

*Name of Recipient:*

*Copy No:*

**Maverick**  
**REAL ESTATE PARTNERS**

**CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM**

**dated March 9, 2015**  
**of**  
**MAVERICK LIEN FUND III LP**  
**\$30,000,000**  
**in**  
**Limited Partnership Interests**

This Confidential Private Placement Memorandum (this “Memorandum”) is provided to you on a confidential basis solely in connection with your consideration of an investment in limited partnership interests (the “Interests”) of Maverick Lien Fund III LP, a Delaware limited partnership (the “Fund,” or the “Partnership”). *This Memorandum may not be reproduced or circulated in whole or in part without the prior written consent of the Partnership or Maverick GP LLC, a Delaware limited liability company and the Fund’s general partner (the “General Partner”).*

THE SECURITIES OFFERED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”), OR THE SECURITIES LAWS OF CERTAIN STATES AND ARE BEING OFFERED AND SOLD IN RELIANCE ON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND SUCH LAWS. THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON OR ENDORSED THE MERITS OF THIS OFFERING OR THE ACCURACY OR ADEQUACY OF THIS MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL. THESE SECURITIES CANNOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF TO ANY PERSON OR ENTITY UNLESS SUBSEQUENTLY REGISTERED UNDER THE ACT, OR THE LAWS OF CERTAIN STATES, IF SUCH REGISTRATION IS REQUIRED.

THIS MEMORANDUM IS SUBMITTED TO PROSPECTIVE INVESTORS ON A CONFIDENTIAL BASIS FOR USE SOLELY IN CONNECTION WITH A PRIVATE PLACEMENT OF THE LIMITED PARTNERSHIP INTERESTS. THE DISCLOSURE OF ANY OF THE DATA CONTAINED HEREIN OR SUPPLIED IN CONNECTION HERewith OR THE USE THEREOF FOR ANY OTHER PURPOSE, EXCEPT WITH THE WRITTEN CONSENT OF THE GENERAL PARTNERS, IS PROHIBITED. THIS MEMORANDUM MAY NOT BE REPRODUCED, IN WHOLE OR IN PART, AND IT IS ACCEPTED WITH THE UNDERSTANDING THAT IT WILL BE RETURNED ON REQUEST IF THE RECIPIENT DOES NOT PURCHASE THE LIMITED PARTNERSHIP INTERESTS OFFERED HEREBY.

*Any inquiries should be directed to:*

David Aviram, Partner (daviram@maverickrep.com or 646-450-0065)  
Ted Martell, Partner (tmartell@maverickrep.com or 646-450-0063)

Maverick Lien Fund III LP  
14 East 38th Street  
12th Floor  
New York, New York 10016  
www.maverickrep.com

**IMPORTANT NOTICES TO PROSPECTIVE INVESTORS**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION OTHER THAN THOSE CONTAINED IN THIS MEMORANDUM IN CONNECTION WITH THE OFFER BEING MADE HEREBY, AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE GENERAL PARTNER. THIS MEMORANDUM SUPERSEDES ALL PRIOR OR CONTEMPORANEOUS WRITTEN OR VERBAL COMMUNICATIONS MADE ON BEHALF OF OR PERTAINING TO THE PARTNERSHIP.

THIS MEMORANDUM DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY LIMITED PARTNERSHIP INTEREST OTHER THAN THE LIMITED PARTNERSHIP INTERESTS OFFERED HEREBY, NOR AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY SUCH LIMITED PARTNERSHIP INTERESTS BY ANYONE IN ANY JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT AUTHORIZED, OR IN WHICH THE PERSON MAKING SUCH OFFER OR SOLICITATION IS NOT QUALIFIED TO DO SO.

EXCEPT AS OTHERWISE INDICATED, THIS MEMORANDUM SPEAKS AS OF THE DATE HEREOF. NEITHER THE DELIVERY OF THIS MEMORANDUM NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE FUND AFTER THE DATE HEREOF.

NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ARE INTENDED OR SHOULD BE INFERRED WITH RESPECT TO THE ECONOMIC RETURN OR THE TAX CONSEQUENCES FROM AN INVESTMENT IN THE FUND. NO ASSURANCE CAN BE GIVEN THAT EXISTING LAWS WILL NOT BE CHANGED OR INTERPRETED ADVERSELY TO THE FUND OR THE LIMITED PARTNERS. PROSPECTIVE INVESTORS ARE NOT TO CONSTRUE THIS MEMORANDUM AS LEGAL OR TAX ADVICE. EACH PROSPECTIVE INVESTOR SHOULD CONSULT WITH ITS OWN COUNSEL AND ACCOUNTANT FOR ADVICE CONCERNING THE VARIOUS LEGAL, TAX AND ECONOMIC CONSIDERATIONS RELATING TO THE PROSPECTIVE INVESTMENT. THE FUND AND THE GENERAL PARTNER DISCLAIM ANY AND ALL LIABILITIES FOR REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, CONTAINED IN, OR OMISSIONS FROM, THIS MEMORANDUM OR ANY OTHER WRITTEN OR ORAL COMMUNICATION TRANSMITTED OR MADE AVAILABLE TO THE RECIPIENT.

