

TIMIA CAPITAL II LIMITED PARTNERSHIP

LIMITED PARTNERSHIP AGREEMENT

April 30, 2020



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LIMITED PARTNERSHIP AGREEMENT

This Limited Partnership Agreement (the “Agreement”) of TIMIA Capital II Limited Partnership (the “Partnership”), is made the 30th day of April, 2020, by and among TIMIA Capital II GP Inc., as general partner (the “General Partner”) and TIMIA Capital Corp. (the “Initial Limited Partner”) and such other parties as admitted to the Partnership from time to time (the “Limited Partners”), with a record of such Limited Partners maintained by the General Partner and kept at the Partnership’s principal place of business.

WHEREAS the General Partner and Initial Limited Partner have agreed to form a limited partnership by filing a partnership declaration pursuant to and in accordance with the provisions of the Act (defined below) for the purpose of providing limited partners in the Partnership with regular cash distributions and preserving capital and minimizing the risk of capital loss;

AND WHEREAS the Partnership seeks to gain exposure to a diversified portfolio of senior and subordinated secured debt instruments, in North American SaaS companies, with loan terms varying from twenty-four to seventy-two months;

AND WHEREAS the General Partner and the Initial Limited Partner wish to enter into this Agreement to govern the business and affairs of the Partnership and the relationship among them;

NOW THEREFORE in consideration of the respective covenants and agreements of the parties contained in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the parties agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. In this Agreement (including the recitals hereto), unless the context requires otherwise, the following terms have the meanings ascribed to them below and the grammatical variations of such terms shall have corresponding meanings:

- (1) “Accredited Investor” means an “accredited investor” within the meaning of National Instrument 45-106 *Prospectus Exemptions* or the *Securities Act* (Ontario) and applicable regulations;
- (2) “Act” means the *Limited Partnerships Act* (Ontario);
- (3) “Affiliate” means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to “Control” another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise;

- (4) “Agreement” means this limited partnership agreement together with all amendments, supplements, exhibits and schedules to this agreement;
- (5) “Applicable Law” means, with respect to any Person, property, transaction, event or other matter: (a) any foreign or domestic constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, municipal by-law, order or other requirement having the force of law; (b) any policy, practice, protocol, standard or guideline of any Governmental Authority which, although not necessarily having the force of law, is regarded by such Governmental Authority as requiring compliance as if it had the force of law (collectively in the foregoing clauses (a) and (b), “Law”), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation;
- (6) “Applicable Percentage” means, with respect to each Limited Partner, ████ % *per annum*, provided that the General Partner may agree, in its sole discretion, to a different Applicable Percentage in respect any Limited Partner;
- (7) “Auditors” has the meaning set out in Section 2.5;
- (8) “Business” has the meaning set out in Section 5.1;
- (9) “Business Day” means any day which is not a Saturday, Sunday or a statutory or civic holiday in the City of Toronto;
- (10) “Claims” has the meaning set out in Section 6.3;
- (11) “Class A Units” has the meaning set out in Section 8.2(1);
- (12) “Class B Units” has the meaning set out in Section 8.2(2);
- (13) “Class C Units” has the meaning set out in Section 8.2(3);
- (14) “Claw Back” has the meaning set out in Section 8.2(2)(e);
- (15) “Closing Date Payment” has the meaning set out in Section 8.13;
- (16) “Communication” has the meaning set out in Section 18.1;
- (17) “Contributed Capital” means, at any particular time, with respect to each Limited Partner, the aggregate amount of cash contributed as capital to the Partnership pursuant to Subscription Agreements accepted on or before the later of the First Closing Date or the date of the last Subsequent Closing;
- (18) “Control” has the meaning set out in the definition of Affiliate;

- (19) “Credit Facility Agreement” means the secured credit facility agreement between the Partnership and Manitou Total Returns Yield Fund dated May 21, 2020 for an amount of up to [REDACTED];
- (20) “Declaration” means the declaration of limited partnership and any amended declaration filed and recorded in respect of the Partnership pursuant to the Act;
- (21) “Disposition Proceeds” means any Principal Amount received either as part of a monthly repayment or as proceeds by the Partnership from the disposition of any Portfolio Investment or Equity Securities or from the refinancing or repayment of any financing in respect of a Portfolio Investment or cash available on hand not deployed to Permitted Investments that may be returned at the discretion of the General Partner;
- (22) “Eligible Investment” one or more Portfolio Investments closed within the Investment Period;
- (23) “Equity Securities” means equity and equity-related securities of Target Entities in which the Partnership also has a Portfolio Investment in debt instruments of such Target Entity (including, rights or warrants that grant the holder thereof rights to acquire equity interests in such Target Entities);
- (24) “Extension Period” has the meaning set out in Section 16.1;
- (25) “First Closing Date” means the date of the initial subscription for Unit(s) by a Limited Partner, other than the Initial Limited Partner;
- (26) “Financial Institution” has the meaning given to it in subsection 142.2(1) of the Tax Act;
- (27) “Fiscal Year” has the meaning set out in Section 2.4;
- (28) “General Partner” has the meaning set out in the recitals to this Agreement;
- (29) “Income Available for Distribution” means, for a particular period, the amount, if any, by which Gross Revenue exceeds the sum of: (i) Operating Expenses; and (ii) any amount deemed by the General Partner, acting reasonably and in good faith, to be necessary at that time as a reserve for Operating Expenses; and (iii) any amount deemed by the General Partner, acting reasonably and in good faith, to be necessary for capital improvements. Income Available for Distribution shall be calculated by the General Partner with reference to applicable accounting standards;
- (30) “Interested Person” means each of the General Partner, the Manager, any Key Person, any member of the General Partner’s or Manager’s investment committee, any of their respective relatives, employees, directors, officers, members, shareholders and partners and any Affiliate of any of the foregoing;
- (31) “Governmental Authority” means

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
 - (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
 - (c) any court, tribunal, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
 - (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association;
- (32) “GP Unit” has the meaning set out in Section 8.2(4);
- (33) “Gross Revenue” means, for a particular period, the aggregate of all amounts received during such period by the Partnership from Portfolio Investments (other than Disposition Proceeds), including Portfolio Investment Fees, cash interest, original issue discount, interest, dividend and other income (including prepayment penalties and premiums) and “make-whole” payments;
- (34) “Indemnification Notice” has the meaning set out in Section 6.4;
- (35) “Indemnitee” has the meaning set out in Section 6.3;
- (36) “Interest” means, in respect of a Partner at any time, the rights, obligations and interests of the Partner in the Partnership at such time, as set out in this Agreement;
- (37) “Investment Committee” has the meaning set out in Section 4.1;
- (38) “Investment Period” means the period commencing on the First Closing Date and ending on the date that is [REDACTED] years after the First Closing Date, unless extended by Ordinary Resolution;
- (39) “Investment Restrictions” has the meaning set out in Section 5.2;
- (40) “Key Person” has the meaning set out in Section 19.2(b);
- (41) “Limited Partners” has the meaning set out in the recitals to this Agreement;
- (42) “Liquidating Trustee” has the meaning set out in Section 16.3;
- (43) “Losses” has the meaning set out in Section 6.3;
- (44) “Management Fee” has the meaning set out in Section 13.5;

- (45) “Management Fee Payment Date” means: (a) on the last day of the month for the period commencing on the First Closing Date and ending on the last day of the month in which the First Closing Date occurs; and (b) thereafter, on the last day of each month until the date on which, in connection with the dissolution of the Partnership, the final distribution of the Partnership’s Property occurs;
- (46) “Management Fee Share” means, in respect of each Limited Partner, an amount equal to such Limited Partner’s Applicable Percentage of Contributed Capital on the relevant Management Fee Payment Date;
- (47) “Management Services” has the meaning set out in Section 3.1(2);
- (48) “Management Servicing and Administration Agreement” or “MSAA” have the meaning set out in Section 3.3;
- (49) “Manager” means, following the due execution and delivery of the MSAA by the Partnership, TIMIA Capital Corp. and any replacement manager of the Partnership appointed from time to time in accordance with the MSAA;
- (50) “Objection” has the meaning set out in Section 6.4;
- (51) “Operating Expense Contribution” means:
- (a) for the period commencing on the First Closing Date and ending on the third anniversary of the First Closing Date (the “Step-down Date”), the expenses will be capped at ██████████% of Contributed Capital (the “Monthly Contribution Rate”); and
- (b) in each year following the Step-down Date, the Monthly Contribution Rate shall be capped at an amount equal to ██████████% of Contributed Capital or \$████████ per month,
- but at no time shall such Operating Expense Contribution exceed \$████████ per month.
- (52) “Operating Expenses” means: (a) the Partnership’s share, as determined pursuant to Section 13.1, of the Organizational Expenses; and (b) all costs and expenses related to the Partnership’s activities, investments, operations and Business which include: (i) legal, auditing, insurance, consulting, administration, custodian, appraisal, service provider and accounting fees and expenses (including expenses associated with the preparation of the Partnership’s financial statements, tax returns and other tax-related documentation), professional advisors and services providers retained by the General Partner; or (ii) the Manager for the Partnership’s purposes and other similar fees and expenses (including courier fees and expenses related to conference calls) but exclude, for certainty, any expenses for which the General Partner or the Manager is responsible for pursuant to Section 13.3;
- (53) “Organizational Expenses” means all costs and expenses (including administrative, legal, accounting, registration, filing, printing, travel and related capital raising expenses and all

costs and expenses incurred in connection with the preparation of offering documents, marketing materials, organizational documents, operating documents and similar materials and the costs of qualifying, reproducing, supplementing, mailing and distributing offering materials) incurred in connection with the establishment, organization and funding of the Partnership, the General Partner, including any filing fees in respect of the placement of the Units, but excluding any Placement Fees; such expenses shall not exceed ■■■% of Contributed Capital;

- (54) “Ordinary Resolution” means: (i) a resolution passed by not less than 50% of the votes cast at a duly constituted meeting of holders of Units or any adjournment thereof in respect of which each holder of Units is entitled to one vote for each Unit held; or (ii) a written resolution in one or more counterparts signed by holders of Units in the aggregate of not less than 50% of the total votes that could be cast at such a meeting;
- (55) “Partners” means the General Partner and each of the Limited Partners;
- (56) “Partnership” has the meaning set out in the recitals to this Agreement;
- (57) “Partnership Legal Matters” has the meaning set out in Section 21.6;
- (58) “Permitted Investments” means investments made, subject to Article 5, in:
 - (a) Portfolio Investments;
 - (b) Equity Securities; and
 - (c) liquidity reserves and cash assets of the Partnership in:
 - (i) bonds, debentures, notes, mortgages or similar obligations of Canadian or U.S. federal, provincial, state or municipal governments or guaranteed by the Canadian or United States federal government;
 - (ii) acceptances of the five largest banks in Canada or the United States; or
 - (iii) debt obligations of Canadian or United States corporations rated R-1 by Dominion Bond Rating Service Limited, A-1 by Standard & Poor’s or the equivalent rating by a similar rating agency,all with a maturity of 12 months or less;
- (59) “Person” is to be broadly interpreted and includes a natural person, a corporation, a partnership, a limited partnership, a limited liability company, firm, joint venture, co-venture, associated, bank, trust company, a trust, an unincorporated organization, a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity;

- (60) “Performance Valuation Date” means the last Business Day in each fiscal quarter or such other date(s) as determined by the General Partner after providing 30 days’ prior written notice of such date(s) to the Limited Partners;
- (61) “Placement Fees” means the fees and expenses, and any interest on deferred fees and expenses, and any other payments charged by or made to any placement agent designated by the General Partner and/or the Manager in connection with the marketing and sale of the Class C Units;
- (62) “Portfolio Investment Fees” include, but are not limited to, application and work fees, disbursement fees, commitment fees, completion and monitoring fees, consulting fees, break fees and other similar fees earned and paid or payable by Target Entities in respect of Portfolio Investments on or following the later of: (i) the First Closing Date; or (ii) the date that a Portfolio Investment is first owned by the Partnership. For clarity, Portfolio Investment Fees will not include any fees earned prior to the later of: (i) the First Closing Date; or (ii) the date that a Portfolio Investment is first owned by the Partnership, or any fees paid or payable in respect of excess duties beyond the services set forth in the MSAA that the Manager must perform to recover payment, which fees shall be for the account of the Manager;
- (63) “Portfolio Investments” means investments held by the Partnership in secured debt or revenue financing arrangements entered into with Target Entities;
- (64) “Preferred Return” has the meaning set out in Section 11.2(3)(i);
- (65) “Principal Amount” means the principal amount of any indebtedness in respect of a Portfolio Investment;
- (66) “Prime Rate” for any day means the rate of interest expressed as a rate per annum that the Royal Bank of Canada establishes at its head office in Toronto, Ontario as a reference rate of interest that it will charge on that day for Canadian Dollar demand loans to its corporate customers in Canada and which it at present refers to as its “prime rate”;
- (67) “Principal Office” has the meaning set out in Section 2.3;
- (68) “Property” means, at any time, any and all Portfolio Investments, securities (including Equity Securities), property and assets, real and personal, tangible and intangible, held by the Partnership including, but not limited to:
 - (a) all funds realized from the sale of Units;
 - (b) all investments, sums or property of all types or description from time to time delivered to the Partnership or held for its account and accepted by the Partnership in accordance with this Agreement;
 - (c) any proceeds of disposition of any of the foregoing property and assets; and

- (d) all income, interest, profit, gains and accretions and additional rights arising from or accruing to such property or such proceeds of disposition;
- (69) “Register” has the meaning set out in Section 8.15;
- (70) “Redemption Amount” means the price of the applicable Units multiplied by the number of such Units to be redeemed or repurchased, as applicable;
- (71) “Special Resolution” means a resolution: (i) approved by more than ■■■% of the votes attached to Units held by Limited Partners who vote, in Person or by proxy, at a duly constituted meeting of Limited Partners or at any adjournment thereof called in accordance with this Agreement; or (ii) in writing in two or more counterparts signed by Limited Partners holding Units representing ■■■% of the votes attached to all Units entitled to vote on such resolution at a meeting;
- (72) “Subscriber” has the meaning set out in the Subscription Agreement;
- (73) “Subscription Agreement” means the subscription agreement of each Limited Partner accepted by the General Partner pursuant to which such Limited Partner has agreed to purchase an Interest in the Partnership;
- (74) “Subscription Price” has the meaning set out in the Subscription Agreement;
- (75) “Subsequent Closing” has the meaning set out in Section 8.7;
- (76) “Substitute Limited Partner” has the meaning set out in Section 14.1(7);
- (77) “Target Entities” means any software as a service (SaaS) businesses based in North America;
- (78) “Tax Act” means the *Income Tax Act* (Canada) and the associated regulations thereto, as the same maybe amended or replaced from time to time; and
- (79) “Units” means the Class A Units, Class B Units and Class C Units collectively.

Section 1.2 Interpretation Not Affected by Headings, etc. The division of this Agreement into articles and sections and the insertion of headings are for reference purposes only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an article or section refers to the specified article or section of this Agreement.

Section 1.3 Number, Gender and Persons. In this Agreement, words importing the singular number include the plural and vice versa, words importing any gender include all genders and words importing Persons include individuals, corporations, partnerships, companies, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind.

Section 1.4 Accounting Principles. Whenever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be to the generally

accepted accounting principles in Canada and recommended in the handbook of the Canadian Institute of Chartered Accountants for the International Financial Reporting Standards, or any successor entity thereto, applicable as at the date on which such principles are to be applied or on which any calculation or determination is required to be made in accordance with generally accepted accounting principles.

