of:

(a) the agreement of the General Partner and approval of the Limited Partners to wind up and terminate the Partnership;

(b) the bankruptcy of the Partnership; or

(c) a reasonable time, as determined by the General Partner, after the sale of substantially all of the property of the Partnership and conversion into cash of all proceeds thereof received in a non-cash form or medium and distribution of any reserves after such sale.

For the purposes of this Agreement, a bankruptcy of a person means the filing of a petition for relief as to any person as debtor or bankrupt under the Bankruptcy Code of 1978, as amended, or a successor statute thereto (except if such petition is contested by such person), or the filing by such person or by another of a petition or application to declare the insolvency of such person or for the appointment of a receiver or a trustee for such person or a substantial part of such person's assets; provided, however, if such proceeding is commenced by another, such person must indicate such person's approval of such proceeding, consent thereto or acquiesce therein, or fail to have such proceeding dismissed within one hundred twenty (120) days. The death, incompetency, insolvency, bankruptcy, or retirement of a Limited Partner will not result in the winding up or termination of the Partnership.

14.2 **Restoration of Deficit Capital Account**. Upon the winding-up, termination, and liquidation of the Partnership, or the termination of the Partnership for tax purposes under Code §708(b)(1)(B), no Partner will have the obligation to restore the deficit balance of such Partner's Capital Account, if any.

14.3 **Winding Up and Liquidation**. Upon the termination of the Partnership in accordance with this Agreement, its business will be wound up and liquidated as rapidly as business circumstances will reasonably permit, and the winding up and liquidation of the Partnership will be handled by a liquidating agent, who shall be the General Partner. The winding up and liquidation will consist of the use, application, and distribution of the assets and properties of the Partnership as hereinafter provided and at its conclusion the Partnership will terminate. The liquidating agent, whether original or successor, individual or corporate, will not be liable for any action taken or omitted in its capacity as liquidating agent hereunder, except for its own gross negligence or willful misconduct. Any corporate liquidating agent, other than the General Partner or its Affiliates, will be entitled to reasonable compensation commensurate with the duties and responsibilities involved, but no individual liquidating agent will receive compensation for such agent's services unless expressly approved by the Partners selecting such agent. The liquidating agent may sell all of the assets of the Partnership, including, without limitation, the Property, at reasonable market terms and conditions, or it may distribute those properties in kind; provided, however, that the liquidating agent will ascertain the fair market value (by appraisal or other reasonable means) of all Property remaining unsold and distributed to the Partners in kind, and the income, gain, loss, deduction, and credit that would have been realized will be allocated to the Partners (and each Partner's Capital Account will be debited or credited, as the case may be) in accordance with Article Five, as if such assets had been sold for such fair market value. All of the assets of the Partnership, including, without limitation, the proceeds of sales, if any, of the Property or any portion thereof, and all other cash and property, if any, then on hand in the Partnership will be applied and distributed, based on the fair market value thereof as determined in accordance with the preceding sentence, in the order or priority set forth in Section 6.4 above, but after the allocations provided in Article Five.

14.4 **Effect of Termination**. Termination of the Partnership will not release any of the Partners from their contractual obligations under this Agreement.

14.5 **Right of Partition Waived**. Each of the Partners hereby agrees to and hereby irrevocably waives for the duration of this Agreement any right any such Partner might have to cause the Partnership or any of its assets to be partitioned, to compel any sale of all or any portion of the assets of the Partnership pursuant to any applicable law or laws or to file a complaint or to institute any proceeding, at law or in equity, to cause the winding up or termination of the Partnership, except as expressly provided for in this Agreement. Each of the Partners hereby acknowledges and agrees that such Partner has been induced to enter this Agreement in reliance upon the mutual waivers set forth in this Section 14.5 and, without such waivers, no Partner would have entered into this Agreement. No Partner has any interest in specific property, but the Interests of all Partners are, for all purposes, personal property.

ARTICLE 15

MISCELLANEOUS

15.1 **Notices**. Whenever any notice is required or permitted to be given under any provision of this Agreement, such notice must be in writing, signed by or on behalf of the person giving the notice, and will be deemed to have been given when actually delivered by personal delivery, one (1) business day after being placed for express delivery with Federal Express or other overnight carrier or two (2) business days after sent by registered or certified mail, return receipt requested, postage and charges prepaid,

addressed to the person or persons to whom such notice is to be given at the address set forth opposite the Partners' signatures to this Agreement (or at such other address as shall be stated in a notice similarly given).

15.2 **Binding Effect**. Except as herein otherwise provided to the contrary, this Agreement will be binding upon and will inure to the benefit of the parties hereto, their personal representatives, successors, and assigns.

15.3 **No Oral Modification**. No modification or waiver of this Agreement or any part hereof will be valid or effective unless in writing; and no waiver of any breach or condition of this Agreement will be deemed to be a waiver of any other subsequent breach or condition, whether of like or different nature.