THE FUND SHALL MAKE AVAILABLE TO EACH PROSPECTIVE INVESTOR OR ITS INVESTMENT REPRESENTATIVE, DURING THIS OFFERING AND PRIOR TO THE SALE OF

ANY INTERESTS TO SUCH PROSPECTIVE INVESTOR, THE OPPORTUNITY TO ASK QUESTIONS OF AND RECEIVE ANSWERS FROM THE GENERAL PARTNER OR ITS REPRESENTATIVES CONCERNING ANY ASPECT OF THE FUND AND ITS PROPOSED BUSINESS AND TO OBTAIN ANY ADDITIONAL RELATED INFORMATION TO THE EXTENT THE GENERAL PARTNER POSSESSES SUCH INFORMATION OR CAN ACQUIRE IT WITHOUT UNREASONABLE EFFORT OR EXPENSE.

THIS OFFERING MAY BE WITHDRAWN AT ANY TIME BEFORE A CLOSING AND IS SPECIFICALLY MADE SUBJECT TO THE TERMS DESCRIBED HEREIN. THE GENERAL PARTNER RESERVES THE RIGHT TO REJECT ANY SUBSCRIPTION, IN WHOLE OR IN PART, OR TO ALLOT TO ANY PROSPECTIVE INVESTOR LESS THAN THE AMOUNT OF INTERESTS SUBSCRIBED FOR BY SUCH PROSPECTIVE INVESTOR.

THIS MEMORANDUM CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF DOCUMENTS RELATING TO THE BUSINESS OF THE PARTNERSHIP, AND THE PURCHASE OF THE LIMITED PARTNERSHIP INTERESTS, AS WELL AS SUMMARIES OF VARIOUS PROVISIONS OF RELEVANT STATUTES AND REGULATIONS. SUCH SUMMARIES DO NOT PURPORT TO BE COMPLETE AND ARE QUALIFIED BY THE ENTIRE TEXT OF SUCH DOCUMENTS, STATUTES OR REGULATIONS, WHICH ARE AVAILABLE UPON REQUEST, SUBJECT TO APPROPRIATE CONFIDENTIALITY RESTRICTIONS.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE LIMITED PARTNERSHIP INTERESTS HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

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## **OFFERING PROCEDURES**

The Partnership undertakes to make available to every prospective investor the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any appropriate additional information necessary to verify the accuracy of the information herein or for any other purpose relevant to a prospective investment in the Interests offered hereby. The Partnership may, in its discretion, require prospective investors to execute and deliver a non-disclosure agreement. The Partnership representative referenced below will act as the contact for, and will be available to consult with, any qualified prospective investor who is a recipient of this Memorandum.

**David Aviram, Partner**

**or**

**Ted Martell, Partner**

Maverick GP LLC on behalf of Maverick Lien Fund III LP

14 East 38th Street, 12th Floor

New York, NY 10016

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All subscription materials and payments should be directed to the representative, and at the address listed above. See “How to Subscribe.”

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**MAVERICK LIEN FUND III LP**

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## IMPORTANT NOTICES TO INVESTORS

While the statements we make in the notices below may seem like “boilerplate,” they are, in fact, important. You should read each one of them (as well as all of the information included or referenced in this Memorandum) carefully and be sure you understand them before you invest in the Partnership. Inquiries and information requests should be directed to David Aviram at 646-450-0065 or [daviram@maverickrep.com](mailto:daviram@maverickrep.com) or Ted Martell at 646-450-0063 or [tmartell@maverickrep.com](mailto:tmartell@maverickrep.com).

**Risk.** The Interests are highly speculative, involve a high degree of risk, and should be purchased only by persons who can afford to lose their entire investment. Prospective investors should carefully consider the high risk associated with this offering. See the “Risk Factors” section of this Memorandum for a discussion of certain factors which should be considered in connection with the purchase of Interests.

**No Market.** There is no market for the Interests and there is no assurance that a market will ever develop. No assurance can be given that these securities can ever be resold at any price. The price has been determined by us and is not based upon market value, nor is it an indication of the price at which the Interests or any security can be resold.

**Importance of Reviewing Information.** This Memorandum, which includes the exhibits, was prepared by the General Partner’s management, delivered to you by the Partnership and is the Partnership’s responsibility. The Partnership is providing it to you so that you can decide if you wish to invest in the Partnership. You and your representatives, if any, are urged to read this Memorandum carefully. Except as otherwise indicated, this Memorandum speaks as of the date indicated on the front cover. You should not assume that the information provided in this Memorandum is accurate as of any date other than the date on the front of this Memorandum. Prospective investors who desire additional information or who wish to make an inquiry should contact management. The Partnership is not making or giving you any assurance that anything the Partnership says in this Memorandum regarding future events or performance can or should be relied upon by you.