Section 1.5 Functional Currency. The functional currency of the Partnership shall be United States dollars and the Partnership shall keep its accounts, including capital accounts, in United States dollars. All monetary amounts to which reference is made in this Agreement are expressed in United States dollars, unless otherwise indicated. All capital contributions required to be made by Partners and all cash distributions from the Partnership will be denominated in United States dollars.

Section 1.6 Schedules. The following schedules attached shall, for all purposes hereof, be incorporated in and form an integral part of this Agreement:

Schedule “A” – Transfer Form

Schedule “B” – Arbitration Provisions

ARTICLE 2 FORMATION OF THE PARTNERSHIP

Section 2.1 Formation. The Partnership was formed on the date hereof by the filing of a partnership Declaration under the Act and shall continue for the term set out in Section 16.1 unless otherwise extended, dissolved or liquidated in accordance with Section 16.1, Section 16.2 and Section 16.3, respectively.

Section 2.2 Name. The Partnership shall carry on its activities under the name “TIMIA Capital II Limited Partnership” or such other name or names as the General Partner may from time to time deem appropriate, including in order to comply with the Laws of the jurisdiction in which the Partnership may carry on such activities. The Partnership may also use the French form of any such name. The General Partner shall notify the Limited Partners of any change in the name of the Partnership within 20 Business Days of such change.

Section 2.3 Principal Office. The principal place of business of the Partnership shall be located at 20 Great Gulf Drive, Suite 218, Vaughan, Ontario (the “Principal Office”) unless changed by the General Partner to another location. The Partnership may have such other offices or places of business for the conduct of its affairs as the General Partner may from time to time determine as necessary or desirable. The General Partner shall notify the Limited Partners of any change in the address of the Principal Office within 20 Business Days of such change.

Section 2.4 Fiscal Year. The fiscal year (the “Fiscal Year”) of the Partnership shall end on the 31st day of December of each calendar year.

Section 2.5 Auditors. The General Partner shall, from time to time, appoint a firm of chartered accountants qualified to practise in all provinces of Canada in which Units are distributed to, and to act as the auditors of the Partnership, make an audit report to the Limited

Partners on the annual financial statements of the Partnership and, in such report, confirm the calculations made by the General Partner of net income and net loss, and fulfil such other responsibilities that they may properly be called upon by the General Partner to assume. The auditors shall have access to all records relating to the business and affairs of the Partnership that are reasonably required in performing their duties as auditors of the Partnership. The initial auditors of the Partnership shall be Manning Elliot LLP.

ARTICLE 3 MANAGEMENT OF PARTNERSHIP

Section 3.1 Powers of the General Partner.

- (1) **General Powers.** The Partnership shall at all times have only one General Partner. The management, operation and policy of the Partnership shall be vested exclusively in the General Partner, which shall have the power by itself and shall be authorized and empowered on behalf and in the name of the Partnership to carry out any and all of the objects, purposes and Business of the Partnership and to perform all acts and enter into and perform all contracts and other undertakings that it may deem necessary or advisable or incidental thereto, all in accordance with and subject to the other terms of this Agreement and to any applicable limitations set forth in the Act.
- (2) **Specific Powers.** Without limiting the foregoing general powers and duties, the General Partner is hereby authorized and empowered on behalf and in the name of the Partnership, or on its own behalf and in its own name, or through agents or the Manager, as it may determine appropriate, subject to the limitations contained elsewhere in this Agreement and to any applicable limitations set forth in the Act and Applicable Law, to:
 - (a) Purchase Units for cancellation;
 - (b) direct the formulation of investment policies and strategies for the Partnership, and select the investment of Partnership funds, all in accordance with the Investment Restrictions and the other provisions of this Agreement;
 - (c) acquire, hold, sell, transfer and dispose of Portfolio Investments and Equity Securities, and exercise all rights, powers, privileges and other incidents of ownership or possession with respect to such investments in Target Entities;
 - (d) administer, manage, coordinate and otherwise oversee the Portfolio Investments (and the terms of any documentation in respect of the Portfolio Investments), including quarterly meetings with management, review of performance, assisting with management hiring/firing decisions, provision of industry best practices and contract structuring, as well as any funding, payments, demands, credit or debt collection or revenue collection from any of the Target Entities, or any audits, inspections and appraisals of the Target Entities or their assets, books or records, as well as provide strategic oversight and input in or to any Target Entities;
 - (e) hold, manage and administer any liens, charges or other encumbrance over or from any Target Entities or their assets or property in connection with any

Portfolio Investment and take any realization, enforcement, possessive, disposal or other protective steps in respect of, under or as contemplated by any such liens, charges or other encumbrances;

- (f) engage such counsel, accountants, auditors and such professional or other consultants as the General Partner considers advisable for the Partnership as it may deem necessary or advisable, and may authorize any such agent to act for and on behalf of the Partnership;
- (g) file such declarations, returns or other documents and comply with all applicable regulatory requirements, and do such other acts required or advisable to maintain the status of the Partnership as a limited partnership where deemed appropriate and as may be required by the Act;
- (h) do anything that is in furtherance of or incidental to the Business of the Partnership or that is provided for in this Agreement;
- (i) negotiate contracts with third party providers of services including without limitation the Manager, custodians and auditors;
- (j) enter into, execute, maintain and/or terminate contracts, undertakings, agreements and any and all other documents and instruments in the name of the Partnership, and do or perform all such things as may be necessary or advisable in furtherance of the Partnership's powers, objects or purposes or to the conduct of the Partnership's Business, including obtaining any insurance coverage, preparing financial statements, income tax returns, information returns and financial and accounting information and providing Limited Partners with financial statements and other reports, as required by the Partnership or by Applicable Law, entering into agreements to make investments in or dispose of investments in Target Entities which may include such representations, warranties, covenants, indemnities, guaranties and security as the General Partner deems necessary or advisable;
- (k) act on behalf of the Partnership with respect to any and all actions or other proceedings brought by or against the Partnership and pay, collect, compromise, arbitrate or otherwise adjust, contest or settle any and all claims or demands of or against the Partnership;
- (l) administer the day-to-day operations of the Partnership, including the maintenance of proper and complete books and records in connection with the management and administration of the affairs of the Partnership;
- (m) conduct research, analysis and due diligence of investments in and dispositions of Portfolio Investments or Equity Securities;
- (n) conduct relations on behalf of the Partnership with other Persons, including lawyers, auditors, technical consultants and other experts;

- (o) deal with the funds of the Partnership, including, without limitation, by setting up, maintaining and closing, on behalf of the Partnership, investment accounts and such other arrangements as the General Partner deems to be appropriate;
- (p) open and operate one or more bank accounts, with full and exclusive signing authority on behalf of the Partnership, in order to deposit, disburse and distribute funds of the Partnership;
- (q) act as attorney-in-fact or agent of the Partnership in obtaining for the Partnership such services as may be required in connection with the identification, acquisition and disposition of investments in Target Entities;
- (r) make all decisions concerning the investigation, solicitation, origination, selection, development, negotiation, acquisition, management, structuring, restructuring, commitment to or monitoring of and disposition of investments in Target Entities;
- (s) pay all taxes, fees and other expenses relating to orderly maintenance and management of the business of the Partnership, including any expenses related to the raising of capital by the Partnership, from time to time, such as referral fees and other payments to dealers;
- (t) prepare and file all tax returns, information returns, elections, determinations and designations under the Tax Act or any other taxation or other legislation of like import of Canada or any of the provinces or other jurisdictions as are necessary or advisable on behalf of both the Partnership and the Limited Partners in respect of the affairs of the Partnership;
- (u) to make any notice, filing, election, determination, application or designation or similar document or instrument on behalf of the Partnership that may be required or desirable under the Tax Act, the *Excise Tax Act* (Canada), any other similar legislation of a province or territory of Canada or any other taxation or similar laws or required by any governmental or like authority or any and all applications for governmental grants or other incentives;
- (v) to cause the Partnership to make any necessary withholdings of taxes in respect of allocations of income or distributions of cash or property to the Partners that may be required under applicable Federal or Provincial legislation; and
- (w) to attend to all required registrations, accounting, filing and reporting obligations, collections, remittances and other activities of the Partnership in respect of the *Excise Tax Act* (Canada) and any other applicable federal (whether Canada or otherwise), provincial, state or territorial value added taxes, sales taxes, transfer taxes and similar taxes.
- (x) grant security, encumbrances or restrictions on behalf of the Partnership;

- (y) raise capital on behalf of the Partnership by offering any of the Units authorized for issuance by this Agreement or any supplement or addendum to this Agreement out of the Partnership's capital;
- (z) apply the proceeds of issuances of any Units authorized for issuance by this Agreement, in the manner described in this Agreement;
- (aa) distribute the Partnership's assets in accordance with the provisions of this Agreement; and
- (bb) engage in any kind of activity and to enter into and perform obligations of any kind necessary to or in connection with, or incidental to, the accomplishment of the purposes and business of the Partnership, so long as the activities and obligations may be lawfully engaged in or performed by a limited partnership under the Act.

Collectively, (b) through (bb) shall be referred to as the "Management Services".

- (3) **Authority of General Partner.** Any action taken by the General Partner on behalf of the Partnership is deemed to be the act of the Partnership and shall bind the Partnership. No Persons dealing with the Partnership will be required to inquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership.
- (4) **No New Borrowing Permitted.** Other than the Credit Facility Agreement which shall be converted into Units or repaid within [REDACTED] from the date hereof, the Partnership shall not borrow money, issue any evidences of indebtedness, or grant any mortgages, deeds of trust, security interests, pledges or other liens on any part of the Partnership's assets, nor shall the Partnership enter into contracts of guaranty or suretyship.

Section 3.2 Exercise of Powers of the General Partner. The General Partner, in exercising its power and authority, shall:

- (a) act honestly and in good faith with a view to the best interests of the Partnership;
- (b) exercise the same degree of care, diligence and skill that an experienced and prudent general partner of a similarly situated investment fund would exercise in similar circumstances, subject to and in accordance with the terms of this Agreement;
- (c) invest the funds of the Partnership only in Permitted Investments in accordance with the Investment Restrictions;
- (d) not be permitted to dissolve the Partnership or effect a bulk sale of the assets of the Partnership except in accordance with the provisions of this Agreement; and
- (e) act at all times in accordance with this Agreement.

Section 3.3 Engagement of Third Parties - Delegation. The General Partner shall have the power and authority, exercisable in its sole discretion, to enter into a management servicing and administration agreement with the Manager (the “Management Servicing and Administration Agreement” or “MSAA”) whereby any or all of the Management Services may be delegated to the Manager. Any such delegation will not relieve the General Partner of its obligations under this Agreement.

Section 3.4 Limited Powers of Limited Partners. With the exception of the General Partner, which may also be a Limited Partner, no Limited Partner shall:

- (a) take part in the control or management of the business of the Partnership or transact any business for the Partnership;
- (b) execute any document or take any action pursuant to which it purports to bind the Partnership, the General Partner or any other Limited Partner as such;
- (c) hold itself out as having the power or authority to bind the Partnership, the General Partner or any other Limited Partner as such;
- (d) have any authority to undertake any obligation or responsibility on behalf of the Partnership (except that the General Partner may act on behalf of the Partnership notwithstanding that it may also be a Limited Partner); or
- (e) bring any action for partition or sale in connection with any assets of the Partnership, whether real or personal, or register or permit any lien against or charge in respect of any the Units authorized for issuance and held by such Limited Partner to be filed or registered or remain undischarged against any assets of the Partnership in respect of such Limited Partner’s interest in the Partnership, other than as specifically provided for in this Agreement.

The exercise by any Limited Partner of any right conferred to Limited Partners (in their capacity as limited partners) herein shall not be construed to constitute participation by such Limited Partner in the control of the business of the Partnership so as to make such Limited Partner liable as a general partner for the debts and obligations of the Partnership for purposes of the Act.

Section 3.5 Status of Partnership. The General Partner shall: (i) take such reasonable steps as may be necessary to ensure that the Partnership is not and does not become a Financial Institution or a “tax shelter” as defined in the Tax Act; (ii) shall not take any action or omit to take any action the taking or omission of which could reasonably be expected to result in the Partnership becoming a Financial Institution or a “tax shelter” as defined in the Tax Act; and (iii) take all reasonable actions necessary to preserve each Limited Partner’s limited liability status under the Act.

Section 3.6 SIFT. The General Partner shall take reasonable steps to ensure that the Partnership is not, and does not become, a “SIFT partnership” (within the meaning of the Tax Act) at any time in any Fiscal Year, and each of the Partners hereby agrees to take, or refrain from taking, any reasonable action requested by the General Partner in this regard. The General Partner shall have the right, in its sole discretion, to refuse to make or retain any investment

which would result in the Partnership being a SIFT partnership or subject the Partnership to the tax on SIFT partnerships under Part IX.1 of the Tax Act, to refuse to permit any person or entity to acquire or keep Units, or to become or remain a Limited Partner of the Partnership if, in the view of the General Partner, based if necessary on the advice of counsel, the Partnership would as a result be or become a SIFT partnership, or to refuse to consent to any transfer or assignment of interests in the Partnership if such transfer or assignment would result in the Partnership becoming a SIFT partnership.

The General Partner covenants and agrees that no interest in the Partnership or “investments” in the Partnership (as defined in Section 122.1 of the Tax Act) shall be listed or traded on a stock exchange or other public market (including any trading system or other organized facility on which securities that are qualified for public distribution are listed or traded) such that it would cause the Partnership to be a SIFT partnership or subject the Partnership to the tax on SIFT partnerships under Part IX.1 of the Tax Act. Further, the General Partner shall take reasonable steps to ensure that the Partnership is and remains at all relevant times a “portfolio investment entity” (within the meaning of the Tax Act).

ARTICLE 4 INVESTMENT COMMITTEE AND CONFLICTS

Section 4.1 No Investment Committee. There shall be no investment committee of the Partnership and all strategic and business advice relating to all investments in Target Entities shall be determined by the Manager. Except as provided for in Section 4.2 below, the Manager shall make all decisions relating to the acquisitions and dispositions of Portfolio Investments.

Section 4.2 Related Party Transactions. Where the Manager or General Partner seeks to acquire any asset or Portfolio Investment from an Affiliate of an Interested Person or the Partnership seeks to invest in a Portfolio Investment that has been issued by an entity in which an Affiliate of an Interested Person has already made an investment in (in each case, a “**Related Party Transaction**”), the Manager shall constitute a conflict committee consisting of three individuals who shall be the independent directors of TIMIA Capital Corp. (the “**Conflict Committee**”) which shall be established to provide advice and counsel to the General Partner and the Manager, as the case may be, relating to Related Party Transactions including the acquisition price for such Portfolio Assets as well as any loss reserves required. The Conflict Committee shall assist with determining the value of transferred assets owned by TIMIA Capital Corp. or an Affiliate thereof to the Partnership with a view to utilize amortized book value or at other fair market value as determined by the Conflict Committee. All Related Party Transaction shall require the approval of the majority of the Conflict Committee. The Manager may remove, replace and appoint members of the Conflict Committee in its sole discretion so long as such individuals are independent members of the board of directors of TIMIA Capital Corp or other individuals who are independent within the meaning of National Instrument 52-110 - *Audit Committees*.