15.4 **Applicable Laws and Venue**. This Agreement and the rights of the parties to this Agreement is governed by and will be construed in accordance with the laws of the state of Texas, without giving effect to the principles of conflict of laws. The Partnership and each Partner hereby irrevocably submits in any suit, action, or proceeding arising out of or relating to this Agreement or the Partnership's, or any Partner's performance of this Agreement, or rights or obligations under this Agreement to the jurisdiction of the federal and state courts sitting in Austin, Travis County, Texas and waives any and all objections to the jurisdiction of, or venue in, such court that the Partnership or any such Partner may have under applicable laws.

15.5 **Gender**. All pronouns and any variations thereof will be deemed to refer to the masculine, feminine, or neuter, singular or plural, as the identity of the person or entity may require.

15.6 **No Implied Waiver**. The failure of any Partner to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in this Agreement will not be construed as a waiver or a relinquishment thereof for the future.

15.7 **Legal Construction**. In case any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Furthermore, in lieu of each such illegal, invalid or unenforceable provision there will be substituted a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. The Partners acknowledge that this is a fully negotiated document and that a full and fair opportunity has been provided for review and comment on the provisions in this Agreement by all of the Partners and their respective representatives and attorneys and any rule of construction that ambiguities are to be resolved against the drafting party or any particular Partner will not be applicable to this Agreement. Every covenant, term, and provision of this Agreement will be construed simply according to its fair meaning and not strictly for or against any Partner.

15.8 **Headings**. The headings contained herein are for administrative purposes only and will not control or affect the meaning or construction of any provision of this Agreement. Unless otherwise specified, all references to "Section," "Article," or "Exhibit" in this Agreement are to sections, articles, or exhibits of this Agreement.

15.9 **Multiple Counterparts**. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which will constitute one and the same instrument. However, in making proof hereof, it will be necessary to produce only one original copy hereof or fax copy of the executed original signed by the party to be charged.

15.10 **Execution of Documents**. Each party hereto agrees to execute, with acknowledgement or affidavit, if required, any and all documents and writing which may be necessary or expedient in connection with the creation of the Partnership and the achievement of its purposes.

15.11 **Reliance on Authority of General Partner**. In no event will any person dealing with the General Partner with respect to any property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, or be obligated to inquire into the necessity or expediency of any act or action of the General Partner; and, every contract, agreement, deed, mortgage, promissory note, or other instrument or document executed by the General Partner with respect to any property of the Partnership will be conclusive evidence in favor of any and every person relying thereon or claiming thereunder that: (i) at the time of execution and/or delivery thereof, this Agreement was in full force and effect; (ii) such instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership and all of the Partners thereof; and (iii) the General Partner has been duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership.

15.12 **No Third-Party Beneficiary**. Except as otherwise specifically set forth in this Agreement, this Agreement is made solely and specifically among and for the benefit of the parties named herein, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, and no other person will have any right, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

15.13 **Amendments**. Except as otherwise provided in this Agreement, this Agreement may not be amended, altered, or modified except by an instrument in writing and signed by the General Partner and approved by the Limited Partners; provided, however, this Agreement may not be amended, altered, or modified in any way that would materially affect a Class B Limited Partner's economic rights (i.e., capital contributions, returns, and distribution priorities and amounts) under this Agreement without such Class B Limited Partner's approval (except that the approval rights in this proviso are not intended, and shall not be construed, to limit or restrict amendments made in accordance with this Agreement (A) to admit additional Partners in the Partnership pursuant to the Offering or (B) in connection with raising additional capital for the Partnership, which may result in diluting a Partner's interests for not contributing such Partner's pro-rata share of additional Capital Contributions or for not purchasing such Partner's pro-rata share of additional Interests sold by the Partnership).

15.14 **Reliance on Authority of Person Signing Agreement**. If a Partner is an entity other than a natural person, neither the Partnership nor any Partner shall: (i) be required to determine the authority of the person signing this Agreement to make any commitment or undertaking on behalf of such entity or to determine any fact or circumstances bearing upon the existence of the authority of such person, or (ii) be required to see to the application or distribution of proceeds paid or credited to persons signing this Agreement on behalf of such entity.

15.15 **Attorney's Fees**. If a suit or other judicial or other dispute resolution action is filed in a court of law or submitted to arbitration or mediation, the prevailing party shall be entitled to reasonable attorney's fees, expenses and court costs.

15.16 **Usurious Interest**. Notwithstanding any of the above listed interest rates, the interest rate charged on any loan under this Agreement will not exceed the maximum rate allowed by applicable law.

15.17 **Time is of Essence**. Time is of the essence with all things pertaining to this Agreement.

15.18 Entire Agreement. This Agreement contains the entire agreement among the Partners relating to the subject matter herein and any prior oral or written agreements or any representations or offers whatsoever not contained herein are terminated.

15.19 Dispute Resolution.

(a) Negotiated Resolution. If any dispute or deadlock arises (i) out of or relating to, this Agreement or any alleged breach thereof, or (ii) with respect to any of the transactions or events contemplated hereby, the party desiring to resolve such dispute shall deliver a written notice of the dispute including the specific facts of the dispute ("**Dispute Notice**") to the other parties of such dispute. If any party delivers a Dispute Notice pursuant to this Section 15.19, the parties involved in the dispute shall meet at least twice within the thirty (30) day period commencing with the date of the Dispute Notice and in good faith shall attempt to resolve such dispute.