**Investors Must Make Their Own Evaluation of the Partnership.** The Partnership is offering Interests to you only if you received this Memorandum directly from the Partnership. Not all of the information regarding the Partnership that you might desire to have when you make your investment decision is necessarily contained in this Memorandum. You must conduct and rely on your own evaluation of the Partnership and the terms of this offering, including the merits and risks involved, in making your investment decision. Statements made in this Memorandum are not tax or legal advice.

**Additional Information Available.** Before you purchase any Interests, the Partnership will provide you with an opportunity to ask questions of and receive answers concerning the terms and conditions of the Interests, the Partnership or other relevant matters. The Partnership will also provide you with any additional information to the extent the Partnership possesses such information or can acquire it without unreasonable effort or expense. The Partnership has summarized certain provisions of various agreements in this Memorandum, so you should not assume that the summaries are complete. Summaries are qualified in their entirety by reference to the complete text of the underlying agreements or documents. The Partnership will make such agreements available for you to inspect. See “Additional Information.”

**Private Placement.** No person has been authorized to give any information or to make any representations in connection with the offering made by this Memorandum other than the information and representations contained in this Memorandum and, if given or made, such other information or representations must not be relied upon as having been authorized by the Partnership. This Memorandum

does not constitute an offer to sell or a solicitation of an offer to buy the Interests in any jurisdiction where, or to any person to whom, it is unlawful to make such offer or solicitation.

The Partnership reserves the right, in its sole discretion and for any reason whatsoever, to modify, amend and/or withdraw all or a portion of this offering and/or to accept or reject, in whole or in part, your investment or to allot to you less than the number of Interests that you desire to purchase. The Partnership has no liability whatsoever to you in the event that it takes any of these actions.

The Partnership is not subject to the reporting requirements of the Securities Exchange Act of 1934 and accordingly, does not and will not as a result of this offering, file publicly available reports, proxy statements and other information with the Securities and Exchange Commission. The Partnership may, but is not required to, furnish members with annual reports containing audited financial statements.

**Execution of Subscription Agreement and Limited Partner Signature Page Required.** You will be required to execute a Subscription Agreement. The form of the Subscription Agreement is attached to this Memorandum as Exhibit B (the “Subscription Agreement”). The sale of Interests to you is subject to the terms of the Subscription Agreement. You also will be required to execute a Limited Partner Signature Page, by which you will become a limited partner of the Partnership if your subscription is accepted and by which you will become party to and bound by the Limited Partnership Agreement of the Partnership (the “Limited Partnership Agreement”). The Limited Partnership Agreement is attached to this Memorandum as Exhibit A. You should purchase the Interests only after you and your advisors have carefully and thoroughly reviewed the Limited Partnership Agreement. If any of the terms, conditions or other provisions of those agreements are inconsistent with or contrary to this Memorandum, the Limited Partnership Agreement and the Subscription Agreement will control.

**Restrictions on Transferring Interests.** The Interests have not been registered under the Securities Act or the securities laws of any state and are being offered and sold based on exemptions from the registration requirements of the Securities Act and such laws. The Interests will be subject to restrictions on transferability and resale and may not be transferred or resold except as permitted under the Securities Act and such laws pursuant to registration or exemption therefrom, the Subscription Agreement, and the Limited Partnership Agreement. Potential investors should be aware that they may be required to bear the financial risks of this investment for an indefinite period of time.

**Special Note Regarding Forward-Looking Statements.** Any forward-looking statements included in this Memorandum or otherwise presented in connection with this offering have been based by the Partnership on current expectations and projections about future events. Actual results could differ materially from those anticipated in any such forward-looking statements as a result of various factors, including the risks discussed in “Risk Factors” and elsewhere in this Memorandum.

The Partnership’s investment strategy and any such forward-looking statements are subject to risks, uncertainties and assumptions about the Partnership and its business, which include, but are not limited to:

- the Partnership’s ability to identify and consummate promising investments;
- general economic and business conditions.

The Partnership undertakes no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Because of these risks, uncertainties and assumptions, the forward-looking events discussed in this Memorandum might not occur.

## **I. EXECUTIVE SUMMARY**

### **Background and Investment Record**

The investment objective of the Fund is to achieve 20%+ net annual returns on invested capital by seeking capital appreciation and, from time to time, current income, through the acquisition and disposition of a diversified portfolio of liens. These liens will be secured by real estate principally in the New York Metropolitan area and are typically subject to a dispute. The Fund will invest in both “consensual liens” (loans secured by mortgages and UCC financing statements), and “nonconsensual liens” (mechanics’ liens, judgment liens, tax liens).