Section 4.3 Co-investment Opportunities. The Manager may, but shall have no obligation to, provide co-investment opportunities (whether by way of a direct investment in a Portfolio Investment or as an investment through an intermediate holding vehicle) to the Partnership or any third party, provided that no co-investment opportunity shall be allocated to the Partnership

and any Interested Person without the prior written consent of the Conflict Committee. All co-investments shall be made in accordance with TIMIA Capital Corp.'s conflict and allocation policy. Any co-investment shall be made and divested at substantially the same time and on the same terms (save as required for legal, tax or regulatory purposes), including the same form or forms of consideration (and in the same proportions of forms of consideration) as the corresponding investment by any Interested Persons. In the case of a co-investment, the co-investor shall bear its pro rata share (based on capital committed to such co-investment) of any fees, expenses and liabilities relating to the relevant Portfolio Investment.

Section 4.4 Deal-flow. Subject to the provisions of Section 4.3, the General Partner and the Manager hereby agree that until the end of the Investment Period, all investment opportunities received by any of the General Partner, the Manager or any Affiliate of any of the foregoing, will be allocated pursuant to the capital allocation policy of TIMIA Capital Corp.

ARTICLE 5 BUSINESS OF THE PARTNERSHIP

Section 5.1 Limited Partnership Business. The Partnership has been formed for the primary purpose of making and holding investments in a diversified portfolio of senior and subordinated secured debt instruments issued by Target Entities. Such investments are private investments and the Partnership shall hold that portfolio with a view to investment only and not with any intention of a distribution, resale or active trading thereof. The Partnership shall only carry on the business of investing in Permitted Investments subject to and in accordance with the Investment Restrictions and this Agreement (the "Business"), provided that the Partnership may also engage in such other activities as the General Partner deems appropriate and in the best interests of the Partnership in furtherance of, in connection with or ancillary to the activities of the Partnership.

Section 5.2 Investment Restrictions. The Partnership may not make investments other than Eligible Investment. If, at the end of the Investment Period, the Partnership has received an aggregate amount of Contributed Capital from the Limited Partners that is greater than the aggregate acquisition cost paid by the Partnership in respect of all Portfolio Investments plus a cash reserve as determined by the General Partner in its sole discretion held by the Partnership as of the end of the Investment Period, then that difference will be returned to the Limited Partners as a special distribution on a *pro rata* basis unless the Limited Partners, by Ordinary Resolution, approve an extension of the Investment Period, in which case such difference shall be so distributed by at the expiry of such extension to the Investment Period.

Section 5.3 Restriction on Jurisdictions. The Partnership shall not carry on business in any jurisdiction other than the Province of Ontario unless the General Partner has taken reasonable steps necessary or advisable under the Laws of that jurisdiction to ensure that the Limited Partners benefit from the Laws that limit liability within such jurisdiction. The Limited Partners acknowledge and agree that the extent to which the liability of limited partners may be limited may vary in jurisdictions outside of Ontario based on the application of corresponding limited partnership Laws in such jurisdictions, which may result in increased liability for Limited Partners than the limitation of liability that is provided for Limited Partners under the Laws of the Province of Ontario.

ARTICLE 6 LIABILITY OF PARTNERS

Section 6.1 Liability of the Limited Partners. The liability of each Limited Partner for the debts, liabilities, losses and obligations of the Partnership shall be limited to its Contributed Capital plus its *pro rata* portion of any undistributed net income of the Partnership. Subject to the provisions of the Act, a Limited Partner shall have no further liability for any debts, liabilities, losses, or obligations of the Partnership.

Section 6.2 Liability of the General Partner.

- (1) The liability of the General Partner for the debts, liabilities, losses and obligations of the Partnership shall be unlimited.
- (2) The General Partner and its directors, officers, agents, employees and shareholders shall not be liable to the Partnership, the Investment Committee or to any Limited Partner for any act, omission, negligence or default of any Person, firm or corporation employed or engaged by the General Partner in the course of the exercise of its duties and responsibilities hereunder, or for any loss, damage or expense caused to the Partnership through any insufficiency of income from, or any depreciation in the value of, any investment or personal property acquired by the Partnership or by virtue of the acquisition, retention or disposition of any such investment, or for any loss, damage or expense arising out of the act or omission of any Person with or by whom or in whose name any such investment shall be held, or for any loss occasioned by any mistake or error in judgment or any act or omission of the General Partner made in the course of or in connection with the exercise of the duties of the General Partner hereunder, or for any other loss, damage or expense which may arise during or in the course of the performance of its obligations, responsibilities, powers, discretions or authorities under this Agreement. The General Partner shall also not be liable to the Partnership, the Investment Committee or any Limited Partner in the event that the General Partner relies, in the performance of its obligations hereunder, on the opinion or advice of or information obtained from any solicitor, auditor, valuator, appraiser, software or hardware developer, technical consultant or other expert who is reasonably considered by the General Partner to be a Person that should be relied upon under the circumstances. The limitations of liability contained in this Section 6.2(2) shall apply only to the extent that any particular loss, damage or expense is not attributable to the fraud, bad faith, wilful misfeasance or negligence of the General Partner or of any Person employed or engaged by the General Partner or is not attributable to the material breach of a provision of this Agreement or the material breach of Applicable Law, the breach of a fiduciary duty by the General Partner or any act or omission not within the scope of authority conferred on the General Partner by this Agreement.

Section 6.3 Indemnification of General Partner, etc. Subject to Section 6.4, the General Partner, the Manager and each of their officers, directors, shareholders, agents and employees and members of the Investment Committee (in each case, an “Indemnitee”) shall be indemnified, held harmless and reimbursed from the funds of the Partnership, up to a maximum amount equal to the Contributed Capital, in respect of any and all losses, liabilities, claims, costs, charges,

taxes, fines, penalties, interest and expenses (collectively, “Losses”) sustained or incurred in connection with or arising as a result of any action, suit, claim, demand or proceeding, whether civil, criminal, investigative or otherwise (collectively, “Claims”), threatened or commenced against an Indemnitee, for or in respect of anything done or permitted to be done or omitted to be done in the execution of the duties, responsibilities, powers and authorities of an Indemnitee hereunder or in any way arising as a result of or in connection with this Agreement. Notwithstanding the foregoing, no Indemnitee shall be entitled to indemnification from the funds of the Partnership hereunder to the extent that any such Loss arises as a result of the fraud, bad faith, wilful misfeasance or negligence of the Indemnitee (or, where the Indemnitee is the General Partner, its Affiliates or any of their respective officers, directors, agents, shareholders, partners or employees, the fraud, bad faith, wilful misfeasance or negligence of any such Person (including, without limitation, the Indemnitee)) or is attributable to the material breach of a provision of this Agreement or the material breach of Applicable Law, the breach of a fiduciary duty by the Indemnitee or any act or omission not within the scope of authority conferred on the General Partner by this Agreement. The indemnities provided pursuant to this Section 6.3 shall survive the termination or dissolution of the Partnership.

Section 6.4 Indemnification Procedure. Subject to Section 6.1, the General Partner, on behalf of any Indemnitee, or the liquidator of the Partnership may pursue and enforce all rights and remedies it may have against a Limited Partner under Section 6.3 and this Section 6.4 and in accordance with the applicable Sections of the Act. In the event that the amount of a Loss in respect of a Claim exceeds or is expected to exceed \$ [REDACTED], and before an Indemnitee shall be entitled to be indemnified, held harmless or reimbursed from the funds of the Partnership in respect of such Loss, the General Partner shall deliver to the Limited Partners a written notice setting out the particulars of the Claim (the “Indemnification Notice”). If a Limited Partner wishes to object to the indemnification of the Indemnitee in respect of such Loss, the Limited Partner shall deliver to the General Partner a written objection (an “Objection”) to that effect within 10 Business Days of receipt of the Indemnification Notice. If the General Partner receives Objections from Limited Partners holding in the aggregate more than [REDACTED]% of the Units, the Indemnitee shall only be entitled to be indemnified in respect of such Loss if and to the extent that such indemnification is approved by Special Resolution. If the General Partner does not receive Objections from Limited Partners holding in the aggregate more than [REDACTED]% of the Units within the prescribed time, the Indemnitee shall be entitled to be fully indemnified in respect of such Loss.

ARTICLE 7 CAPITAL OF THE PARTNERSHIP

Section 7.1 Capital. The capital of the Partnership shall consist of the aggregate Contributed Capital and the capital contributed by the General Partner from time to time.

Section 7.2 Capital Accounts. The General Partner shall maintain a separate capital account for each Partner and shall, on receipt of an amount in respect of the Contributed Capital, credit the capital account of such Partner with such amount. The General Partner shall also credit the capital account with all income allocated to the Partner and shall debit the capital account with all losses allocated to the Partner and by the amount of any funds distributed from time to time by the Partnership to the Partner. The Interest of a Partner shall not terminate by reason of there

being a negative or nil balance in the Partner's account. No Limited Partner shall be responsible for any losses of any other Limited Partner, nor share in the income or allocation of tax deductible expenses attributable to the Units of any other Partner.

Section 7.3 Initial Contribution of Capital. Upon the execution of this Agreement, the Initial Limited Partner shall make a capital contribution of \$ [REDACTED] to the Partnership and be issued Class B Units.

Section 7.4 No Right to Withdraw Amounts. No Partner shall have the right to withdraw any or all of its Contributed Capital or to receive any distribution from the Partnership, except as expressly provided in this Agreement.

Section 7.5 No Interest Payable on Accounts. No interest shall be paid to any Partner on any amount that it has contributed to the Partnership, except as expressly provided in this Agreement.

Section 7.6 Calculation of Net Asset Value.

- (a) As at the close of business on each Performance Valuation Date, the net asset value of the Partnership ("Net Asset Value") shall be determined by the General Partner.
- (b) Net Asset Value of the Partnership on a particular date will be equal to the aggregate value of all assets less the aggregate value of the liabilities of the Partnership.
- (c) In determining the value of the assets for the purpose of determining Net Asset Value, the General Partner shall consider:
 - (i) financing arrangements entered into with Target Entities shall be valued at amortized book value or such other methods as determined by the General Partner in accordance with generally accepted accounting principals;
 - (ii) the value of any publicly-listed common shares and other securities will be the latest closing price for such common shares or other securities on the principal stock exchange on which they are listed and traded prior to the determination of Net Asset Value;
 - (iii) the value of any cash on hand or on deposit, prepaid expenses, cash dividends or distributions declared and interest accrued and not yet received, shall be deemed to be the face amount thereof unless the General Partner determines that any such asset is not worth the face amount thereof, in which event the value thereof shall be deemed to be such value as the General Partner determines to be the fair value thereof;
 - (iv) notes, money market instruments, debt securities (including secured debt) shall be valued by taking the closing price at the calculation time;

- (v) bonds, debentures, notes, mortgages or similar obligations of Canadian federal, provincial or municipal governments or guaranteed by the Canadian federal government with a maturity of twelve (12) months or less;
 - (vi) the value of any forward contract or of a futures contract, if any, shall be the gain or loss with respect thereto that would be realized if, on the day as of which Net Asset Value is being determined, the position in the forward contract or the futures contract, as the case may be, were to be closed out;
 - (vii) except as provided above, the value of any non-public investments of the Partnership will be their fair market value as determined by the General Partner in such manner as it may reasonably determine; and
 - (viii) the value of all assets of the Partnership quoted or valued in terms of a foreign currency, the value of all funds on deposit and contractual obligations payable to the Partnership in a foreign currency and the value of all liabilities and contractual obligations payable by the Partnership in a foreign currency shall be determined using the applicable rate of exchange current at, or nearly as practicable to, the date as of which Net Asset Value is computed.
- (d) If the date on which Net Asset Value is calculated is not a Business Day, then the securities comprising the underlying investments and other Partnership property will be valued as if the date on which Net Asset Value is calculated were the preceding Business Day.
- (e) If an asset cannot be valued under the foregoing rules or if the foregoing rules are at any time considered by the General Partner to be inappropriate under the circumstances, then notwithstanding such rules, the General Partner will make such valuation as it considers fair and reasonable and, if there is an industry practice, in a manner consistent with industry practice for valuing such asset.
- (f) Net Asset Value will be calculated in United States dollars.
- (g) Portfolio Investment purchases and sales effected by the Partnership will be reflected in the computation of the Net Asset Value of the Partnership not later than the first computation of such Net Asset Value made after the date on which such purchase or sale transaction becomes binding.
- (h) Without prejudice to its general powers to delegate its functions, the General Partner may delegate any of its functions in relation to the calculation of Net Asset Value to any other person.
- (i) The General Partner may make such other rules for calculating Net Asset Value as it deems necessary from time to time. In determining Net Asset Value, the General Partner may consult with and rely upon the advice of the Manager and the Partnership's brokers, custodian, auditors, legal counsel or other service

providers. In no event and under no circumstances will the General Partner, the Manager, the Partnership's brokers, custodian, auditors, legal counsel or other service providers incur any individual liability or responsibility for any determination made or other action taken or omitted by them in good faith.

- (j) Net Asset Value established by the General Partner in accordance with the provisions of this Section 7.6 shall, in the absence of bad faith or manifest error, be conclusive and binding on all Partners.

ARTICLE 8 UNITS OF THE PARTNERSHIP

Section 8.1 Units.

- (1) The limited partnership Interests in the Partnership will be divided into and represented by an unlimited number of units designated as "Class A Units", an unlimited number of units designated as "Class B Units" and an unlimited number of units designated as "Class C Units". Each of the Units will represent an interest in the Partnership having the rights set forth in Section 8.2 and will entitle the holder thereof to the rights and benefits of this Agreement.
- (2) The general partnership Interests in the Partnership will be divided into and represented by a single unit designated as the "GP Unit". The GP Unit will represent an interest in the Partnership, in consideration of the payment on or before the date hereof of \$ [REDACTED] by the General Partner to the Partnership being their Contributed Capital amount.
- (3) A partnership interest is personal property. A Partner has no interest in specific Partnership property by way of his, her or its Partnership Unit interests.

Section 8.2 Attributes of Units.

- (1) The Class A Units will have attached thereto the preferences, rights, restrictions, conditions and limitations as provided in this Agreement and as follows:
 - (a) Except as otherwise provided in this Agreement, no Class A Unit shall have any preference or right in any circumstances over any other Class A Unit.
 - (b) The Class A Units represent the right to participate in the distributions of the Partnership and net income as provided for herein.
 - (c) The Class A Units shall earn [REDACTED] preferred return per annum on their Contributed Capital.
 - (d) The Class A Units may not be reclassified, redeemed, transferred or changed in any respect without the prior written consent of the General Partner, in its sole discretion.