(b) Mediation. If any dispute is not resolved or settled by the parties as a result of negotiation pursuant to Section 15.19(a), the parties shall submit the dispute to non-binding mediation before a retired judge of a Federal District Court or Texas District Court, or some similarly qualified, mutually agreeable individual. The parties shall bear the costs of such mediation equally.

(c) Arbitration. If the dispute is not resolved by mediation pursuant to Section 15.19(b), or if the parties fail to agree upon a mediator, within ninety (90) days after the Dispute Notice, the dispute shall be settled by arbitration conducted in Austin, Texas which shall be in accordance with the rules and procedures of the American Arbitration Association, and, to the maximum extent applicable, the Federal Arbitration Act (Title 9 of the United States Code). The arbitration of such issues, including the written determination of any amount of damages suffered by any party hereto by reason of the acts or omissions of any party, shall be final and binding upon all parties. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator shall deem necessary to the same extent a judge could pursuant to the Federal or Texas Rules of Civil Procedure and applicable law. Notwithstanding the foregoing, the arbitrator shall not be authorized to award punitive damages with respect to any such claim or controversy, nor shall any party seek punitive damages relating to any matter under, arising out of or relating to this Agreement in any other forum. Except as otherwise set forth in this Agreement, the cost of any arbitration hereunder, including the cost of the record or transcripts thereof, if any, administrative fees, and all other fees involved including reasonable attorneys' fees incurred by the party determined by the arbitrator to be the prevailing party shall be paid by the party determined by the arbitrator not to be the prevailing party, or otherwise allocated in an equitable manner as determined by the arbitrator. The parties shall instruct the arbitrator to render its decision no later than ninety (90) days after the submission of the dispute.

(d) Confidentiality. Each party agrees to keep all disputes and mediation and arbitration proceedings strictly confidential, except for disclosures of information in the ordinary course of business of the parties or by applicable law or regulation.

[Remainder of page intentionally left blank.]

[Signature pages follow.]

EXECUTED in multiple counterparts by the General Partner, the Class A Limited Partner, and the initial Class B Limited Partners executing this Agreement as of the Effective Date.

Address: **GENERAL PARTNER**:

212 Lavaca Street, Suite 300 STRATUS BLOCK 150 GP, L.L.C., a Texas limited
Austin, Texas 78701 liability company

By: /s/ Erin D. Pickens
Erin D. Pickens, Senior Vice President

[Limited Partner Counterpart Signature Pages Follow]

COUNTERPART SIGNATURE PAGE

TO AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

OF STRATUS BLOCK 150, L.P.

By execution of this counterpart signature page, the undersigned named limited partner hereby becomes the Class A Limited Partner of **STRATUS BLOCK 150, L.P.**, a Texas limited partnership (the "**Partnership**"), pursuant to the Amended and Restated Limited Partnership Agreement of the Partnership (the "**Agreement**"). The undersigned hereby agrees to be bound by all of the terms and conditions of the Agreement and authorizes the General Partner to attach this counterpart signature page to the Agreement and, when so attached with the signature pages of all of the Partners, such Agreement will constitute one and the same document as if all signatories had originally signed thereon.

Dated effective as of the Effective Date.

Address: **CLASS A LIMITED PARTNER**:

212 Lavaca Street, Suite 300
Austin, Texas 78701

STRATUS PROPERTIES OPERATING CO., L.P., a Delaware limited partnership

By: STRS L.L.C., a Delaware limited liability company, General Partner

By: Stratus Properties Inc., a Delaware corporation, Sole Member

By: /s/ Erin D. Pickens
Erin D. Pickens, Senior Vice President

COUNTERPART SIGNATURE PAGE

TO AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT

OF STRATUS BLOCK 150, L.P.

By execution of this counterpart signature page, the undersigned named limited partner hereby becomes a Class B Limited Partner of **STRATUS BLOCK 150, L.P.**, a Texas limited partnership (the "**Partnership**"), pursuant to the Amended and Restated Limited Partnership Agreement of the Partnership (the "**Agreement**"). The undersigned hereby agrees to be bound by all of the terms and conditions of the Agreement and authorizes the General Partner to attach this counterpart signature page to the Agreement and, when so attached with the signature pages of all of the Partners, such Agreement will constitute one and the same document as if all signatories had originally signed thereon.

Dated: August 31, 2021

CLASS B LIMITED PARTNER:

By: /s/ Class B Limited Partners listed on Exhibit A

JOINDER OF SPOUSE, IF APPLICABLE

The undersigned, being the spouse of a Class B Limited Partner whose signature appears above, subscribes his or her name as evidence of agreement and consent to the Amended and Restated Limited Partnership Agreement of Stratus Block 150, L.P., and the dispositions made of the partnership interests in Stratus Block 150, L.P. referred to in the Amended and Restated Limited Partnership Agreement, and to all other provisions thereof.

Dated: [_____], 2021.

SPOUSE:

_____
Printed Name: _____
Spouse of: _____

EXHIBIT A

TO THE AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT
OF STRATUS BLOCK 150, L.P.