Maverick Lien Fund III LP (the “Fund”) was formed by Maverick GP LLC (the “General Partner”), which is wholly owned and controlled 50% by David Aviram and 50% by Edward (“Ted”) Martell (collectively, the “Key Individuals”), for the purpose of investing in liens and loans secured by real estate principally in the New York Metropolitan area. Since 2010, affiliates of the General Partner have acquired 33 liens with a face value of over \$80,000,000 at an acquisition price of approximately \$38,000,000, which represents an acquisition discount of more than 50% of the face amount. Typically, invested dollars are less than 70% of collateral value, providing downside protection with the potential of opportunistic upside.

Maverick Real Estate Partners, LLC, an affiliate of the General Partner and owned and controlled by the Key Individuals (“Maverick,” or the “Management Company”) has made investments through two prior discretionary fund vehicles (“Fund I” and “Fund II,” respectively), and in several individual deals (“Non-Fund Investments”). Completed deals<sup>1</sup> within Fund I, Fund II, and Non-Fund Investments have yielded gross annual returns of 51.0%, 116.6%, and 139%, respectively. Fund I, Fund II, and Non-Fund Investments are projected to have net annual returns to investors, after all deals are resolved, of 19.3%, 27.3%, and 22.2%, respectively.

In December 2010, Maverick closed its first deal when it acquired a \$7,000,000 nonperforming first mortgage from Intervest National Bank, which was secured by unimproved land in Williamsburg, Brooklyn. Maverick capitalized the deal by partnering with The Davis Companies, a Boston-based private equity firm. The collateral comprised of several contiguous lots that totaled two-thirds of a city block and had Department of Buildings approval to build a 200,000 square foot residential building. Maverick purchased the loan at 95% of the unpaid principal balance, with the thesis that the loan had accrued defaulted interest at 24% per annum for almost two years prior, which would be collectible, as the property was worth far more than the total outstanding balance of the loan. Within three months of acquisition, Maverick settled this investment at a 1.3x investment multiple and an internal rate of return of 162.2%.

In June 2011, Maverick made its second investment. It acquired a \$13,500,000 non performing first position construction loan secured by a 40,000 square foot, half-built hotel on the Lower East Side of Manhattan at 94% of the principal amount. Maverick capitalized this investment by partnering with Westport Capital Partners, a Connecticut based private equity fund. The property is currently in contract to be sold for \$33 million by March 2015. Maverick’s claim, including approximately \$4 million in protective advances, has been accruing interest at 24% since maturity default in 2011 and is now due over \$30,000,000. Maverick anticipates a full recovery within the next six months.

In 2012, Maverick raised Fund I to purchase mechanic’s liens after its experience with the hotel construction loan referenced above. The fund purchased 14 liens over a one year period. Within 18

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<sup>1</sup> Completed deals include deals that are completely resolved, have final judgments of foreclosure entered and agreed to by the debtors, or have the majority of invested capital returned, pending final resolution.



months the fund had returned 60% of invested capital. To date, 85% of capital has been returned and the fund is on target to provide a net internal rate of return to investors of 19.3%.

In 2013, Maverick raised Fund II to invest in mechanic's liens, judgments, and nonperforming mortgages. Ten investments were made within 15 months of closing the fund. Within 18 months of closing, Fund II is scheduled to return over 60% of invested capital and is projected to provide a net internal rate of return of 27.3%.

The Fund will be the third discretionary fund managed by Maverick and the Key Principals.

## **Success Factors**

The ability to invest at a significant discount to collateral value allows Maverick to be flexible with its exit strategy. This provides optionality throughout the execution phase of our investments, whether a resolution is reached through a quick settlement (several months after acquisition) or a foreclosure (up to three years). Maverick's investments therefore have the ability to yield high returns for secure positions in a relatively short term of 1-3 years. As the circumstances and security for each Maverick investment are distinct, resolution remains independent of other market variables. As a result, Maverick's lien investment returns are uncorrelated to the public bond and equity markets.

Maverick seeks to avoid broad auctions, has never acquired an investment through a broker, and has many times been the only bidder for an asset. This allows Maverick to dictate pricing of a lien acquisition to some extent. By creating proprietary databases for deal flow, and by diligently researching the public record, debtor's backgrounds, properties, and other assets, Maverick is able to source off-market and noncompetitive opportunities. While "buying right" is one of the most important aspects of Maverick's investment process, proper execution can ensure a shorter investment timeframe and greater profits.

## **II. INVESTMENT STRATEGY**

### **Overview**

Maverick earns superior risk-adjusted returns by acquiring liens secured by real estate under \$5mm from forced sellers in noncompetitive situations and executing various legal strategies to enforce repayment.

#### **Liens Under \$5mm:**

- Under Institutional Radar: Private equity funds focus on deals over \$10mm.
- Small creditors focus on narrow issues, not the big picture, creating strategic opportunity.
- Large creditors treat smaller deals as a nuisance, to be disposed of quickly.

#### **Forced Sellers:**

- Banks: Regulators restrict bank capital and force write-downs on defaulted loans.
- Contractors: Require operating cash, and sell mechanics liens at significant discounts.
- Judgment Creditors: Want quick resolution after prolonged litigation.
- Municipalities: Seek to recapture lost revenue by selling tax liens.