- (e) The holders of Class A Units will have the right to receive property of the Partnership on liquidation, dissolution or winding up in accordance with the terms and priority provided for herein.
- (2) The Class B Units will have attached thereto the preferences, rights, restrictions, conditions and limitations as provided in this Agreement and as follows:
- (a) Except as otherwise provided in this Agreement, no Class B Unit shall have any preference or right in any circumstances over any other Class B Unit.
 - (b) The Class B Units represent the right to participate in the distributions of the Partnership and net income as provided for herein.
 - (c) The Class B Units shall earn a [REDACTED] preferred return per annum on their Contributed Capital.
 - (d) The Class B Units shall also be entitled to the Carried Interest return as defined in Section 11.2(3)(ii). The holders of Class B Units will be permitted to catch up on the Carried Interest from month to month.
 - (e) If, following dissolution as detailed in Article 16, the Limited Partners have not received distributions equal to their Contributed Capital and the Preferred Return (on an annualized basis), but the holders of Class B Units have received their Carried Interest, the holders of Class B Units or TIMIA Capital Corp. will return to the Partnership that amount of the Carried Interest payments received by the holders of Class B Units that is equal to sum required for the Limited Partners to receive a distribution equal to their Contributed Capital and Preferred Return net of income tax up to a maximum of the Carried Interest paid to the holders of Class B Units (the “**Claw Back**”).
 - (f) The Class B Units may not be reclassified, redeemed, transferred or changed in any respect without the prior written consent of the General Partner, in its sole discretion.
 - (g) The holders of Class B Units will have the right to receive property of the Partnership on liquidation, dissolution or winding up in accordance with the terms and priority provided for herein.
- (3) The Class C Units will have attached thereto the preferences, rights, restrictions, conditions and limitations as provided in this Agreement and as follows:
- (a) Except as otherwise provided in this Agreement, no Class C Unit shall have any preference or right in any circumstances over any other Class C Unit.
 - (b) The General Partner may pay a commission on the sale of the Class C Units up to [REDACTED] of the gross proceeds sold by an eligible registrant, such commission will be an expense specifically allocated to the Class C Units only.

- (c) The Class C Units represent the right to participate in the distributions of the Partnership and net income as provided for herein.
 - (d) The Class C Units shall earn a [REDACTED] preferred return per annum on their Contributed Capital.
 - (e) The Class C Units may not be reclassified, redeemed, transferred or changed in any respect without the prior written consent of the General Partner, in its sole discretion.
 - (f) The holders of Class C Units will have the right to receive property of the Partnership on liquidation, dissolution or winding up in accordance with the terms and priority provided for herein.
- (4) The GP Unit will have attached thereto the preferences, rights, restrictions, conditions and limitations as provided in this Agreement and as follows:
- (a) The holder of the GP Unit shall have the right to one vote for each GP Unit held in respect of all matters to be decided by the holder of the GP Unit.
 - (b) The GP Unit represent the right to participate in the distributions of the Partnership and net income as provided for herein.
 - (c) The GP Unit shall be entitled to a maximum distribution of net income and other profits of \$ [REDACTED].
 - (d) The holder of the GP Unit will have the right to receive property of the Partnership on liquidation, dissolution or winding up in accordance with the terms and priority provided for herein up to their Contributed Capital.
- (5) The Interests in the Partnership shall be “securities” for the purposes of the *Securities Transfer Act, 2006* (Ontario), similar legislation of other provinces and territories of Canada and Revised Article 8 of the *Uniform Commercial Code* (United States).

Section 8.3 No Pre-emptive Rights. No Person shall be entitled, as a matter of right, to subscribe for or purchase any Units. There are no pre-emptive rights attaching to the Units.

Section 8.4 Eligibility to be a Limited Partner. Subscriptions for Units will not be accepted from, by or on behalf of or be registered in the name of any Person:

- (a) that is a “non-resident” of Canada for the purposes of the Tax Act, or from a partnership which is not a “Canadian partnership” within the meaning of the Tax Act, or from a Person who has borrowed to acquire an interest in the Partnership, if any portion of such borrowed amount is a “limited recourse amount” within the meaning of the Tax Act or from “non-Canadians” for the purposes of the *Investment Canada Act* (Canada) and such Persons are not eligible to be a Limited Partner;

- (b) if, following the subscription of such Units by such Person, the Partnership would be a “tax shelter investment” within the meaning of section 143.2 of the Tax Act;
- (c) if, following the acquisition of such Units by such person, the Partnership would be a “SIFT partnership” within the meaning of the Tax Act;
- (d) that is a Financial Institution where, after the issuance of Units to such Person, the Partnership would be a Financial Institution; or
- (e) that is not an Accredited Investor.

Section 8.5 Minimum Subscription & Maximum Contributions. No subscription may be for Class A Units having an aggregate Subscription Price of less than \$ [REDACTED] or as otherwise determined by the General Partner from time to time. No subscription by a Limited Partner may be for less than one Unit.

Section 8.6 No Further Capital Calls. Except for the Subscription Price payable in respect of Units subscribed for pursuant to a Subscription Agreement, and the subscription by the Initial Limited Partner for the Initial Limited Partner Unit, the Limited Partners shall not be required to make any further contributions to the capital of the Partnership.

Section 8.7 Initial Closing. The initial closing shall take place on the First Closing Date. From time to time after the First Closing Date (but no later than [REDACTED] thereafter), the General Partner may, in its sole and absolute discretion, accept one or more additional Limited Partners, or permit any existing Limited Partner to increase its Contributed Capital, at one or more subsequent closings during the Investment Period (each a “Subsequent Closing”); each Unit will be issued for a subscription price as determined by the General Partner which shall not be lower than the current Net Asset Value per Unit.

Section 8.8 Conditions Precedent to the Issuance of Units. The General Partner shall not issue any Class A Units, Class B Units or Class C Units unless the General Partner has received, on or before the First Closing Date, subscriptions with an aggregate Subscription Price of not less than \$ [REDACTED].

Section 8.9 Issuance of Additional Units.

- (1) Except as otherwise set forth herein, the General Partner may, in its discretion, cause the Partnership to issue additional Units on any terms and conditions of offering and sale of Units as the General Partner, in its discretion, may determine, from time to time hereafter, including accepting payment of consideration therefor in the form of cash, promissory notes, property and/or past services, and may do all things in that regard, including preparing and filing prospectuses, offering memoranda and other documents, and paying the expenses of issue and entering into agreements with any Person providing for a commission or fee.
- (2) The Partnership shall not issue any fractional Units, and any fractional interest in a Unit shall be rounded down to the nearest whole number without any compensation therefor.

Section 8.10 Subscription for Units. In connection with any issuance of Units, each subscribing Person will complete and execute a Subscription Agreement setting out, among other things, the total Subscription Price for the Units subscribed for, which Subscription Price will be that Person's agreed upon Contributed Capital.

Section 8.11 Restriction on Return of Contributed Capital. Except as otherwise set forth in this Agreement or as provided for in the Act, no Partner shall be entitled to a return or to demand the return of any portion of his Contributed Capital.

Section 8.12 No Interest. No interest shall be paid on any Contributed Capital.

Section 8.13 Acceptance of Subscription. Subscribers may purchase Units by delivering to the General Partner a completed and executed Subscription Agreement or such other form of agreement as is acceptable to the General Partner. The Subscription Agreement must be received at the Principal Office, or such other place as the General Partner may designate, on or before the First Closing Date in order to be accepted by the General Partner. The General Partner reserves the right to accept or reject subscriptions in whole or in part at its sole option and reserves the right to restrict the number of Units that may be purchased by any Subscriber. The General Partner will notify Subscribers whose subscriptions are accepted three days before the First Closing Date of the amount of the Subscription Price payable on the First Closing Date (the "Closing Date Payment"). Upon acceptance of a subscription, the General Partner shall, as of the First Closing Date, allot and upon timely receipt of the Closing Date Payment, issue to the Subscriber the Units subscribed for, and shall pay the Closing Date Payment received for such Units into the Partnership. Upon rejection of a subscription, the General Partner shall promptly refund to the Subscriber the Closing Date Payment submitted, if any.

Section 8.14 Admittance as Limited Partner. Upon the execution and delivery by the General Partner of any Subscription Agreement, in whole or in part, the Subscriber shall be admitted as a Limited Partner and all Partners shall be deemed to consent to the admission of the Subscriber. No action or consent of the Limited Partners shall be required for the admission of a Limited Partner. The General Partner shall also cause the Register to be amended and shall file with appropriate authorities all such other documents as may be required by the Act or under any other applicable legislation in other relevant provinces or territories and shall cause the admission of the new Limited Partner to be reflected in all other relevant Partnership books and records.

Section 8.15 Unit Register. The General Partner shall establish and maintain a register at the Principal Office and shall record therein the names and addresses of, and numbers of Units held by Limited Partners (the "Register"). The General Partner shall for all purposes be entitled to treat the Limited Partner in whose name any Units are registered as the absolute owner thereof, any notice to the contrary notwithstanding. The General Partner shall not be charged with notice of or be bound to see to the execution of any trust in respect of any Unit whether express, implied or constructive and may deal with any Unit on the direction of the registered Limited Partner thereof, whether named as trustee or otherwise. Only Limited Partners whose Units are recorded on the Register shall be entitled to vote or to receive distributions or otherwise exercise or enjoy the rights of Limited Partners under this Agreement.

Section 8.16 Entry on Register. Upon any issuance of Units, the name of the Subscriber shall be promptly entered on the Register as the owner of the number of Units issued to such Subscriber.

Section 8.17 Transfer of Units. Units are transferable subject to compliance with applicable securities legislation and this Agreement. However, a Unit is not transferable in part and no transfer of a Unit will be recognized by the General Partner unless: (i) the transfer form annexed as Schedule “A” hereto (or any similar form from time to time prescribed by the General Partner) is completed and signed by the registered holder of the Unit and by the transferee; (ii) such transfer form has been remitted to the General Partner; and (iii) the General Partner consents to such transfer, which consent may be withheld by the General Partner in its discretion. The General Partner shall deny a transfer of Units if the transfer is to a transferee who is not eligible to hold Units pursuant to Section 8.4.

Section 8.18 Limited Partners to Give Notice of Ceasing to be Eligible. A Limited Partner who ceases to be eligible to be a Limited Partner as provided in Section 8.4 shall immediately give notice thereof to the General Partner. If the General Partner becomes aware that a Limited Partner has ceased to be so eligible and has failed to provide notice to the General Partner thereof, the General Partner has the right to sell such Limited Partner’s Units at the fair market value thereof, as determined by an independent valuator.

ARTICLE 9 REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 9.1 Representations, Warranties and Covenants of the General Partner. The General Partner represents, warrants and covenants to each Limited Partner that, so long as it is the General Partner:

- (a) it is and shall continue to be a corporation duly incorporated and existing under the laws of the Province of Ontario or such other jurisdiction under which the General Partner may continue or under which a successor to the General Partner may be incorporated or may continue;
- (b) it is and will continue to be duly registered and qualified to carry on business in each jurisdiction where it is necessary or advisable to be so registered or qualified;
- (c) it has and shall continue to have the appropriate capacity and corporate authority to act as the General Partner and to perform its obligations under this Agreement and that such obligations do not and shall not conflict with or constitute a default under its articles or any agreement by which it is bound;
- (d) it is resident in Canada for purposes of the Tax Act;
- (e) no interest in the General Partner is a “tax shelter investment” for purposes of section 143.2 of the Tax Act;

- (f) it will exercise its powers and authorities as General Partner and manage the Business and the affairs of the Partnership in a reasonable and prudent manner;
- (g) it is duly licensed, registered or qualified in all jurisdictions where required to enable it to exercise its powers and authority as General Partner and to manage the Business and to otherwise carry out its obligations under this Agreement;
- (h) will make commercially reasonable efforts to ensure that an acknowledgement substantially in the form set out below is inserted in any agreement to which the Partnership is a party or to which it is or may be bound:

“The parties hereto acknowledge that TIMIA Capital II Limited Partnership (the “Partnership”) is a limited partnership formed under the laws of the Province of Ontario. Certain officers, directors and other representatives of TIMIA Capital II GP Inc. the sole general partner of the Partnership, may be limited partners of the Partnership and as such are only liable for any of the liabilities of the Partnership or any of the Partnership’s losses to the extent of the amount that such limited partner has contributed to the capital of the Partnership and such limited partner’s pro rata share of any undistributed income of the Partnership. The parties hereto acknowledge that the obligations of the Partnership shall not be personally binding upon, nor shall resort be had to, the property of any of its limited partners, their heirs, executors, administrators and other legal representatives, successors and assigns, and that resort shall only be had to the property of the Partnership, or the property of its general partner, TIMIA Capital II GP Inc.”

- (i) there are no litigation or regulatory proceedings against the General Partner and, to the knowledge of the General Partner, no such litigation or regulatory proceedings are pending or threatened; and
- (j) it will register the Partnership in any jurisdiction where it believes that such registration is required in order to protect the limited liability of any Limited Partner residing in that jurisdiction.

The representations, warranties and covenants made pursuant to this Section 9.1 shall survive execution of this Agreement.

Section 9.2 Representations, Warranties and Covenants of the Limited Partners.

- (1) Each Limited Partner represents and warrants to the General Partner and all the other Limited Partners that:

- (a) if an individual, he or she has obtained the age of majority and has the legal capacity and competence to enter into this Agreement and to take all actions required pursuant hereto;
 - (b) if a corporation or body corporate, it has the legal capacity and competence to enter into this Agreement and to take all actions required pursuant hereto and all necessary approvals by its directors, shareholders and members, or otherwise, have been given to authorize the entering into of this Agreement and to take all actions required pursuant hereto;
 - (c) is an Accredited Investor;
 - (d) such Limited Partner is a resident of Canada (for purposes of the Tax Act) or, if such Limited Partner is a partnership it is a “Canadian partnership” within the meaning of the Tax Act;
 - (e) it is not a Financial Institution, unless it has represented to the Partnership in writing that it is a Financial Institution and the General Partner has consented to same;
 - (f) it is not an investor who is a person or partnership an interest in which is a “tax shelter investment”, or which is acquiring its Units as a “tax shelter investment”, all within the meaning of the Tax Act;
 - (g) it has not financed its acquisition of Units with any “limited recourse debt” (within the meaning of the Tax Act);
 - (h) it will not cause the Partnership to be a “SIFT partnership” and will not undertake any action that would reasonably be expected to cause the Partnership to be, or create a substantial risk that the Partnership will be, a “SIFT partnership” (all within the meaning of the Tax Act); and
 - (i) it is acting as a principal in respect of this Agreement; and
 - (j) such Limited Partner is not a “non-Canadian” under the *Investment Canada Act* (Canada).
- (2) Each Limited Partner covenants to the General Partner and all the other Limited Partners that such Limited Partner will advise the General Partner in writing at the time of the issue or transfer of Units to such Limited Partner whether such Limited Partner is a Financial Institution, and shall immediately advise the General Partner if such Limited Partner becomes, at any time thereafter a Financial Institution, a non-resident of Canada or a partnership that is not a “Canadian partnership” within the meaning of the Tax Act, or if an interest in such Limited Partner becomes a “tax shelter investment” within the meaning of the Tax Act.

ARTICLE 10

DETERMINATION AND ALLOCATION OF NET INCOME OR LOSS

Section 10.1 Determination of Net Income or Net Loss. The net income or loss of the Partnership for each Fiscal Year and each calendar quarter shall be determined in accordance with Canadian Generally Accepted Accounting Principles consistently applied as reported in the financial statements of the Partnership but the financial statements shall be presented in U.S. dollars.

Section 10.2 Allocation of Net Income. The net income or loss of the Partnership for each Fiscal Year shall be allocated between the General Partner and the Limited Partners and among the Limited Partners by the General Partner in a manner consistent with the distribution provisions in Article 11. In so allocating the net income or loss, the General Partner shall act reasonably and fairly, taking into account the amount and timing of actual and anticipated distributions to each of the Partners (including the General Partner), with a view to ensuring that, over the term of the Partnership, each Partner is allocated a portion of the Partnership's net income that substantially corresponds to the income that is distributed to that Partner.

Section 10.3 Computation of Income or Loss for Tax Purposes. The General Partner shall have the right, in computing the income or loss of the Partnership for tax purposes, to adopt a different method of accounting than required by Section 10.1, to adopt different treatments of particular items and to make and revoke such elections on behalf of the Partnership and the Partners as the General Partner deems to be appropriate in order to reflect the terms of this Agreement, provided that the same method or treatment shall be adopted and the same elections shall be made and revoked in respect of all Limited Partners.