Partners' Initial Capital Interests, Initial Voting Interests,
Initial Capital Contributions

Partners	Initial Capital Interest	Initial Voting Interest	Initial Capital Contribution
General Partner:			
Stratus Block 150, L.L.C	0.1%	0.1%	$15,600[(1)]
Class A Limited Partner:			
Stratus Properties Operating Co., L.P.	24.9%	24.9%	$3,884,400[(1)]
Class B Limited Partners:			
[***]	6.410256410%	6.410256410%	$1,000,000
[***]	6.410256410%	6.410256410%	$1,000,000
[***]	12.820512821%	12.820512821%	$2,000,000
[***]	9.615384615%	9.615384615%	$1,500,000
[***]	6.410256410%	6.410256410%	$1,000,000
JBM Trust	6.410256410%	6.410256410%	$1,000,000
[***]	6.410256410%	6.410256410%	$1,000,000
[***]	6.410256410%	6.410256410%	$1,000,000
[***]	4.807692308%	4.807692308%	$750,000
[***]	3.205128205%	3.205128205%	$500,000
[***]	1.602564103%	1.602564103%	$250,000
[***]	1.602564103%	1.602564103%	$250,000
[***]	1.602564103%	1.602564103%	$250,000
[***]	1.282051282%	1.282051282%	$200,000
Class B Limited Partners Subtotal:	75.0%	75.0%	$11,700,000
Total:	100.0%	100.0%	$15,600,000

(1) See Section 4.2 regarding the General Partner and the Class A Limited Partner's Initial Capital Contributions.

APPENDIX A

TO THE AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT
OF STRATUS BLOCK 150, L.P.

Allocation Provisions

A.1 Capital Account Computations and Adjustments. Each Partner's Capital Account, Adjusted Capital Account, and Adjusted Capital Account Deficit will be defined and determined as follows:

(a) Capital Account. A separate capital account ("**Capital Account**") will be maintained by the Partnership for each Partner.

(i) The Capital Account of each Partner will be credited with the Partner's capital contributions (at net fair market value with respect to contributed property) and shall be appropriately adjusted to reflect each Partner's allocations of profits, gains, losses, deductions, the net fair market value of distributions made to the Partner, and such other adjustments as shall be required by Code §704(b) and the Treasury Regulations promulgated thereunder. Except as otherwise expressly set forth in this Agreement, no interest shall be paid on any Capital Account.

(ii) Upon any transfer of an interest in the Partnership, as permitted in this Agreement, the respective Capital Accounts of the transferor and transferee shall be adjusted in accordance with Treasury Regulations §1.704-1(b)(2)(iv)(l) and any other applicable federal income tax regulation then in effect.

(iii) Except as specifically provided in this Agreement, no Partner may contribute capital to, or withdraw capital from, the Partnership. To the extent any monies that any Partner is entitled to receive pursuant to Article Six would constitute a return of capital, each of the Partners consents to the withdrawal of such capital.

(iv) Loans by a Partner to the Partnership will not be considered contributions to the capital of the Partnership and will not increase the Capital Account of the lending Partner.

(v) References in any section or subsection to the Capital Account of a Partner are intended to refer to such Capital Account as the same may be increased or decreased from time to time as the result of any prior allocations or distributions pursuant to Articles Five and Six.

(vi) The General Partner, in its discretion, may: (i) upon the occurrence of one or more of the events set out in Treasury Regulations §1.704-1(b)(2)(iv)(f)(5)(i)-(iii), increase or decrease the Capital Accounts of the Partners to reflect a revaluation of Partnership property (including intangible assets such as goodwill) on the Partnership books as long as such adjustments comply with the requirements of Treasury Regulations §1.704-1(b)(2)(iv)(f)(5), and (ii) reflect property on the books of the Partnership at a book value that differs from the adjusted tax basis of the property in accordance with Treasury Regulations §1.704-1(b)(2)(iv)(g).

(b) Adjusted Capital Account. "**Adjusted Capital Account**" means, with respect to a Partner, such Partner's Capital Account after: (i) crediting to such Capital Account any amount which such Partner is deemed to be obligated to restore pursuant to the penultimate sentence of Treasury Regulations §§ 1.704-2(g)(1) and 1.704-2(i)(5); (ii) crediting to such Capital Account any amount such Partner is unconditionally obligated to contribute to the Partnership under this Agreement or applicable law; (iii) crediting to such Capital Account any Partnership debt that such Partner is personally obligated to pay and bears the economic risk of loss; and (iv) debiting to such Capital Account the items described in Treasury Regulations §1.704-1(b)(2)(ii)(d)(4), (5) and (6). This definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulations §§1.704-1(b)(2)(ii)(d) and 1.704-2, and will be interpreted consistently with those provisions.

(c) Adjusted Capital Account Deficit. "**Adjusted Capital Account Deficit**" means, with respect to a Partner, the deficit balance, if any, in that Partner's Adjusted Capital Account.

A.2 Superseding Allocation Provisions.

(d) Capital Account Deficits. Notwithstanding anything to the contrary in this Appendix A (except Paragraph A.2(a)(i) below), no Limited Partner shall be allocated any item to the extent that such allocation would create or increase a deficit in such Limited Partner's Capital Account.