#### **Noncompetitive Situations:**

- Hard to Find: Extensive research yields opportunities that are not marketed.
- Hard to Value: Valuation requires diverse skill sets seldom found in smaller investors.
- Hard to Manage: Other investors avoid perceived "headaches" of contentious litigation.
- Sole Buyer: Maverick is usually the only buyer for a lien, with leverage to impose pricing.
- No Brokers: Maverick has never made an acquisition through a broker.

## **Sourcing Potential Investments**

The General Partner will generate investment opportunities for the Fund by producing lists developed by cross referencing multiple databases which yields potential targets. These lists include documents that are publicly recorded yet not always readily available. The General Partner uses the lists it has created in concert with relationships it has developed with bank officers, attorneys, and other creditors. The General Partner has developed its deal pipeline by studying the circumstances around a particular investment, such as the debtor's background, neighboring properties, and other related assets that are encumbered. The General Partner avoids broad auctions and has never made an investment through a broker, all in an effort to avoid competitive bidding. Maverick may utilize the services of brokers in the future in select circumstances.

## **Investment Analysis**

After identifying a potentially attractive investment opportunity, the General Partner performs some preliminary due diligence of the debt and the collateral with information available in the public record or provided by the seller. The General Partner next prepares a written letter of intent providing the details of the offer to the seller. The seller typically countersigns the letter of intent, which provides exclusivity for the General Partner during the negotiation of the purchase and sale agreement. Once the letter of intent has been signed by the seller, the General Partner will prepare a memo detailing the investment. The memorandum includes thorough financial analysis of upside and downside scenarios as well as a detailed list of risks present within the investment. The General Partner also engages attorneys, appraisers and consultants as needed to review credit files, loan documents, collateral value, and property condition reports. Once the purchase and sale agreement is signed, the Fund will post a refundable deposit for a specified period of time (usually 10-30 days), during which the General Partner conducts its remaining due diligence, and makes visits to the collateral associated with the investment. If it is satisfied with the due diligence, the General Partner will permit the deposit to become non-refundable, and then will call for capital from the Limited Partners. A closing typically takes place one to two weeks later.

## **Management of Portfolio Investments**

Once an acquisition is made, it is closely managed. Upon acquisition, the General Partner will play a leading role in identifying and pursuing options to resolve or settle an investment. Initial outreach to a debtor is typically made prior to pursuing legal remedies. Sometimes this initial outreach is sufficient to structure a settlement.

When initial settlement discussions do not yield results, judicial and non-judicial measures are taken to enforce the fund's rights as the creditor. This process and strategy is designed prior to acquisition in close coordination with the fund's attorneys and consultants. The General Partner will read and provide input on all letters, filings, and debtor outreach. It will also attend court hearings and settlement conferences and it regularly monitors property condition and insurance status as appropriate. Weekly meetings are held during which the status and strategy of each deal is discussed and reevaluated.

## **III. SUMMARY OF PRINCIPAL TERMS**

The following is a summary of the principal terms of, and is qualified by reference to, the Limited Partnership Agreement of the Fund, as amended (the "Limited Partnership Agreement"), and the Subscription Agreement relating to the purchase of limited partnership interests in the Fund (the "Interests"). The actual forms of the Limited Partnership Agreement and Subscription Agreement are included with this Memorandum and should be reviewed carefully. Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Limited Partnership Agreement. The terms of the Fund are as follows:

<b>INVESTMENT OBJECTIVE:</b>	To achieve 20% net annual returns by acquiring liens secured by real estate in the NY Metro area.
<b>FUND SIZE:</b>	The Fund is seeking aggregate initial capital commitments for the Fund of Thirty Million Dollars (\$30,000,000) from accredited investors (each such investor is hereinafter referred to as a “Limited Partner”). Aggregate commitments in excess of (or less than) this amount may be accepted at the discretion of the General Partner.
<b>THE GENERAL PARTNER:</b>	Maverick GP LLC, a Delaware limited liability company, is the General Partner of the Fund (the “General Partner”). The General Partner’s principals are David Aviram and Ted Martell. The General Partner has full and exclusive management authority over all investments, asset dispositions, distributions and other affairs of the Fund. Except for those Limited Partners who are members of the Advisory Board, Limited Partners will have no authority to transact business for, or participate in the management activities and decisions of the Fund. The authority of the General Partner is subject to certain express restrictions set forth in the Limited Partnership Agreement.
<b>KEY INDIVIDUALS:</b>	David Aviram and Ted Martell are the Key Individuals for the Fund. In the event either of the Key Individuals no longer participates in direct or indirect control and management of the Fund, the Advisory Board may prevent the General Partner from initiating a Capital Call.
<b>LIMITED PARTNERS:</b>	Interests are offered only to persons who are “accredited investors” within the meaning of Regulation D under the Securities Act of 1933, as amended (the “Securities Act”), and related regulations.
<b>FUND INVESTMENTS:</b>	The Fund will acquire (i) loans secured by mortgages, (ii) loans secured by limited partnership or membership interests of companies that own real estate, (iii) mezzanine loans or preferred equity to real estate owning entities, (iv) mechanics liens (v) judgment liens, and (vi) tax liens.
<b>CO-INVESTMENTS:</b>	In certain circumstances, a Fund investment may require additional capital if it is too large for the Fund or if the General Partner deems it appropriate for the Fund to bring in outside investors (“Co-Investors”). In these circumstances, the General Partner will offer to the Limited Partners the opportunity to be a Co-Investor, pro-rata in proportion to their percentage interest in the Fund. The General Partner will charge certain asset management fees, acquisition fees, and/or incentive fees to Co-Investors, to be determined at the time of the co-investment (“Co-Investment Fees”). The Fund will be entitled to the payment of 60% of Co-Investment Fees.
<b>INVESTMENT COLLATERAL:</b>	A Fund Investment must have collateral located in New York, New Jersey, Connecticut or Pennsylvania.
<b>DIVERSIFICATION:</b>	No Fund Investment shall be greater than 15% of the Committed Capital of the Fund, unless otherwise approved by the Advisory Board.