Section 10.4 Allocation of Income or Loss for Tax Purposes. Subject to the following sentence, the income or loss of the Partnership for tax purposes for a Fiscal Year, and its income or loss from a particular source or a source in a particular place, its capital gains and its capital losses, shall be allocated to the Partners in the same proportions as amounts are allocated to the Partners pursuant to Section 10.2. Amounts recognized as income, gains, losses, deductions or credits of the Partnership for income tax purposes in a Fiscal Year but not taken into account in Section 10.2 in such Fiscal Year shall be allocated for income tax purposes among the Partners on the basis which they would be allocated pursuant to Section 8.3 if such amounts were taken into account in computing net income or loss of the Partnership, and the allocation of income, loss, capital gains and capital losses for income tax purposes in subsequent Fiscal Years shall be made taking such prior allocations into account.

Section 10.5 Income Tax Statements. On or before March 15th in each year, the General Partner shall determine the income or loss of the Partnership for the preceding taxation year in accordance with the provisions of the Tax Act and provide the Limited Partners with information pertaining to the Partnership, including all distributions and allocations, which is necessary to permit the Limited Partners to complete their income tax returns for the preceding year. Each Partner shall prepare and file such documents as may be required to be prepared and filed under the Tax Act and shall include in its computation of income the net income or loss of the Partnership for tax purposes as may be determined and allocated to it pursuant to this Article 10.

ARTICLE 11 DISTRIBUTIONS

Section 11.1 Contributed Capital.

- (1) The General Partner shall establish and maintain on the books of the Partnership a capital account for each of the General Partner and Limited Partners, which account shall be credited with each contribution to the capital of the Partnership made by the Partners and credited or debited, as the case may be, with amounts of income or capital allocated or distributed to the Partners from time to time.
- (2) Each Limited Partner will be required to contribute to the capital of the Partnership for each Unit purchased.

Section 11.2 Distribution and Allocations among Partners.

- (1) At the end of each fiscal year of the Partnership, the net profits or losses of the Partnership for such year shall be determined by the General Partner in accordance with generally accepted accounting standards.
- (2) Net losses of the Partnership in a particular fiscal year:
 - (a) ██████% of net losses will be allocated to the Limited Partners in proportion to their Contributed Capital; and
 - (b) ██████% of the net losses will be allocated to the General Partner.
- (3) Distributions of Income:

Income Available for Distribution shall be distributed to the Limited Partners and the General Partner (the “Distributions”) on a date to be determined by the General Partner, but the General Partner shall use all commercially reasonable efforts to make such Distributions on a monthly schedule, in accordance with the following order of priority in aggregate amounts calculated as follows (for greater certainty, such priority of payments noted below will cease to be paid once there is no longer any Income Available for Distribution):

- (i) **Preferred Return Payment.** First, one hundred percent (100%) of Income Available for Distributions in respect of will be paid to the holders of Units until the holders of Units have received aggregate distributions equal to the preferred return of ██████ per annum (the “Preferred Return”) paid monthly;
- (ii) **Carried Interest of the General Partner.** Second, one hundred percent (100%) of Income Available for Distributions will be paid to the Class B Unit holders until the Class B Unit holders have received an amount equal to ██████ of the Preferred Return distributed to the

Unit holders and which shall be paid on a monthly basis (the “**Carried Interest**”); and

- (iii) **Sharing.** Third, thereafter Income Available for Distributions will be split [REDACTED] to the Unit holders and [REDACTED] to the Class B Unit holders.

(4) Distributions of Disposition Proceeds:

Disposition Proceeds shall be distributed to the Limited Partners and the General Partner on a date to be determined by the General Partner, in accordance with the following: (i) for the first 24 months after the First Closing Date, Principal Amounts received on a Portfolio Investment will be reinvested by the Partnership at the discretion of the General Partner or a portion thereof may be returned to the Unit holders on a pro-rata to their respected Contributed Capital as determined by the General Partner; and (ii) from the 25th month following the First Closing Date, the General Partner shall return Contributed Capital to the Unit holders on a pro-rata to their respected Contributed Capital subject to any capital requirements, expense payments and other reserves deemed advisable by the General Partner in its sole discretion. For greater certainty, for the first 24 months after the First Closing Date, the General Partner may, at its sole discretion, retain the Disposition Proceeds for reinvestment purposes.

Section 11.3 Computation of Income or Loss for Tax Purposes. The General Partner shall have the right, in computing the income or loss of the Partnership for tax purposes, to adopt a different method of accounting than required by Section 11.2, to adopt different treatments of particular items and to make and revoke such elections on behalf of the Partnership and the Partners as the General Partner deems to be appropriate in order to reflect the terms of this Agreement. For greater certainty, the computation of income or loss of the Partnership shall be calculated after the payment of all fees payable by the Partnership in relation to the Business of the Partnership, including fees for services under the MSAA.

Section 11.4 Allocation of Income or Loss for Tax Purposes. All income, gains, losses, deductions and credits of the Partnership shall be allocated, for federal and provincial income tax purposes, among the Partners in the same proportions as the net income or loss is allocated to the Partners pursuant to Section 11.2, except that if any such allocation for tax purposes is not permitted by the Tax Act or other applicable law, the Partnership’s subsequent income, gains, losses, deductions and credits shall be allocated among the Partners for tax purposes so as to reflect as nearly as possible the allocation pursuant to Section 11.2.

Section 11.5 Distributions. Subject to the payment of the fees described in Article 13, the General Partner may make distributions to Limited Partners at any time in its sole discretion, and subject, for greater certainty to any reasonable cash reserves it may establish.

Section 11.6 Repayment.

- (1) If, as determined by the Auditors, any Limited Partner has received by way of distribution an amount which is in excess of his entitlement (the “Excess Amount”), such

Limited Partner shall forthwith reimburse the Partnership the Excess Amount upon notice by the General Partner (the “Notice”).

- (2) If the Excess Amount is not repaid within ten (10) days from delivery of the Notice, the Limited Partner shall, in addition to his obligation to repay the Excess Amount, pay interest on the Excess Amount to the Prime Rate plus [REDACTED] per annum from the date of delivery of the Notice until repaid.

Section 11.7 Limit on Distributions. No distributions shall be made unless, after making the distribution, sufficient property of the Partnership remains to satisfy all liabilities of the Partnership. Notwithstanding anything contained in this Agreement, if it is determined that a distribution made to the Partners contravened the provisions of the Act, the General Partner may require the Partners to return (in proportion to the distribution made to each of them) all or part of such distribution to enable the Partnership to satisfy all liabilities of the Partnership. Upon receipt of a request from the General Partner, each of the Partners shall forthwith return to the Partnership the amount of the distribution required by the General Partner.

Section 11.8 Deficit in Accounts. The interest of a Partner in the Partnership shall not terminate by reason of a negative or zero balance in its Contributed Capital account or any accounts maintained on the books of the Partnership with respect to such Partner.

Section 11.9 Withholding Taxes.

- (1) Notwithstanding any other provision of this Agreement, each Partner hereby authorizes the Partnership or its duly appointed agent to withhold, to pay over, or otherwise pay, any withholding tax or other taxes that the Partnership or such agent may be required to withhold or pay (pursuant to the *Tax Act* or any provincial, territorial or foreign tax law) with respect to amounts allocable to such Partner or as a result of such Partner’s participation in the Partnership, and in the event of any such payment or withholding:
 - (a) the Partnership shall provide notice to such Partner of any such payment required to be made as soon as practicable;
 - (b) if and to the extent that the Partnership is required to withhold or pay any such withholding or other taxes, such Partner shall be deemed for all purposes of this Agreement to have received a distribution from the Partnership, effective as of the time such withholding or other tax is required to be paid, to the extent that such Partner (or any successor to such Partner’s interest in the Partnership) would have received a distribution but for such withholding or other taxes; and
 - (c) to the extent that the aggregate of actual distributions and distributions deemed to be made pursuant to this Section 11.1 to a Partner for any period exceeds the distributions that such Partner would have received for such period but for such withholding, the General Partner shall notify such Partner as to the amount of such excess and such Partner shall immediately remit payment to the Partnership of the amount of such excess by wire transfer.

- (2) The provisions of Section 11.9(1)(a) shall apply to a distribution in-kind, *mutatis mutandis*, based on the fair value of such distribution.
- (3) Any withholdings referred to in this Section 11.1 shall be made at the maximum applicable rate under applicable law, unless the General Partner shall have received an opinion of counsel or other evidence, reasonably satisfactory to the General Partner, to the effect that a lower rate is applicable, or that no withholding is applicable.
- (4) To the extent that amounts received or receivable by the Partnership are subject to withholding or other taxes as a result of one or more Partners being non-resident of Canada or a partnership that is not a “Canadian partnership” for the purposes of the *Tax Act* (a “Non-Resident”), then the full amount of any such withholdings or other taxes shall be borne exclusively by any such Non-Resident or, if there is more than one Non-Resident Partner, then the full amount of any such withholdings or other taxes shall be borne exclusively by all of such Non-Resident Partners according to their relative and respective Units at that time, subject to the other terms of this Agreement.

Section 11.10 Advances. Distributions otherwise payable to a Limited Partner during a Fiscal Year under Section 11.5, upon the reasonable request of a Limited Partner, shall not be paid to the Limited Partner during the year, but shall be paid to such Limited Partner immediately after the end of the year but not later than ninety (90) days after the end of each year.

Section 11.11 Adjustments. If the auditors of the Partnership make any adjustment pursuant to Section 2.5, which adjustment requires a repayment or redistribution by the General Partner or the Limited Partners of distributed amounts, such repayment or redistribution will be made within thirty (30) days of receipt by the Partners of the auditor’s report referred to in Section 2.5 (and in any event before dissolution of the Partnership).

ARTICLE 12 ACCOUNTING AND REPORTING

Section 12.1 Reports to Limited Partners. The General Partner shall provide or cause to be provided to the Limited Partners the following statements and reports:

- (a) unaudited quarterly financial statements within forty-five (45) days of the end of each calendar quarter of the Partnership in each Fiscal Year;
- (b) audited financial statements, together with the auditor’s report thereon, within ninety (90) days of the end of each Fiscal Year;
- (c) quarterly reports on the status of each Partnership investment in Equity Securities and the calculation of the Preferred Return, including an estimation as to the value of the investment or the market value thereof, if the investment is in securities in respect of which there is a public market, and a calculation of the return. The auditors of the Partnership will review annually such estimates of value and will report thereon. Such report will not constitute the expression of an opinion on any valuation; and

- (d) each report referred to in Section 12.1(a) and Section 12.1(b) shall, subject to any confidentiality obligations that cannot be waived by the General Partner, set out, with respect to the period to which such report relates, a summary of each Limited Partner's capital account activity.

Section 12.2 Filings. The General Partner will file or cause to be filed such information as is required by Applicable Law to be filed in respect of Partnership matters.

Section 12.3 Books and Records. The General Partner shall keep, during the term of the Partnership and for a period of six years thereafter, at its Principal Office, proper and complete records and books of account reflecting the assets, liabilities, income and expenditures of the Partnership and the Register, in accordance with the provisions of the Act and the regulations thereunder. Subject to any confidentiality obligations that cannot be waived by the General Partner, such books and records and Registers will be kept available for inspection by and at the sole expense of any Limited Partner or its duly authorized representatives during regular business hours at the Principal Office for any purpose related to such Limited Partner's Interest.

Section 12.4 Other Reports to Limited Partners.

(1) The Manager shall provide Limited Partners such other information and reports as may be required under Applicable Law.

(2) Any information required to be sent to Limited Partners for Canadian federal and provincial income tax purposes with respect to the Partnership not otherwise contained in the statement and reports mentioned herein and all information in suitable form relating to the Partnership as may be necessary (as determined by the Manager in its sole discretion) for Limited Partners to prepare their Canadian federal and provincial income tax returns shall also be sent by the Manager to Limited Partners on or about March 31st in each year with respect to the Fiscal Year then last ended or, in the case of dissolution or termination of the Partnership pursuant to Section 16.2, no later than 120 days after the date of such dissolution or termination.

**ARTICLE 13
FEES AND EXPENSES**

Section 13.1 Organizational Expenses. The Partnership shall reimburse the General Partner, the Manager and their respective Affiliates for Organizational Expenses in an aggregate amount not to exceed ■% of Contributed Capital. The General Partner, the Manager and their Affiliates shall solely be responsible for the payment of any Organizational Expenses in excess of such amount. The General Partner shall be entitled to cause the Partnership to pay any Placement Fees at the time such Placement Fees are due and payable by the General Partner or any of its Affiliates.

Section 13.2 Operating Expenses of the Partnership.

(1) The Partnership shall be responsible for all costs and expenses related to its activities, investments, operations and Business, except Operating Expenses.

- (2) The General Partner shall pay, or cause to be paid to, the Manager the Operating Expense Contribution from the Property of the Partnership, and the MSAA shall provide that in consideration for the Operating Expense Contribution the Manager will pay and satisfy all Operating Expenses on behalf of the Partnership.

Section 13.3 Expenses of the Manager and the General Partner. The Manager and the General Partner shall be responsible for their respective day-to-day operating expenses and administrative expenses, including expenses incurred for facilities expenses, rent, furnishings, utilities, supplies, general marketing and other overhead expenses and compensation of employees and will not be entitled to any reimbursement thereof, other than as contemplated by Section 13.2 and as provided for in the MSAA.

Section 13.4 The Manager. The Partners acknowledge and agree that the General Partner, on its own behalf, may engage the Manager to perform certain of the powers, authority and duties of the General Partner pursuant to the MSAA, the performance of which shall entitle the Manager to the payment of certain fees (including the Management Fee) and the reimbursement of certain expenses which the General Partner may pay to the Manager out of the Property of the Partnership or any amounts payable or reimbursable to the General Partner.

Section 13.5 Management Fee. During the term of this Agreement, the General Partner shall pay, or cause to be paid to, the Manager, on behalf of the Partnership, on an accrual basis on each Management Fee Payment Date, a management fee equal to the sum of each Limited Partner's Management Fee Share ("Management Fee") plus all applicable federal and provincial taxes. All such payments shall be apportioned between Limited Partners based on their respective Management Fee Shares.

Section 13.6 Portfolio Investment Fees. The Partners and the Manager acknowledge and agree that all Portfolio Investment Fees shall be for the account of the Partnership.

ARTICLE 14 TRANSFER OF UNITS

Section 14.1 Transfer of Interests.

- (1) At no time may Units or the beneficial ownership therein be transferred to: (a) non-residents of Canada (within the meaning of the Tax Act); (b) a partnership that is not a "Canadian partnership" (within the meaning of the Tax Act); (c) a "financial institution" for the purposes of the Tax Act; or (d) a Person, where, as a consequence of statements or representations made or proposed to be made by or on behalf of such Person, an interest in such Person is, or will be a "tax shelter investment" (within the meaning of the Tax Act) or if such Person becomes a Limited Partner, such Limited Partner's interest in the Partnership is or will be a "tax shelter investment" for the purposes of the Tax Act, and such transfer shall be null and void and the transferor thereof shall be deemed, for all purposes, to be the registered and beneficial holder thereof.
- (2) Except as otherwise expressly set out herein, a Limited Partner shall not transfer (including any transfer of all or a part of its Interest to a Person who becomes an assignee of such Limited Partner's beneficial Interest in the Partnership's profits, losses and

distributions even though not becoming a substitute Limited Partner) any Interest or Units without the prior written consent of the General Partner, which consent may be withheld or delayed in the General Partner's sole discretion. Unless otherwise consented to by the General Partner no transfer of Units from a Limited Partner shall relieve the transferor of any obligations of a holder of the transferred Units to the other Partners and the Partnership hereunder and the transferee of such Units shall be liable for all obligations in respect thereof incurred by the transferor pursuant to this Agreement at any time prior to such transfer becoming effective.