(i) Obligations to Restore. For purposes of applying this Paragraph A.2(a)(i), in determining whether an allocation would create or increase a deficit in a Limited Partner's Capital Account, such Capital Account shall be reduced for those items described in Treasury Regulations §§1.704-1(b)(2)(ii)(d)(4), (5) and (6) and shall be increased by any amounts which such Partner is obligated to restore or is deemed obligated to restore pursuant to the penultimate sentences of Treasury Regulations §§1.704-2(g)(1) and 1.704-2(i)(5). Further, such Capital Accounts shall otherwise meet the requirements of Treasury Regulations §1.704-1(b)(2)(ii)(d).

(ii) Reallocations. Any loss or deduction of the Partnership, the allocation of which to any Partner is prohibited by Paragraph A.2(a)(i), shall be reallocated to those Partners not having a deficit in their Capital Accounts (as adjusted in Paragraph A.2(a)(i)) in the proportion that the positive balance of each such Partner's Adjusted Capital Account bears to the aggregate balance of all such Partners' Adjusted Capital Accounts, with any remaining losses or deductions being allocated to the General Partner. Any allocations of loss and deductions under this Paragraph A.2(a)(ii) shall be offset and reversed at the earliest opportunity by reallocations of income and gain of the Partnership, as determined by the General Partner.

(e) Special Allocations. The Partners intend that the allocation of tax attributes arising from the Partnership comply with the applicable provisions of Treasury Regulations §1.704-1(b). To conform further the allocation provisions of this Agreement to such Treasury Regulations, the Partners agree that the special allocation rules contained in this Appendix A shall apply; provided, however, that in respect of any particular allocation, the rules contained in this Paragraph A.2 shall supersede the rules otherwise applicable under Article Five only to the extent necessary to cause such allocation to be respected under the Treasury Regulations, and the remaining portion of such allocation shall not be affected. In the event of any inconsistency between the Treasury Regulations and the allocations contained in the provisions of Sections 5.3 and 5.4, the Treasury Regulations shall govern.

(f) Minimum Gain Chargeback. If, during the Partnership's fiscal year, there is a net decrease in the Partnership's minimum gain (as determined under Treasury Regulations §1.704-2(d)), then items of income and gain of the Partnership shall be allocated to each Partner having a negative Capital Account balance at the end of such fiscal year in accordance with Treasury Regulations §1.704-2(f). This provision is intended to comply with the "minimum gain chargeback" requirement in the above referenced section of the Treasury Regulations, and shall, to that extent, be interpreted consistently therewith. If during a Partnership taxable year there is a net decrease in Partner non-recourse debt minimum gain, as defined in Treasury Regulations §1.704-2(g), any Partner with a share of that Partner non-recourse debt minimum gain (determined under Treasury Regulations §1.704-2(i)(5)) as of the beginning of the year must be allocated items of income and gain for the year (and, if necessary, for succeeding years) equal to that Partner's share of the net decrease in the Partner non-recourse debt minimum gain in compliance with Treasury Regulations §1.704-2(i)(4).

(g) Qualified Income Offset. If any Limited Partner unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations §§1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated to such Partner in an amount and manner sufficient to eliminate (to the extent required by the Treasury Regulations) the total of the deficit balance in its Capital Account as adjusted in Paragraph A.2(a)(i) created by such adjustments, allocations, or distributions, provided that an allocation pursuant to this Paragraph A.2(d) shall be made if and only to the extent that such Partner would have a deficit in its Capital Account (as adjusted in Paragraph A.2(a)(i)) after all other allocations provided for in this Paragraph A.2(d) have been tentatively made as if this Paragraph A.2(d) were not in this Agreement.

(h) Change in Treasury Regulations If any of the specific Treasury Regulations upon which the special allocations provided for in this Appendix A are based are hereafter changed, or if new Treasury Regulations are hereafter adopted, which changes or new Treasury Regulations, in the opinion of the tax counsel retained by the Partnership, make it necessary to revise the foregoing special allocation rules or provide further special allocation rules in order to avoid a significant risk that a material portion of any allocation of net income, net losses, credits or other tax attributes otherwise provided for in Sections 5.3 and 5.4 would be altered as a result of a challenge thereto by the Internal Revenue Service, the Partners agree to make such reasonable amendments to this Agreement as, in the opinion of such counsel, are necessary or desirable, taking into account the interests of the Partners as a whole and all other relevant factors, to avoid or reduce significantly such risk to the extent possible without materially affecting the amounts distributable to any Partner pursuant to this Agreement.

(i) Special Rules. The allocations set forth in this Agreement shall be subject to the following special rules:

(i) Tax Allocations. For each fiscal year, the Partnership's items of income, loss, deduction, gain, and other items governed by Code §702(a) and comparable provisions of state and local law shall be allocated among the Partners proportionately to the allocation of net income and net losses to such Partners for such year; provided that any gain recognized from any disposition of an asset which is treated as ordinary income because it is attributable to the recapture of any depreciation or amortization shall be allocated among the Partners in the same ratio as the prior allocations of income or loss which included such depreciation or amortization (but, in each case, only to the extent such gain is otherwise allocable to a Partner).