<b>INVESTMENT PERIOD:</b>	The Fund will draw down capital and make investments over a two-year period. The investment period may be extended for one nine-month period at the option of the General Partner.
<b>LIQUIDATION PERIOD:</b>	The Fund will liquidate investments during the two-year period after the end of the Investment Period. The Liquidation Period may be extended for two one-year periods at the option of the General Partner and with approval of the Advisory Board.
<b>GP CAPITAL COMMITMENT:</b>	The General Partner will make a capital commitment equal to 2% of all commitments to the Fund. This investment will be treated on the same terms as all Limited Partners.
<b>LP MINIMUM COMMITMENT:</b>	The minimum capital commitment of a Limited Partner will be Two Hundred Fifty Thousand Dollars (\$250,000), although commitments of lesser amounts may be accepted at the discretion of the General Partner.
<b>PRIMARY INVESTMENT VEHICLE:</b>	The Fund will be the General Partner's principals' primary investment vehicle, and the General Partner's principals will commit at least 90% of all working hours to the Fund and prior investments made by the General Partner and its affiliates. If a potential Fund investment meets the proper criteria for the Fund, the General Partner's principals will be prohibited from investing in such investment outside of the Fund. To the extent an investment opportunity is not a Fund Investment or if the Advisory Board declines to invest in the investment, the General Partner principals will be permitted to pursue this opportunity, provided that it does not impact their time commitment to the Fund.
<b>CLOSING:</b>	An initial closing of the Fund (the "Initial Closing") will occur when \$15 million in commitments have been obtained. Subsequent Closings may occur without the consent of any Limited Partner no later than three months after the date of the Initial Closing.
<b>DRAWDOWNS:</b>	It is anticipated that each Limited Partner will invest five percent (5%) of its total commitment within five (5) days of receiving written notice of the Initial Closing from the General Partner. After the Initial Closing, the General Partner may call for additional contributions in such increments of each Limited Partner's capital commitment as the General Partner will determine. While the General Partner will attempt to provide ten (10) business days' notice of calls for additional contributions, it will never request contributions from Limited Partners with less than five (5) business days' notice.
<b>FAILURE TO MAKE CAPITAL CONTRIBUTIONS:</b>	If a Limited Partner fails to contribute any portion of such Limited Partner's capital commitment when due or within the cure period, the defaulting Limited Partner will be subject to a number of remedies including incurring interest, fees, and dilution of its interest in the Fund.
<b>ADVISORY BOARD:</b>	The General Partner will select a committee consisting of a number of proposed Limited Partners or designees (the "Advisory Board") which,

except as a result of a vacancy, upon resignation, death or removal, will not be less than three (3) individuals, and not be more than five (5) individuals. The General Partner may add one or more members to the Advisory Board to represent Limited Partners of the Fund. The Advisory Board meets no less frequently than annually and upon the request of the General Partner to consult with the General Partner on various matters, including the Fund's investment strategy, the status of existing investments, the most recent financial statements of the Fund, material conflicts of interest involving the Fund, or other matters as the General Partner may determine or any member of the Advisory Board may reasonably propose.

The General Partner is required to obtain approval of the Advisory Board with respect to: (i) certain service contracts made with affiliates of the General Partner; (ii) approving investments where there may be a perceived conflict of interest; (iii) the General Partner making short term loans to the Fund; (iv) a Fund Investment greater than fifteen percent (15%) of Capital Contributions to the Fund; (v) obtaining a loan on behalf of the Fund aside from short-term loans used to bridge capital calls; (vi) a Fund Investment whose only collateral is located outside of NY, NJ, CT, or PA; (vii) an investment that is not defined as a Fund Investment; (viii) approval of two one-year extensions of the Liquidation Period if proposed by the General Partner; or (ix) increase in the budget for Administrative Expenses of the Fund.