- (3) Neither the whole or any part of any Units may be transferred except in accordance with the following:
 - (a) the prior written consent of the General Partner must have been obtained in a form satisfactory to the General Partner, acting reasonably;
 - (b) a Limited Partner may only transfer all or part of such Limited Partner's Units by delivering to the General Partner a completed Transfer Form attached to this Agreement as Schedule "A", evidencing such transfer as is acceptable to the General Partner duly completed and executed by both parties to such transfer;
 - (c) the transfer shall be effective and the transferee shall be admitted as a Limited Partner on the later of: (A) the day on which the transfer form, duly completed and executed by the transferor and the transferee, is accepted by the General Partner; and (B) the day that the Register of the Limited Partners is updated by the General Partner to show the transferee as a Limited Partner;
 - (d) no transfer of an Interest will be accepted by the General Partner after the sending of the notice of dissolution provided for by this Agreement; and
 - (e) the General Partner may deny any transfer of Interests or Units generally, if the General Partner has reason to believe that the transfer is not being made in compliance with applicable securities Laws or will subject the Partnership to additional regulation of any kind unless the proposed transferor has caused to be delivered to the General Partner an opinion of legal counsel satisfactory to the General Partner to the effect that the transfer is being made in compliance with applicable securities Laws and will not subject the Partnership to additional regulation of any kind.
- (4) A transferee of Units, the transfer of which is completed in accordance with the provisions hereof, will automatically become bound by and subject to this Agreement without execution of further instrument from and after the time set out in Section 14.1(3)(c), and, without limiting the generality of the foregoing, such transferee shall be deemed to make all the representations, warranties, covenants and acknowledgements of a Limited Partner pursuant to this Agreement.
- (5) The transferor and the transferee of any Limited Partner's Units shall be jointly and severally obligated to reimburse the General Partner, the Manager and the Partnership for

all reasonable expenses (including lawyer's fees and expenses) of any transfer or proposed transfer of Interests, whether or not consummated.

- (6) Any purported transfer which violates this Article 14 shall, to the fullest extent permitted by Law, be null and void and the General Partner shall refuse to register any such transfer on the Register and other books and records of the Partnership, and the purported buyer, assignee, transferee, pledgee, mortgagee, or other recipient shall have no interest in or rights to the Partnership's Property, assets profits, losses or distributions, and neither the General Partner nor the Partnership shall be required to recognize any such interests or rights.
- (7) Notwithstanding any other provision of this Agreement to the contrary, any transferee of a Limited Partner's Interest in the Partnership may be admitted to the Partnership as a substitute Limited Partner (a "Substitute Limited Partner") only with the consent of the General Partner, which consent may be withheld in the sole discretion of the General Partner. In the event of the admission of such transferee as a Substitute Limited Partner, all references herein to the transferring Limited Partner shall be deemed to apply to the Substitute Limited Partner, and such Substitute Limited Partner shall succeed to all rights and obligations of the transferring Limited Partner hereunder. A Person shall be deemed admitted to the Partnership as a Substitute Limited Partner at the time that the foregoing conditions are satisfied and such Person is listed as a Limited Partner in the Register.

Section 14.2 Transfer by Operation of Law. Where a Person becomes entitled to Units on the incapacity, death, bankruptcy or winding up of a Limited Partner, or otherwise by operation of Applicable Law, in addition to the requirements of Section 14.1, such entitlement will not be recognized or entered in the Register and such Person shall not be admitted as a Limited Partner until such Person:

- (1) has produced evidence satisfactory to the General Partner of such entitlement;
- (2) has acknowledged in writing that such Person is not: (a) a non-Canadian (within the meaning of the *Investment Canada Act*); (b) a non-resident of Canada (within the meaning of the Tax Act) or, if a partnership, is a "Canadian partnership" (within the meaning of the Tax Act); (c) a "financial institution" for the purposes of the Tax Act, and (d) is not a Person, where, as a consequence of statements or representations made or proposed to be made by or on behalf of such Person, an interest in such Person is or will be a "tax shelter investment" (within the meaning of the Tax Act) or if such Person becomes a Limited Partner, such Limited Partner's interest in the Partnership is or will be a "tax shelter investment" for the purposes of the Tax Act; and
- (3) has acknowledged in writing that such Person is bound by the terms of this Agreement and enters into a Subscription Agreement or such other agreements as may be required by the General Partner.

Section 14.3 Units Subject to Trust or Pledge. Limited Partners may not encumber any of their Units in any manner whatsoever and any such purported encumbrances shall be void and of no effect. The General Partner shall not be bound to see to the execution of any trust, express, implied or constructive, or of any charge, pledge or equity to which any Unit is subject, to ascertain or inquire whether any sale or transfer of any such Unit by a Limited Partner or its personal representatives is authorized by such trust, charge, pledge, security or equity or to recognize any Person having any interest therein except for the Person recorded as such Limited Partner. No transfer shall relieve the transferor from any obligations to the Partnership prior to the transfer becoming effective.

ARTICLE 15 MEETINGS OF THE PARTNERS

Section 15.1 Annual Meeting. There shall be an annual information meeting of the Limited Partners at such time and place in Ontario or British Columbia as the General Partner may designate. The annual information meeting of Limited Partners shall be held after delivery to the Limited Partners of the relevant annual reports and within 120 days after the end of each Fiscal Year.

Section 15.2 Other Meetings. The General Partner shall have the power at any time to call special meetings of the Limited Partners at such time and place as the General Partner may determine. Special meetings of the Limited Partners shall be called upon the written request of Limited Partners holding, in aggregate, not less than ■% of the outstanding Units entitled to vote. The phrase “meeting of Limited Partners” wherever it appears in this Agreement shall mean and include both an annual information meeting and any other meeting of Limited Partners.

Section 15.3 Notice of Meeting of Limited Partners. Notice of all meetings of Limited Partners shall be mailed or delivered by the General Partner to each Limited Partner at the address appearing in the Register for such Limited Partner not less than 14 and not more than 60 days before the meeting. Notice of any meeting of Limited Partners shall state the purpose of the meeting. The General Partner is entitled to receive notice of and to attend but not vote at all meetings of Limited Partners.

Section 15.4 Quorum. Two Limited Partners represented in Person or by proxy holding not less than ■% of the Units outstanding shall constitute a quorum for any meeting of Limited Partners provided that if a quorum is not achieved at any meeting, the meeting will be adjourned to a date that is five Business Days after the date of the initial meeting, at which time the quorum for the meeting will be one Limited Partner holding not less than ■% of the Units outstanding.

Section 15.5 Voting. Limited Partners may attend and vote at all meetings of Limited Partners either in Person or by proxy. Each Unit shall be entitled to one vote at all meetings of Limited Partners. Whenever any action is to be taken by the Limited Partners, it shall, except as otherwise required by this Agreement or by Applicable Law, be authorized by a majority of the votes cast at a meeting of Limited Partners by holders of Units entitled to vote thereon.

Section 15.6 Matters Which Require Approval of Limited Partners. The following matters require the approval of the Limited Partners:

- (a) the replacement of the General Partner pursuant to Article 17;
- (b) the appointment or removal of the auditor of the Partnership;
- (c) amendments to this Agreement other than those referred to in Section 21.2;
- (d) the extension of the term of the Partnership pursuant to Section 16.1;
- (e) the termination of the Partnership at any time pursuant to Section 16.2; and
- (f) the sale of all or substantially all of the assets of the Partnership.

The matters set out in Section 15.6(a), Section 15.6(c), Section 15.6(d), Section 15.6(e) and Section 15.6(f) will require the approval of the Limited Partners by way of Special Resolution. The matters set out in Section 15.6(b) will require the approval of the Limited Partners holding not less than ■% of the votes attaching to the Units. In addition, any amendment to this Agreement that adversely affects the Interest of any specific Limited Partner (other than any amendment that affects more than one Limited Partner in a similar fashion) who provides the General Partner with a legal opinion from external counsel to such effect requires the express consent of such affected Limited Partner.

Section 15.7 Proxies. Whenever the vote or consent of Limited Partners (including those matters listed in Section 15.6) is required or permitted under this Agreement, such vote or consent may be given either directly by the Limited Partner or to a proxy in such form as the General Partner may prescribe from time to time. The General Partner may solicit such proxies from the Limited Partners or any of them in any matter requiring or permitting the Limited Partners' vote or consent. Every proxy will be substantially in the form which follows or such other form as may be approved by the General Partner or as may be satisfactory to the chairman of the meeting at which it is sought to be exercised, and shall require the signature of a witness:

“I, <*> in the Province of <*> being a Limited Partner of TIMIA Capital II Limited Partnership, hereby appoint <*> of in the Province of <*>, as my proxy, with full power of substitution to vote for me and on my behalf at the meeting of Limited Partners to be held on the <*> day of <*>, 20<*> and every adjournment thereof and every poll that may take place in consequence thereof. As witness my hand this <*> day of <*>, 20<*>.”

Section 15.8 Revocation of Proxy. A vote cast in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death, incapacity, insolvency or bankruptcy of the Person giving the proxy or the revocation of the proxy unless written notice of such death, incapacity, insolvency, bankruptcy or revocation shall have been received by the chair of the meeting prior to the commencement of the meeting.

Section 15.9 Corporations. A Limited Partner which is not an individual may appoint an officer, director or other authorized Person as its representative to attend, vote and act on its behalf at a meeting of Limited Partners.

Section 15.10 Attendance of Others. Any officer or director of the General Partner, legal counsel for the General Partner and the Partnership and representatives of the auditor of the Partnership shall be entitled to attend any meeting of Limited Partners with the consent of the meeting. The General Partner shall have the right to authorize the presence of any Person at a meeting regardless of whether the Person is a Partner with the consent of the meeting. The General Partner shall have the right to permit that Person to address the meeting with the consent of the meeting. Each of the Limited Partners shall be entitled to have legal counsel or other advisers attend any meeting of Limited Partners.

Section 15.11 Chair. The General Partner may nominate any individual, including, without limitation, an officer or director of the General Partner, or an individual who is not a Limited Partner, to be chair of a meeting of Limited Partners and the Person so nominated by the General Partner shall be chair of such meeting unless the Limited Partners elect another chair.

Section 15.12 Powers of Limited Partners - Resolutions Binding. The Limited Partners shall have only the powers set forth in this Agreement and any additional powers provided by Applicable Law. Subject to the foregoing sentence, any resolution passed in accordance with this Agreement shall be binding on all the Partners and their respective heirs, executors, administrators, successors and assigns, whether or not any such Partner was present in Person or voted against any resolution so passed.

Section 15.13 Written Resolutions Binding. Any Ordinary Resolution, or Special Resolution consented to in writing at any time during the Partnership's existence by the signature of Limited Partners required to constitute an Ordinary Resolution, or Special Resolution is as valid and effective as if passed at a meeting of holders of Units, duly called, constituted and held for that purpose. Any resolution passed in accordance with this Agreement will be binding on all the Limited Partners and their respective heirs, executors, administrators, successors and assigns, whether or not any such Limited Partner was present in person or voted against any resolution so passed.

Section 15.14 Participation in Meetings by Electronic Means. Any person entitled to attend a meeting of the Partnership may participate in the meeting by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the Partnership makes available such a communication facility. A person participating in a meeting by such means is deemed for the purposes of this Agreement to be present at the meeting. If the General Partner or a Limited Partner calls a meeting pursuant to this Agreement, such General Partner or Limited Partner, as the case may be, may determine that the meeting shall be held entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting.

Section 15.15 Additional Rules and Procedures. To the extent that the rules and procedures for the conduct of a meeting of the Partners are not prescribed in this Agreement, the rules and

procedures shall be determined by the General Partner. Where the approval of the Limited Partners is required under this Agreement, in lieu of a meeting such approval may be given by way of written consent or resolution signed by Limited Partners holding the required number of Units.

ARTICLE 16 DISSOLUTION

Section 16.1 Term of the Partnership. The Partnership will be formed and shall commence as of the date of the filing of the Declaration with the registrar pursuant to the Act and shall continue until the date on which the Partnership is dissolved in accordance with this Agreement and the Act.

Section 16.2 Dissolution.

- (a) The Partnership shall dissolve and its affairs shall be wound up upon the earliest of:
 - (i) the fifth (5th) anniversary of the date hereof;
 - (ii) the dissolution of the Partnership by operation of law;
 - (iii) the first date on which the dissolution of the Partnership can reasonably occur after the final investment proceeds have been distributed on all Portfolio Investments in accordance with Article 11 and all other actions in respect of such investment proceeds and distributions required by this Agreement or Applicable Law have been taken;
 - (iv) the date of the occurrence of any event that makes it unlawful for the Business to continue to be carried on;
 - (v) the date on which the Limited Partners terminate the Partnership by way of Special Resolution, provided that the General Partner and the Manager receive twelve months' prior notice of such termination; and
 - (vi) the failure of the Limited Partners to appoint a successor general partner upon the withdrawal, removal, death, retirement, or dissolution of the General Partner.
- (b) The Partnership shall not dissolve at any other time or for any other reason whatsoever.

Section 16.3 Liquidation. Upon the occurrence of any event set out in Section 16.2(a), the General Partner shall act as the receiver and liquidator of the assets of the Partnership except where the General Partner is removed for cause in which event the Limited Partners shall appoint another Person (the "Liquidating Trustee"). The General Partner or the Liquidating Trustee, as the case may be, shall proceed diligently and expeditiously, following the applicable date of such event in Section 16.2(a), to liquidate the Partnership and to wind up its affairs and, in doing so,

shall distribute, sell and dispose of the Property of the Partnership in such manner as it deems appropriate and shall apply the proceeds of the disposition of such assets, notwithstanding anything to the contrary in the Act, as follows:

- (a) first, to pay and discharge of all of the Partnership's debts, obligations and liabilities, including the expenses of its liquidation;
- (b) second, to establish any reserves that the General Partner or the Liquidating Trustee, as the case may be, may deem necessary or advisable for any contingent or unforeseen debts, obligations or liabilities of the Partnership; and
- (c) third, to distribute the balance to the Partners in accordance with Article 11.

Section 16.4 Notice of Dissolution. Upon dissolution of the Partnership, the Partnership shall terminate and the General Partner or the Liquidating Trustee, as the case may be, shall file a declaration of dissolution and any other documents that may be required by the Act and take all other actions that may be necessary or advisable to formally terminate the existence of the Partnership.

Section 16.5 Extension of Dissolution. The General Partner may on two separate occasions, in each case following consultation with the Manager, if any, and upon not less than 30 days' prior notice to Limited Partners, extend the date provided for in Section 16.2(a)(i) by a maximum of 365 days on each occasion, if the General Partner determines that it would be in the best interests of Limited Partners to do so.

ARTICLE 17 REPLACEMENT OF THE GENERAL PARTNER

Section 17.1 Withdrawal of General Partner. The General Partner may withdraw as the general partner of the Partnership by giving written notice to the Limited Partners, not less than twelve months prior to the date when such withdrawal shall take effect. Such withdrawal shall take effect on the date specified in such notice unless, at or prior to such date, a successor general partner is appointed by the Limited Partners by way of Special Resolution, in which case such withdrawal shall take effect immediately upon the appointment of such successor general partner.