(ii) Changes in Interests. Subject to the provisions of Paragraph A.3, if the profit and/or loss sharing ratios of a Partner are adjusted during the period in question, the Partnership's books shall be closed as of the date immediately preceding the date of such adjustment. For the period ended on such date, the net income and net losses shall be allocated based on the profit and/or loss sharing ratios in effect prior to the date of such adjustment. For the balance of such fiscal year, the net income and net losses shall be allocated based on the profit and/or loss sharing ratios as so adjusted. For purposes of the foregoing, the expenses of the Partnership shall be allocated between the two periods based upon the date when accrued; provided that amortization, depreciation, and other items attributable to specific items of property shall be deemed to accrue ratably over the period of time during which the Partnership holds the property to which such items relate.

(iii) Imputed Interest. To the extent the Partnership has imputed interest income pursuant to any provision of the Code with respect to the obligation of a Partner to loan or contribute capital:

(1) Such interest income shall be specially allocated to the Partner owing such obligation; and

(2) The amount of such interest income shall be excluded from the capital contribution credited to such Partner's Capital Account in connection with payments with respect to such obligation.

(iv) Code §704(c). In accordance with Code §704(c) and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its value. In the event the fair market value of any Partnership asset is adjusted, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its value in the same manner as under Code §704(c) and the Treasury Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the General Partner in its discretion. Allocations pursuant to this Paragraph A.2(f)(iv) are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of net income, net losses, or other items or distributions pursuant to any provision of this Agreement.

(v) Allocation Corrections. Notwithstanding any other provision of this Appendix A, the General Partner is hereby granted the discretion and power to correct any error in allocation provisions contained in this Agreement or any failure of such provisions to comply with the Code or Treasury Regulations promulgated thereunder, so long as such change does not materially alter the economic agreements between the Partners.

(j) Allocations from the Liquidation of the Partnership.

(i) After adjusting the Capital Accounts for distributions under Article Six and allocations under Sections 5.3 and 5.4 for the year, gain resulting from a sale (or deemed sale) of the Partnership's assets upon the dissolution and termination of the Partnership shall be allocated to the Partners in the following order and priority:

(1) First, if the Capital Account of any Partner has a negative balance, to such Partner to the extent of such negative balance. If the Capital Accounts of more than one Partner have a negative balance, gain, to the extent to the aggregate negative balances in the Capital Accounts of the Partners, shall be allocated to such Partners in proportion to their respective negative balances.

(2) Second, to the Partners in accordance with their respective Interests as determined under Treasury Regulations §1.704-1(b)(3).

(ii) After adjusting the Capital Accounts for distributions under Article Six and allocations under Sections 5.3 and 5.4 for the period, losses resulting from a sale of the Partnership's assets upon the dissolution and termination of the Partnership shall be allocated to the Partners in the following order and priority:

(1) First, to those Partners in the least amount necessary and to the extent possible so that the Partners' positive Capital Account balances are as closely as possible in the ratio of their Interests, and then to all the Partners in proportion to their positive Capital Account balances until the Partners' positive Capital Account balances are reduced to zero.

(2) Second, to the Partners in accordance with their Interests as determined under Treasury Regulations §1.704-1(b)(3).

(iii) The Partners intend that the allocations provided in Sections 5.3 and 5.4 result in the distributions required pursuant to Section 6.4 being in accordance with positive Capital Accounts as provided for in the Treasury Regulations under Code §704(b). However, if after giving hypothetical effect to the allocations required by this Appendix A, the Capital Accounts of the Partners are in such ratios or balances as would result in distributions pursuant to Section 6.4 not being in accordance with the positive Capital Accounts of the Partners as required by the Treasury Regulations under Code §704(b), such failure shall not affect or alter the distributions required by Section 6.4. Rather, the General Partner will have the authority to make such other allocations of income, gain, loss, deduction, or credit among the Partner which, to the extent possible, will result in the Capital Account of each Partner having a balance prior to distribution equal to the amount of distributions to be received by such Partner pursuant to Section 6.4.

A.3 Allocation to Transferred Interests. If any Interest in the Partnership is sold, assigned, or transferred during any accounting period in compliance with the provisions of Article Eight, net income, net losses, and each item thereof, and all other items attributable to the transferred Interest for such period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the period in accordance with the closing of the books method as provided by Code §706(d) and the Treasury Regulations thereunder. Solely for purposes of making such allocations, the Partnership shall recognize such transfer not later than the end of the calendar month during which it is given notice of such transfer, provided that if the Partnership does not receive a notice stating the date such Interest was transferred and such other information as the General Partners may

reasonably require within thirty (30) days after the end of the accounting period during which the transfer occurs, then all of such items shall be allocated to the person who, according to the books and records of the Partnership, on the last day of the accounting period during which the transfer occurs, was the owner of the Interest transferred. Neither the Partnership nor any General Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this Paragraph A.3 whether or not the General Partner or any Limited Partner or the Partnership has knowledge of any transfer of ownership of any Interest. The General Partner is authorized to apply tax allocation rules other than those contained in this Paragraph A.3 to the extent that the General Partner determines that the application of the tax allocation rules contained in this Paragraph A.3 would result in a substantial mismatching of the allocation of net income or net loss attributable to a period and the distribution of cash attributable to the same period as between the transferor and transferee of the Interest transferred that could be minimized by the application of an alternative tax allocation rule, or to the extent necessary to conform the Partnership's tax allocations to the requirements of any regulations issued by the Treasury Department or rulings of the Internal Revenue Service.