No Limited Partner that has an employee or other representative as a member of the Advisory Board, and no member of the Advisory Board, will be liable to the Fund, General Partner or any Limited Partner for any losses, claims, damages, expenses or liabilities arising from any act or omission performed or omitted by such Limited Partner's employee or other representative, or by such Limited Partner, respectively, arising out of his or her service on the Advisory Board, except for losses, claims, damages, expenses or liabilities resulting from such person's willful misconduct or fraud. The Fund will indemnify, to the fullest extent permitted by law, each member of the Advisory Board, and the Limited Partner that such member represents, from and against any losses, claims, damages, expenses or liabilities arising from any act or omission performed or omitted by such member arising out of his or her service on the Advisory Board, except for any such losses, claims, damages, expenses or liabilities resulting from such person's willful misconduct or fraud.

**DISTRIBUTIONS:**

During the Investment Period and Liquidation Period, the General Partner will distribute to the Partners all of the cash receipts with respect to investments by the Fund, net of all deal and Fund expenses and reserves as follows:

- (i) Return of Capital: First, one hundred percent (100%) to the Partners (including the General Partner with respect to its capital contributions) pro-rata in proportion to their percentage interests, until the Partners have received (taking into account all prior distributions) the return of all of their capital

contributions.

- (ii) Preferred Return: Second, one hundred percent (100%) to all Partners (including the General Partner with respect to its capital contributions) pro-rata in proportion to their percentage interests, until the Partners have received aggregate amounts (taking into account all prior distributions) equal to the Preferred Return (defined below). The Preferred Return means such payments that would result in a ten percent (10%) *per annum* compound rate of return in respect to capital contributions taking into account the amount and timing of each capital contribution and distribution.
- (iii) Catch-up: Third, one hundred percent (100%) to the General Partner until the aggregate amount distributed to the General Partner under this subparagraph (iii) equals twenty percent (20%) of the sum of the amounts distributed pursuant to subparagraph (ii) above and this subparagraph (iii) on account of the Partners (including the General Partner with respect to its capital contributions).
- (iv) Remainder: Fourth, eighty percent (80%) to the Partners (including the General Partner with respect to its capital contributions) pro-rata in proportion to their percentage interests, and twenty percent (20%) to the General Partner (the “Incentive Allocation”).

No distributions will be made unless cash receipts of the Fund exceed expenses, fees and additions to reserves.

The General Partner may make distributions to itself before the Liquidation Period to cover any tax liability the General Partner may incur as a result of allocations of income or gain made to it with respect to the Incentive Allocation. If any such tax distributions are made, subsequent distributions will take such tax distributions into account for purposes of the distributions described above.

**MANAGEMENT FEE:** During the Investment Period and Liquidation Period, the Management Company will receive quarterly, in advance, a management fee equal to two percent (2%) per annum of the total capital commitments by Limited Partners to the Fund (the “Management Fee”). If the Liquidation Period is extended (with Advisory Board approval), the Management Fee will be reduced to one percent (1%) per annum of the total capital commitments.

**CLAW-BACK:** Upon termination of the Fund, the General Partner will be required to restore funds to the Fund for distribution to the Partners to the extent that the General Partner received cumulative distributions in excess of the amount otherwise distributable to the General Partner pursuant to the distribution formula set forth above, applied on an aggregate basis covering all Fund transactions, but in no event will the General Partner be obligated to restore more than cumulative Incentive Allocation distributions received by the General Partner.

**ORGANIZATIONAL  
AND  
OFFERING  
EXPENSES:**

The Fund will bear legal and other organizational and offering expenses incurred in the offering of Interests in the Fund of up to Seventy Five Thousand Dollars (\$75,000). Expenses in excess of that amount will be borne by the General Partner. The Management Company will assume full responsibility for all fees payable to placement agents for the Fund. A budget for organizational and offering expenses is below, and expenses will be passed through to the Fund at their actual cost:

Organization and Offering Expense Budget		
<u>Expense</u>	<u>Amount</u>	<u>Provider</u>
Legal	\$30,000	Gray Plant Mooty
Fund Administration	\$3,500	SS&C GlobeOp
Other	\$15,000	Legal, Tax, Entity Formation
Contingency	<u>\$26,500</u>	
<b>Total</b>	<b>\$75,000</b>	

**PROFESSIONAL  
FEES:**

The Fund will pay for all professional services relating to accounting, auditing, legal, and tax.

**ADMINISTRATIVE  
EXPENSES:**

The Fund will not pay the rent, general office overhead, or compensation to employees of the Management Company or General Partner of the Fund. The Fund will pay all costs and expenses relating to the Fund's activities, capped at \$90,000 per year during the Investment Period, and reduced to \$50,000 per year during the Liquidation Period.