Section 17.2 Removal of General Partner. The General Partner may be removed by the Limited Partners by way of Special Resolution at any time by providing written notice to the General Partner not less than twelve months prior to the date that such removal is to take effect; provided a successor general partner is appointed pursuant to Section 17.3.

Section 17.3 Appointment of Successor General Partner. In the event that the General Partner withdraws or is removed by the Limited Partners, a successor general partner shall forthwith be appointed by the Limited Partners by way of Special Resolution.

Section 17.4 Termination Upon Failure to Appoint Successor. In the event that a successor general partner is not appointed by the effective date of the withdrawal or removal of the General Partner pursuant to Section 17.1 or Section 17.2, as the case may be, the Property shall be

distributed in accordance with the dissolution provisions set out in Article 16. The General Partner shall continue to act as the general partner of the Partnership until all the Property has been so distributed after which time this Agreement shall be terminated. To the extent permitted by Law, the General Partner shall have a charge on the Property or the Interests of the Limited Partners to secure payment of the fees and expenses of and other amounts due to the General Partner under this Agreement.

Section 17.5 Successor General Partner. Any successor general partner of the Partnership, by accepting its appointment as such, shall automatically become a party to this Agreement and shall be bound by the terms hereof as if the successor general partner had been an original signatory thereto, provided that such successor general partner shall not be responsible or liable for any act or omission of the General Partner preceding its appointment as successor general partner. Any such successor general partner shall be a resident of Canada for purposes of the Tax Act.

Section 17.6 Compulsory Assignment and Transfer. Upon the withdrawal or removal of the General Partner from the Partnership and the appointment of a successor general partner, the General Partner shall:

- (a) receive from the Partnership the amount, if any, contributed by the General Partner to the capital of the Partnership;
- (b) receive from the Partnership an amount equal to the allocation of net income that would have been paid or payable to the General Partner on the day of its withdrawal or removal if the Partnership had been dissolved on that day based on an independent valuation prepared by the auditors of the Partnership;
- (c) assign its Interest in this Agreement and transfer the GP Unit to the successor general partner in consideration of the payment of \$10.00 by the successor general partner to the General Partner and the successor general partner assuming the obligations and duties of the General Partner under such agreements; and
- (d) do all things and take all steps necessary or advisable to transfer management of the Business of the Partnership and the books, records and accounts of the Partnership to the successor general partner and execute and deliver all documents and instruments necessary or advisable to effect such transfers.

Section 17.7 Party to Agreement. The successor general partner shall become a party to this Agreement and shall forthwith assume the obligations and duties of the General Partner hereunder.

Section 17.8 Idem. Notwithstanding anything in this Article 17, the General Partner will not be entitled to any notice of removal or payment of such amounts in the event of its removal due to the bankruptcy or insolvency, fraud, bad faith, wilful misfeasance or negligence of the General Partner or of any Person employed or engaged by the General Partner in the performance of its obligations under this Agreement or in the event that its removal is attributable to the material breach of a provision of this Agreement or the material breach of Applicable Law, the breach of a fiduciary duty by the General Partner in respect hereof or any act or omission not within the scope of authority conferred on the General Partner by this Agreement. In addition, the General Partner will not be entitled to any notice of removal or payment of such amounts if the General Partner is removed due to the occurrence of a direct or indirect change of Control of the General Partner or the Manager.

Section 17.9 Release. Upon the withdrawal or removal of the General Partner, the Limited Partners shall release the General Partner from all Claims with respect to events that occur in connection with the Partnership after the effective date of such withdrawal or removal by written agreement. For greater certainty, the General Partner shall not be released in respect of Claims which are attributable to acts or omissions of the General Partner prior to such effective date.

ARTICLE 18 NOTICES

Section 18.1 Notices. Any notice, report or other communication (collectively, a "Communication") required or permitted to be given hereunder shall be in writing unless some other method of giving the Communication is expressly accepted by the party to whom it is given, and may be given in writing by personal delivery, registered mail, postage prepaid or email addressed as follows:

- (a) if to a Limited Partner, to the address or email address of the Limited Partner appearing in the Register;
- (b) if to the General Partner:

TIMIA Capital II GP Inc.

c/o TIMIA Capital Corp.
789 W Pender St #1530,
Vancouver, BC V6C 1H2

or at such other address as may be given by either of them to the other in writing or electronic communications from time to time.

Any Communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the fifth Business Day following the deposit thereof in the mail and, if given by electronic mail or other form of recorded Communication, shall be deemed given and received on the date of such transmission if received during the normal business hours of the recipient and on the next Business Day if it is received after the end of such normal business hours on the date of its transmission.

ARTICLE 19

CONFLICT OF INTEREST AND OTHER MISCELLANEOUS MATTERS

Section 19.1 Conflict of Interest. Each of the Limited Partners acknowledges that the General Partner is an Affiliate of the Manager and that the Manager and its Affiliates (other than the General Partner) may pursue a range of other business and investment activities other than the Management Services or activities related to the Partnership, including subsequent tranches or other investments in Target Entities in which the Partnership also has a Portfolio Investment, and, by virtue of the range of activities of the Manager and its Affiliates, there is a potential for conflicts of interest to arise between the Partnership, on the one hand, and the Manager and its Affiliates and/or their respective clients, on the other hand. The General Partner will undertake commercially reasonable efforts to ensure that neither the Manager nor any Key Person makes or maintains any investment or enters into any transaction, directly or indirectly, which will create or be reasonably likely to give the appearance of creating conflicts of interest between the Manager or that Key Person, and the Partnership. Where there is any course of action contemplated by the Partnership or the General Partner which could give rise to a conflict of interest, the Investment Committee will be consulted and its decision, after it consults with the Limited Partners (if it deems such consultation to be appropriate in the circumstances), will be binding.

Section 19.2 Activities of General Partner and Key Person.

- (a) The General Partner will devote all of its efforts to or for the benefit of the Partnership.
- (b) The General Partner will cause each of Michael Walkinshaw and Andrew Abouchar collectively the “Key Persons” and individually a “Key Person”) on a priority basis to expend sufficient time on the Business of the Partnership to enable the General Partner or the Manager, as the case may be, to perform their respective duties according to the standards set out in this Agreement or the MSAA. In the event that any Key Person ceases to be retained or employed by the Manager or an Affiliate of the Manager in substantially the same capacity as such individuals are currently retained or employed, the General Partner name a replacement Key Person and will notify the Limited Partners of the change.

ARTICLE 20

POWER OF ATTORNEY

Section 20.1 Power of Attorney of the General Partner. Each Limited Partner hereby irrevocably makes, constitutes and appoints the General Partner, and any successor to the General Partner under the terms of this Agreement, at any time prior to the occurrence of withdrawal or removal of the General Partner (or such successor to the General Partner) pursuant to this Agreement, as its true and lawful attorney and agent, with full powers of substitution and authority in the name, place and stead of such Limited Partner to:

- (1) Execute, swear to, acknowledge, deliver, file, and record in the appropriate public offices in any jurisdiction where the General Partner considers it appropriate any and all of:

- (a) this Agreement and any amendment hereto made in accordance with the terms hereof;
- (b) any amendment to the Declaration establishing the Partnership and other instruments necessary or appropriate to qualify or to continue the qualification of the Partnership as a limited partnership in the Province of Ontario and in each other jurisdiction where the Partnership may conduct its activities or where such qualification is necessary or desirable to maintain limited liability of Limited Partners in that jurisdiction;
- (c) all instruments and any amendment to the Declaration establishing the Partnership that are necessary or appropriate to reflect any amendment, change or modification of this Agreement, subject to the terms and restrictions of this Agreement;
- (d) all conveyances and other instruments and documents necessary to reflect the dissolution and liquidation of the Partnership, subject to the terms and restrictions of this Agreement;
- (e) all instruments relating to the admission of additional or substituted Limited Partners, subject to the terms and restrictions of this Agreement;
- (f) any document or instrument in connection with the sale, transfer or forfeiture of an Interest contemplated by this Agreement; and
- (g) all elections, determinations or designations under the Tax Act or any other taxation or other legislation or laws of like import of Canada or of any provinces or jurisdictions in respect of the affairs of the Partnership.

Section 20.2 Binding of Limited Partners. Each Limited Partner will be bound by any representation or action made or taken by the General Partner pursuant to the power of attorney granted in Section 20.1 and waives any and all defences which may be available to contest, negate or disaffirm any action of the General Partner taken in good faith under such power of attorney.

Section 20.3 Power of Attorney Irrevocable. This power of attorney shall be irremovable and is a power coupled with an Interest and shall bind the Limited Partner, his or her heirs, executors and administrators and other legal representatives or successors and assigns of the Limited Partner, notwithstanding the death, incapacity, dissolution, termination or bankruptcy of the Limited Partner, the granting of these powers of attorney shall not terminate any continuing power of attorney previously granted by the Limited Partner and shall not be terminated by the Limited Partner on the execution of a continuing power of attorney in the future, and the Limited Partner hereby agrees not to take any action in the future which results in the termination of any of these powers of attorney. These powers of attorney shall survive any dissolution or termination of the Partnership. The foregoing grant of authority: (a) is a special power of attorney coupled with an Interest in favour of the General Partner and as such shall be irrevocable and shall survive the death or incompetence (or, in the case of a Partner that is a corporation, association, partnership or trust, shall survive the merger, amalgamation, dissolution

or other termination or alteration of existence) of the Partner; and (b) shall survive the assignment by the Partner of the whole or any portion of its Interest, except where the assignee of the whole thereof has furnished a power of attorney, this power of attorney shall survive such assignment for the sole purpose of enabling the General Partner to execute, acknowledge or file any instrument necessary to effect such substitution and shall thereafter terminate.

Section 20.4 Execution of Documents on Behalf of a Limited Partner. The General Partner shall have the power to execute documents in the name of all Limited Partners pursuant to this power of attorney by affixing its signature thereto with the indication that it is acting on behalf of the Limited Partners.

Section 20.5 Compliance by Limited Partners. Each Limited Partner will, on request by the General Partner, immediately execute every certificate or other instrument necessary to comply with any Law or regulation of any jurisdiction in Canada for the continuation and good standing of the Partnership.

ARTICLE 21 GENERAL

Section 21.1 Property to be Kept Separate. The General Partner shall maintain the Property separate from all other property in its possession.

Section 21.2 Amendments. Unless approved by Special Resolution, no amendment may be made to this Agreement which would have the effect of:

- (a) reducing the interests in the Partnership of the Limited Partners;
 - (b) increasing the liability of any Limited Partner; or
 - (c) changing the right of any Limited Partner to vote at any meeting of the Partnership.
- (1) The General Partner may, without the approval of, or prior notice to, the Limited Partners, amend this Agreement from time to time to:
- (a) remove any conflicts or other inconsistencies which may exist between any terms of this Agreement and any provisions of any law or regulation applicable to or affecting the Partnership;
 - (b) make any change or correction in this Agreement which is of a typographical nature or is required to cure or correct any ambiguity or defective or inconsistent provision, clerical omission, mistake or manifest error contained herein;
 - (c) bring this Agreement into conformity with applicable laws, rules and policies of Canadian securities regulators provided that any amendment contemplated does not adversely affect the pecuniary value of the interests of the Limited Partners; or
 - (d) provide added protection or benefit to the Limited Partners.

- (2) Except for changes to this Agreement which require the approval of Limited Partners or changes such as those described in Section 21.2, this Agreement may be amended from time to time by the General Partner in any manner which is not inconsistent with its fiduciary duty as general partner of the Partnership, provided notice of such change is provided to Limited Partners.
- (3) The Limited Partners will be notified of full details of any amendment to this Agreement within thirty (30) days following the effective date of the proposed amendment.
- (4) Notwithstanding any other provision of this Agreement, no amendment may be made to this Agreement which would have the effect of reducing the fees payable or expenses reimbursable to the General Partner or removing the General Partner unless the General Partner, in its sole discretion, consents.

Section 21.3 Entire Agreement. This Agreement, the Subscription Agreements and the other agreements expressly referred to herein represent the entire agreement among the parties hereto governing the subject matter hereof, and supersede and cancel all prior negotiations, correspondence or agreements, written or oral, among the parties hereto with respect thereto.

Section 21.4 Assignment. No party may assign any of its rights or benefits under this Agreement, or delegate any of its duties or obligations, except as specifically permitted by this Agreement.

Section 21.5 Successors and Assigns. This Agreement shall enure to the benefit of and shall be binding on and enforceable by and against the parties hereto and their respective successors or heirs, executors, administrators and other legal and personal representatives, and permitted assigns.

Section 21.6 Legal Counsel. The General Partner and the Manager have retained CC Corporate Counsel Professional Corporation in connection with the formation of the Partnership. CC Corporate Counsel Professional Corporation is not representing and will not represent any Limited Partner, unless the General Partner, the Manager and such Limited Partner otherwise agree, in connection with the formation of the Partnership, the offering of interests therein, the management and operations of the Partnership, or any dispute that may arise between any Limited Partner on the one hand and the General Partner, the Manager and/or the Partnership, on the other hand (the "Partnership Legal Matters"). Each of the Limited Partners will, if wishing counsel on a Partnership Legal Matter, retain its own independent legal counsel. Each of the Limited Partners agrees that CC Corporate Counsel Professional Corporation may represent the General Partner, the Manager and/or the Partnership in connection with the formation of the Partnership, and any and all other Partnership Legal Matters (including any dispute between the General Partner and/or the Manager and any Limited Partner).

Section 21.7 Arbitration. If any dispute or question (the "Dispute") shall arise during the term of this Agreement or at any time thereafter, between the General Partner and one or more Limited Partners concerning the interpretation of this Agreement or any part thereof, such parties shall attempt in good faith to resolve such Dispute. If such parties have not agreed to a settlement of the Dispute within 30 days from the date on which the Dispute first became known to both

such parties, then such parties agree that the Dispute shall be submitted to arbitration pursuant to the *Arbitration Act, 1991* (Ontario). Such Dispute shall not be made the subject matter of an action in any court by either or any of such parties unless the dispute has first been submitted to arbitration and finally determined in accordance with the provisions of Schedule “B” annexed hereto and forming part of this Agreement. Any such action commenced thereafter shall only be for the purpose of enforcing the decision of the arbitrators and the costs incidental to the action. In any such action the decision of the arbitrator shall be conclusively deemed to determine the rights and liabilities as between the parties to the arbitration in respect of the Dispute.

Section 21.8 Firm Name. The Partnership shall have the full and exclusive ownership of and right to use the Partnership name, TIMIA Capital II Limited Partnership, and any other name selected by the General Partner pursuant to Section 2.2. At no time during the existence of the Partnership, as between Partners, shall any value be placed upon the firm name, or the right to its use, or any goodwill attached thereto or otherwise associated with the Partnership. In connection with the winding-up of the Partnership, to the extent permitted by Applicable Law, the entire right, title and interest to the firm name and such goodwill shall be assigned without compensation to the General Partner.

Section 21.9 Time of Essence. Time shall be of the essence of this Agreement.