A.4 **Partner Nonrecourse Deductions**. Any Partner Nonrecourse Deductions for any taxable year or other period shall be specially allocated to the Partner who bears the risk of loss with respect to the liability to which the Partner Nonrecourse Deduction is attributable in accordance with Treasury Regulations §1.704-2(i).

APPENDIX B

TO THE AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT
OF STRATUS BLOCK 150, L.P.

Definitions

"8% Return" is defined in Section 4.4(a).

"10% Return" is defined in Section 8.19(a).

"Acquisition Loan" is defined in Section 7.10.

"Act" is defined in Section 12.1(d).

"Additional Offered Interests" is defined in Section 4.11(a).

"Adjusted Capital Account" is defined in Paragraph A.1(b) of Appendix A.

"Adjusted Capital Account Deficit" is defined in Paragraph A.1(c) of Appendix A.

"Affiliates" means a Partner and any person that directly or indirectly controls, is controlled by, or is under common control with the person in question, or, in the case of a corporation, any entity succeeding to the interest of such corporation, provided that not less than fifty-one percent (51%) of the ownership interest in such entity is held by one or more persons who had held a majority interest in such corporation As used in this definition of "Affiliate," the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract or otherwise and the term "person" means any individual, corporation, association, limited liability company, joint venture, real estate investment trust, other trust estate or other entity or organization. "Affiliate" shall also include the spouse, parents, children, grandchildren and siblings of an Affiliate, a Partner or his or her spouse, as well as a trust, limited liability company, or corporation whose sole beneficiaries or owners are the family members described herein.

"Agreed Asset Value" is defined in Section 8.16(d)(i).

"Agreed Equity Value" is defined in Section 8.16(d)(i).

"Agreement" is defined in the Introductory Paragraph.

"Asking Price" is defined in Section 8.9(b).

"Asset Management Agreement" is defined in Section 7.10.

"Asset Management Fee" is defined in Section 7.10.

"Buy-out Request" is defined in Section 8.9(b).

"Buying Partner" is defined in Section 8.6.

"Capital Account" is defined in Paragraph A.1(a) of Appendix A.

"Capital Contributions" is defined in Section 4.2(a).

"Capital Interests" or ***"Capital Interest"*** is defined in Section 4.1(a).

"Certificate" is defined in the Recitals.

"Class A Limited Partner" is defined in the Introductory Paragraph.

"Class A Option Period" is defined in Section 8.5.

"Class B Limited Partners" or ***"Class B Limited Partner"*** is defined in the Introductory Paragraph.

"Closing Costs" is defined in Section 8.17(d).

"Code" is defined in Section 5.1.

"Combined Group" is defined in Section 10.7.

"Combined Group Reporting Agreement" is defined in Section 10.13.

"Combined Report Year" is defined in Section 10.7.

"Comptroller" is defined in Section 10.10.

"Computed Value" is defined in Section 8.16(d)(i).

"Consent to Transfer" is defined in Section 8.9.

"Consultant's Asset Valuation" is defined in Section 8.16(d)(ii).

"Contributing Partners" is defined in Section 4.8.

"Credit Guarantor" is defined in Section 4.3(f).

"Deferred Return" is defined in Section 4.3(c)(ii).

"Development Management Agreement" is defined in Section 7.10.

"Development Management Fee" is defined in Section 7.10.

"Development Partnership Phase" is defined in Section 2.2.

"Direct Transfer" is defined in Section 8.1.

"Dispute Notice" is defined in Section 15.19(a).

"Distribution Interests" or ***"Distribution Interest"*** is defined in Section 4.1(a).

"Effective Date" is defined in the Introductory Paragraph.

"Election Notice" is defined in Section 4.11(b).

"Event of Default" is defined in Section 13.1.

"Excess Combined Return Tax" is defined in Section 10.8.

"Exercising Parties" is defined in Section 8.7.

"Firm" is defined in Section 12.4.

"Funding Deficit" is defined in Section 4.3(e).

"General Partner" is defined in the Introductory Paragraph.

"General Interest Rate" is defined in Section 4.5(a).

"GP and Class A Limited Partner Capital Commitments" or ***"GP and Class A Limited Partner Capital Commitment"*** is defined in Section 4.3(b).

"Guaranty Payment" is defined in Section 4.3(f).

"Guarantor Releases" is defined in Section 7.13.

"Guaranty Fee" is defined in Section 7.10.

"Gross Computed Value" is defined in Section 8.16(d)(ii).

"Indirect Transfer" is defined in Section 8.1.

"Initial Capital Contributions" is defined in Section 4.2(a).

"Interest(s)" is defined in Section 4.1(a).

"Interim Period" is defined in Section 8.18.

"Land Partnership Phase" is defined in Section 2.2.

"Lender" is defined in Section 2.3.

"LIBOR" is defined in Section 4.5(a).

"Limited Partners" or ***"Limited Partner"*** is defined in the Introductory Paragraph.

"Loan Offering Period" is defined in Section 4.5(b).

"Memorandum" is defined in Section 4.2(b).

"Net Cash Flow" is defined in Section 6.1.

"Non-Contributing Partner" is defined in Section 4.8.

"Notice" is defined in Section 8.12.

"Offered Interest" is defined in Section 8.3.

"Offering" is defined in Section 4.2(b).

"Offering Notice" is defined in Section 4.11(a).

"Offering Partner" is defined in Section 8.3.

"Offering Period" is defined in Section 4.2(b).

"Operating Loan(s)" is defined in Section 4.5(a).

"Operating Loan Funding Notice" is defined in Section 4.5(b).

"Operating Loan Offer Notice" is defined in Section 4.5(b).

"Option Period" is defined in Section 8.4.

"Original Partnership Agreement" is defined in the Recitals.

"Organization Date" is defined in the Recitals.

"Partner" or ***"Partners"*** is defined in the Introductory Paragraph.

"Partnership" is defined in the Recitals.

"Partnership Activities" is defined in Section 2.1.

"Partnership Representative" is defined in Section 10.4.

"Paying Group Partner" is defined in Section 10.8.

"Permitted Assignee" is defined in Section 8.2.

"Person" means any individual, partnership, limited partnership, joint venture, corporation, limited liability company, trust, estate, custodian, trustee, executor, administrator, nominee, representative, unincorporated organization, sole proprietorship, employee benefit plan, tribunal, governmental entity, department, or agency, or other entity.

"Proceeding" is defined in Section 7.11(a).

"Project" is defined in Section 2.2.

"Property" is defined in Section 2.1.

"Proprietary Information" is defined in Section 7.15(a).

"Purchase Contracts" is defined in Section 2.3.

"Purchase Price" is defined in Section 8.4.

"Pursuit Costs" is defined in Section 4.2(c)(ii).

"Put Closing" is defined in Section 8.19(d).

"Put Closing Date" is defined in Section 8.19(a).

"Put Exercise Period" is defined in Section 8.19(a).

"Put Purchase Price" is defined in Section 8.19(a).

"Put Notice" is defined in Section 8.19(b).

"Put Right" is defined in Section 8.19(b).

"Qualified Transferee" is defined in Section 8.1.

"Real Property" is defined in Section 2.1.

"Regulatory Allocations" are defined in Section 5.5.

"REIT" is defined in Section 7.2(p).

"Remaining Interest" is defined in Section 8.6.

"Represented Parties" is defined in Section 12.4.

"ROFR Notice" is defined in Section 8.9.

"Sale Proceeds" is defined in Section 6.4.

"Secondary Capital Contributions" is defined in Section 4.3(c)(i).

"Selling Partner" is defined in Section 8.9(b).

"Separate Return Tax" is defined in Section 10.8.

"SPOC" is defined in the Introductory Paragraph.

"Spouse" is defined in Section 8.2.

"Stratus" is defined in Section 7.10.

"Stratus Change of Control" is defined in Section 8.19(a).

"Tax Payment Amount" is defined in Section 10.4(d).

"TBOC" is defined in Section 1.1.

"Transactions" is defined on Exhibit D.

"Transfer" is defined in Section 8.1.

"Transfer Notice" is defined in Section 8.3.

"Treasury Regulations" is defined in Section 5.1.

"Unreturned 8% Return" is defined in Section 4.4(c).

"Unreturned 10% Return" is defined in Section 8.19(a).

"Unreturned Additional Capital Contributions" is defined in Section 4.4(c).

"Unreturned Capital Contributions" is defined in Section 4.4(c).

"Valuation Consultant" is defined in Section 8.16(d)(ii).

"Valuation Date" is defined in Section 8.16.

"Voting Interests" or ***"Voting Interest"*** is defined in Section 4.1(a).

Exhibit 31.1

Certification

I, William H. Armstrong III, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Stratus Properties Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: November 15, 2021

By: /s/ William H. Armstrong III
William H. Armstrong III
Chairman of the Board,
President and Chief Executive Officer

Exhibit 31.2

Certification

I, Erin D. Pickens, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Stratus Properties Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: November 15, 2021

By: /s/ Erin D. Pickens
Erin D. Pickens
Senior Vice President and
Chief Financial Officer

Exhibit 32.1

Certification Pursuant to 18 U.S.C. Section 1350
(Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002)

In connection with the Quarterly Report on Form 10-Q of Stratus Properties Inc. (the "Company") for the quarter ended September 30, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), William H. Armstrong III, as Chairman of the Board, President and Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 15, 2021

By: /s/ William H. Armstrong III
William H. Armstrong III
Chairman of the Board,
President and Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

This certification shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

Exhibit 32.2

Certification Pursuant to 18 U.S.C. Section 1350
(Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002)

In connection with the Quarterly Report on Form 10-Q of Stratus Properties Inc. (the "Company") for the quarter ended September 30, 2021, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Erin D. Pickens, as Senior Vice President and Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of her knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: November 15, 2021

By: /s/ Erin D. Pickens
Erin D. Pickens
Senior Vice President and
Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

This certification shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.