Section 21.10 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic and legal substance of the transaction contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

Section 21.11 Waiver of Jury Trial. To the extent not prohibited by Applicable Law that cannot be waived, each Partner waives, and covenants that such Partner will not assert (whether as plaintiff, defendant or otherwise) any right to trial by jury in any forum in respect of any issue, claim or proceeding arising out of this Agreement or the subject matter hereof or in any way connected with the dealings of any other Partner or the Partnership in connection with any of the above, in each case whether now existing or hereafter arising and whether in contract, tort or otherwise. The Partnership or any Partner may file an original counterpart or a copy of this Section 21.11 with any court as written evidence of the consent of the Partners to the waiver of their rights to trial by jury.

Section 21.12 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein.

Section 21.13 No Waiver. The failure of any party to insist upon strict adherence to any provision of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to such provision or any other provision of this Agreement. No purported waiver shall be effective against any party unless

consented to in writing by such party. The waiver by any party of a breach of any provision of this Agreement shall not operate to be construed as a waiver of any subsequent or other breach.

Section 21.14 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

< REMAINDER OF PAGE LEFT INTENTIONALLY BLANK >

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date above first written.

TIMIA CAPITAL II GP INC.

DocuSigned by:
Andrew Abouchar
Per: _____
55523DF583FF46A...
Name: Andrew Abouchar
Title: CFO

**TIMIA CAPITAL II LIMITED PARTNERSHIP,
BY ITS GENERAL PARTNER TIMIA CAPITAL
II GP INC.**

DocuSigned by:
Andrew Abouchar
Per: _____
55523DF583FF46A...
Name: Andrew Abouchar
Title: CFO

For the Initial Limited Partner:

TIMIA CAPITAL CORP.

DocuSigned by:
Andrew Abouchar
Per: _____
55523DF583FF46A...
Name: Andrew Abouchar
Title: CFO

SCHEDULE “A”

TRANSFER FORM

I, _____, a Limited Partner of TIMIA CAPITAL II LIMITED PARTNERSHIP (the “**Partnership**”), hereby transfer, assign and sell to:

_____ **[Name of Transferee and Address]** _____

[Number of Units] Unit(s) registered in my name and constitute the above-named transferee as a substitute Limited Partner to the extent of that number of Units and I agree to execute and deliver to the General Partner any documents required to effect a valid transfer of the Units or which are necessary or advisable, in the opinion of the General Partner, to preserve the status of the Partnership as a limited partnership. I agree that the power of attorney previously granted to the General Partner will be effective for the purpose of executing and filing all certificates, amendments and other instruments necessary to give effect to this transfer.

DATED at _____, in the Province of _____ this day of _____, in the year _____.

(Guarantor) (Signature of Limited Partner)

(Surname) (Given Name) (Please Print)

(Address - No Post Office Box)

(City, Province, Postal Code)

TERMS AND CONDITIONS

1. If requested by the General Partner, the signature of the Limited Partner must be guaranteed by a Canadian chartered bank, a trust company qualified to carry on business in a Province of Canada, a member of a recognized signature Medallion guarantee program or a member of any recognized Canadian stock exchange.
2. This transfer must be for a whole Unit or for whole Units. Transfers of fractional Units will not be recognized or entered in the register of the Partnership.
3. Unless otherwise defined herein, all capitalized terms used herein shall have the meaning ascribed to such term in the limited partnership agreement of TIMIA CAPITAL II LIMITED PARTNERSHIP made as of April 30, 2020 (as such agreement may be further amended, supplemented or amended and restated from time to time, the “**Limited Partnership Agreement**”).

4. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the undersigned, the undersigned (who is the above-named transferee) hereby accepts this transfer and hereby agrees to be bound, as a party to and as a limited partner in the Partnership, by the terms and conditions of the Limited Partnership Agreement and the Exchange Agreement, as if the undersigned was named as an original party in and had executed the Limited Partnership Agreement and the Exchange Agreement, and hereby ratifies, for all legal purposes, execution of the Limited Partnership Agreement behalf of the undersigned and all actions taken on behalf of the undersigned pursuant to the Limited Partnership Agreement and the Exchange Agreement.
5. The undersigned declares that the undersigned is not a Person described in Section 8.4 of the Limited Partnership Agreement and the undersigned declares that it has the capacity and competence, and that it has the necessary corporate authority, if applicable, to execute this Transfer and Power of Attorney and to enter into the Limited Partnership Agreement and the Exchange Agreement.
6. The undersigned declares that (i) it is an “**accredited investor**” as defined in National Instrument 45-106 *Prospectus Exemptions* (“**NI 45-106**”) or is subscribing pursuant to a different prospectus exemption detailed in NI 45-106 that is permitted by the General Partner, and (ii) it is being transferred Units as principal.
7. In consideration of the General Partner accepting this transfer and conditional on that acceptance, the undersigned agrees to be bound as a Limited Partner in the Partnership by the terms of the Limited Partnership Agreement and hereby expressly ratifies and confirms the power of attorney given to the General Partner in the Limited Partnership Agreement.
8. The undersigned hereby irrevocably constitutes and appoints the General Partner, with full power of substitution, as its true and lawful attorney and agent, with full power and authority in its name, place and stead to execute and deliver, for and on its behalf, the Limited Partnership Agreement and any amendments or supplements to the Limited Partnership Agreement made in accordance with the Limited Partnership Agreement.
 - (a) The power of attorney granted in this form and in the Limited Partnership Agreement is a special power of attorney, coupled with an interest, and is irrevocable during the existence of the Partnership and in connection with the dissolution or winding up thereof, and will survive the death or disability of the transferee and will survive the transfer or assignment by the transferee, to the extent of the obligations of the transferee under the Limited Partnership Agreement, of the whole or any part of the interest of the transferee in the Partnership, extends to the heirs, executors, administrators, other legal representatives and successors, transferees and assigns of the transferee, and may be exercised by the General Partner on behalf of the transferee in executing any instrument by a facsimile signature or by listing all the Limited Partners and executing that instrument with a single signature as attorney and agent for all of them.

- (b) The undersigned agrees to be bound by any representations or actions made or taken by the General Partner which are contemplated by or provided for in the Limited Partnership Agreement, pursuant to the power of attorney contained in this form, and in the Limited Partnership Agreement and hereby waives any and all defences which may be available to contest, negate or disaffirm the action of the General Partner taken in good faith under the power of attorney.
- (c) In accordance with applicable law governing a power of attorney, the transferee declares that these powers of attorney may be exercised during any legal incapacity, mental incapacity or infirmity, or mental incompetence on the transferee's part.
- (d) The power of attorney granted in this form and in the Limited Partnership Agreement is not intended to be a continuing power of attorney within the meaning of the *Substitute Decisions Act, 1992* (Ontario), exercisable during the transferee's incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a "CPOA"). The execution of the power of attorney will not terminate any CPOA granted by the transferee previously and will not be terminated by the execution by the transferee in the future of a CPOA, and the transferee hereby agrees not to take any action in future which results in the termination of the power of attorney.
- (e) This power of attorney will continue in respect of the General Partner so long as it is the General Partner of the Partnership, and will terminate thereafter, but will continue in respect of the other General Partner and, if applicable, a new General Partner as if the new General Partner were the original attorney.

9. The undersigned accepts that this Transfer and Power of Attorney, the Limited Partnership Agreement and related documents be in the English language only. *Le soussigné accepte que cette procuration et déclaration, ainsi que tous documents connexes, ne soient rédigés qu'en anglais.*

DATED at _____, in the Province of _____ this ____ day of _____, in the year _____.

 (Guarantor) (Signature of Limited Partner)

 (Surname) (Given Name) (Please Print)

 (Address - No Post Office Box)

 (City, Province, Postal Code)

DIRECTION

(To be used where the Limited Partner wishes that the Units the Limited Partner is entitled to receive to be registered in the name of the Limited Partner’s dealer or broker firm or the firm’s nominees. Please consult with your dealer or broker to confirm the appropriate name and address to be inserted below.)

To:

(Insert name of dealer or broker firm or the firm’s nominees)

(Insert name of dealer or broker firm or the firm’s nominees)

Re: TIMIA CAPITAL II LIMITED PARTNERSHIP (the “Partnership”)

Enclosed is a Transfer and Power of Attorney Form in respect of limited partner units (the “Units”) which I have acquired. The Transfer and Power of Attorney Form has been signed by me, with signature guaranteed, but with the name and address of the transferee left blank. I have directed the Partnership to deliver to you the Units to be issued to me so that you may seek the re-registration of those Units in your name or in the name of your nominee (including CDS Clearing and Depository Services Inc.).

You are hereby directed to insert your name and address or the name and address of your nominee on the Transfer and Power of Attorney Form in the Section to be completed by the transferor, to complete the Section to be completed by the transferee and to deliver the properly completed Transfer and Power of Attorney Form to the General Partner, to re-register my Units in your name (or that of your nominee) so that you (or your nominee) will hold the Units on my behalf on the basis that I remain the beneficial owner of the Units.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

DATED at _____, in the Province of _____ this ____ day of _____, in the year _____.

(Signature of Guarantor)

(Signature of Depositing Limited Partner)

(Given Name)

(Social Insurance Number)

(Mail Address - No Post Office Box)

(City, Province, Postal Code)

SCHEDULE "B"

ARBITRATION PROVISIONS

1. As used in this Schedule, the term "**Arbitrators**" means the Sole Arbitrator appointed pursuant to Section 3 of this Schedule or the Arbitration Board appointed pursuant to Section 4 of this Schedule, as the case may be.
2. Where any Dispute, which, pursuant to Section 21.7 of the Agreement, is to be settled by arbitration (the "**Matter**"), the provisions of this Schedule shall govern the arbitration of the Matter exclusively and shall constitute a submission for the purposes of the *Arbitrations Act, 1991* (Ontario).
3. Arbitration shall be commenced by either: (a) the General Partner; or (b) one or more Limited Partners (acting together in the case of more than one Limited Partner) (the "**Complainant**") delivering a written complaint (the "**Complaint**") to the other party or parties, as the case may be (the "**Respondent**"), describing the Matter and appointing an arbitrator. Within ten days of the receipt of the Complaint, the Respondent may, by notice to the Complainant, concur in the appointment of that arbitrator or may appoint an additional arbitrator, and failing the delivery of such notice by the Respondent, the Respondent shall be deemed to have concurred in the appointment of the arbitrator appointed by the Complainant and such arbitrator shall determine the Matter acting alone (the "**Sole Arbitrator**").
4. If the Respondent appoints an additional arbitrator pursuant to Section 3 of this Schedule, then, within ten days of the appointment of such additional arbitrator, the arbitrators so appointed shall agree on the appointment of an additional arbitrator as chairperson (the "**Chairperson**"), and they shall forthwith notify the Complainant and the Respondent of such appointment, failing which the Chairperson may be appointed by a judge of the Ontario Superior Court of Justice on the application of either the Complainant or the Respondent. Upon such appointment of the Chairperson, the Chairperson and the other arbitrators previously appointed shall constitute an arbitration board (the "**Arbitration Board**").
5. Any decision of the Arbitrator(s) made with respect to the Matter or with respect to any aspect of, or any matter related to, an arbitration hereunder (including, the procedures of the arbitration) shall be made by either the Sole Arbitrator or by the majority of the Arbitration Board (or in default of agreement by such majority, then by the Chairperson), as the case may be. All decisions of the Arbitrator(s) with respect to the Matter shall be rendered in writing and shall contain a brief recital of the facts upon which the decision is made and the reasons therefor.
6. The following shall apply to the arbitration of any Matter:
 - (a) within ten days of the appointment of the Arbitrator(s), the Complainant shall deliver to the Respondent and the Arbitrator(s) a written statement (the "**Claim**") concerning the Matter setting forth, with particularity, its position with respect to the Matter and the material facts upon which it intends to rely;

- (b) within ten days after the delivery of the Claim, the Respondent shall deliver to the Complainant and the Arbitrator(s) a written response (the “**Answer**”) to the Complainant setting forth, with particularity, its position on the Matter and the material facts upon which it intends to rely;
- (c) if the Respondent fails to deliver an Answer within the time limit referred to in (b) above, the Respondent shall be deemed to have admitted the Claim;
- (d) within ten days after the delivery of the Answer, the Complainant may deliver to the Respondent and the Arbitrator(s) a written reply (the “**Reply**”) to the Answer setting forth, with particularity, its response, if any, to the Answer;
- (e) within the time provided for the delivery of the Answer to the Claim, the Respondent may also deliver to the Complainant and the Arbitrators a counter-complaint (the “**Counter-Complaint**”) setting forth, with particularity, any additional Matter for the Arbitrator(s) to decide. Within ten days of the delivery of a Counter-Complaint, the Complainant shall deliver to the Respondent and the Arbitrator(s) an Answer to such Counter-Complaint. If the Complainant fails to deliver an answer to the Counter-Complaint within such 10 day period the Complainant will be deemed to have admitted the Counter-Complaint. Within ten days after the delivery of an Answer to the Counter-Complaint, the Respondent may deliver to the Complainant and the Arbitrator(s) a Reply to such Answer. Any Matter submitted to arbitration in accordance with this subsection 6(e) shall be governed by, and dealt with as if it were the subject of a Complaint in accordance with this Schedule, except that it shall be deemed a submission to the Arbitrator(s) already appointed, and shall be determined by the Arbitrator(s) accordingly;
- (f) the time limits set for the delivery of the documents referred to in subsections 6(a) to 6(e) inclusive of this Section 6 may be extended by the Arbitrator(s) for such period and for such reasons as he, she or they in their discretion may determine upon application made to him, her or them by either the Complainant or the Respondent, as the case may be, on notice to the other, either before the expiry of the time limit in issue or within two days thereafter and, in the event that the other wishes to oppose the application, it or they shall be given an opportunity to make submissions on the application;
- (g) upon completion of the foregoing steps in this Section 6 or upon the expiry of the time limit provided therefor if a step provided for in this Section 6(g) is not taken by such time, either the Complainant or the Respondent may make application to the Arbitrator(s) to convene a preliminary hearing for determination of the following:
 - (i) appointing the time, date and place in Ontario for the hearing of the Matter (the “**Hearing**”);

- (ii) arranging for the production of documents pertaining between the Complainant and the Respondent;
 - (iii) arranging for the delivery of and answers to written interrogatories pertaining to the Matter as between the Complainant and the Respondent; and
 - (iv) prescribing such additional rules and procedures considered by the Arbitrator(s) to be necessary or desirable for the conduct of the arbitration (including compulsion of witnesses and discovery under oath);
- (h) the Arbitrator(s) shall at the time and place appointed by the Arbitrator(s) pursuant to Section 6(g) of this Section 6 or as he, she or they may subsequently direct, convene the Hearing and shall, after the Hearing, determine the Matter or Matters submitted to him, her or them and make his, her or their award.
7. Every claim or award of the Arbitrator(s) made pursuant hereto shall be final and binding upon the Complainant and the Respondent and there shall be no appeal therefrom. The Arbitrator(s) shall have jurisdiction to award the costs of the arbitration, including the fees of the Arbitrator(s), as between the Complainant and the Respondent, and to direct the payment of interest in respect of any award at such rates and from and to such dates as are determined by the Arbitrator(s) to be appropriate.
8. Each of the Arbitrators shall be paid their normal professional fees for their time and attendances in dealing with the Matter, which fees, unless otherwise directed by the Arbitrator(s) in accordance with Section 7 of this Schedule, shall be paid equally by the Complainant and the Respondent.
9. All notices and all other documents required or permitted by this Schedule to be given by the Complainant or the Respondent to each other shall be given in accordance with Section 18.1 of the Agreement. All notices and all other documents required or permitted by this Schedule to be given by the Complainant or the Respondent to the Arbitrator(s) shall be given in accordance with the Arbitrators' instructions.