**DEAL RELATED  
EXPENSES:**

The Fund will be responsible for expenses relating to its investments or proposed investments (such as brokerage fees, commissions, legal fees, consulting services and investment-related travel expenses), expenses incurred in collection of monies owed to the Fund, any taxes, fees or other governmental charges levied against the Fund or any special purpose vehicle formed by the Fund, legal expenses (such as litigation-related and indemnification expenses), dead-deal costs, and expenses substantially comparable to the foregoing.

**VALUATION OF  
INVESTMENTS:**

For purposes of periodic reporting to the Limited Partners, the General Partner will value the assets of the Fund quarterly, at the lower of cost or impaired value.

**WITHDRAWAL AND  
TERMINATION:**

Limited Partners may not withdraw from the Fund.

**TRANSFER OF  
INTERESTS:**

No Limited Partner may sell, assign, pledge or otherwise dispose of its Interests without the prior written consent of the General Partner in its sole discretion, as outlined in more detail in the Limited Partnership Agreement. A Limited Partner desiring to affect a transfer must also comply with certain requirements of the Limited Partnership Agreement. No trading market will exist for the Fund Interests.

**REPORTS AND**

The Fund will furnish to Limited Partners: (i) quarterly financial

**MEETINGS:**

statements of the Fund; (ii) tax information regarding the Fund necessary for the completion of each Limited Partner's tax returns; (iii) periodic reports providing summary financial and other information on the Fund; (iv) capital account statements on a quarterly basis; and (v) annual audited financial statements. An annual meeting for the Fund will be held at the office of the General Partner, or other location determined by the General Partner, at least once per calendar year with at least 21 days prior notice. Limited Partners will have the option to participate telephonically.

**TAXATION:**

The Fund will be treated as a separate partnership and not as an association or a publicly-traded partnership taxable as a corporation. However, no opinion or ruling will be obtained from the Internal Revenue Service to such effect. Prospective investors should consult their own tax advisors with specific reference to their own situations as they relate to an investment in the Fund.

**EXCULPATION AND  
INDEMNIFICATION:**

To the fullest extent permitted by law, the General Partner, its affiliates and their respective members, partners, officers, directors, representatives, employees and agents (each, an "Indemnatee" and collectively, the "Indemnitees"), will not be liable to any Limited Partners or the Fund and the Fund will indemnify and hold harmless each Indemnatee from any and all loss, cost and expense incurred by them by reason of any act performed or omitted to be performed by such Indemnatee in connection with or in any way relating to the Fund's business or affairs (or the business or affairs of any special purpose vehicle), except where attributable to the gross negligence, willful misconduct or bad faith of such Indemnatee or a material breach of the Limited Partnership Agreement by such Indemnatee; nor will any Indemnatee be liable to the Fund or any Partner for any action or inaction of any broker or other agent of the Fund (or the business or affairs of any special purpose vehicle), unless such broker or agent was selected, engaged or retained by such Indemnatee without reasonable care. The Fund will advance litigation costs to Indemnitees on the condition that an advance must be repaid if it is finally resolved that the Indemnatee was not entitled to indemnification. Any such indemnification may result in a diminution of the Fund's assets.

**LIMITATION ON  
LIABILITY  
OF LIMITED  
PARTNERS:**

Assuming that a Limited Partner is not the General Partner and does not take part in the control of the business of the Fund and that such Limited Partner otherwise acts in conformity with the provisions of the Limited Partnership Agreement, its liability under the terms of the Limited Partnership Agreement and applicable Delaware law generally will be limited to the amount of its original capital contribution, together with its share of undistributed Fund income, profits or property. In addition, the General Partner may require the return of all amounts distributed to the Limited Partners to satisfy liabilities attributable to the Fund; *provided, however*, that the General Partner may not require such returns of distributed amounts after the second anniversary of their distribution to Limited Partners.

**ERISA INVESTORS:**

Investors subject to ERISA should consult their own ERISA and tax advisors as to the consequences of an investment in the Fund. The Fund



may require certain representations or assurances from investors subject to ERISA to determine compliance with ERISA provisions. The General Partner will use its reasonable best efforts to conduct the affairs and operations of the Fund, and where necessary any Alternative Investment Vehicle, in such a manner that the Fund, and any such Alternative Investment Vehicle, will qualify as “venture capital operating companies,” exempt from the “plan assets” regulations promulgated under ERISA.

**UNRELATED  
BUSINESS  
TAXABLE INCOME:**

The General Partner will use its reasonable best efforts not to make any investment, incur any liabilities, or otherwise take actions that would generate unrelated business taxable income (“UBTI”). However, the General Partner may cause the Fund to make such investment, incur such liability or take such actions; provided that such UBTI will not be material in light of the Fund’s anticipated return on any such investment. UBTI will be considered material if the anticipated amount of UBTI from an investment exceeds ten percent (10%) of the anticipated income from such investment. (See Section IV, “Investment Considerations -- Tax Matters.”)

**LEGAL COUNSEL:**

Gray, Plant, Mooty, Mooty & Bennett, P.A. (“Gray Plant Mooty”) will act as counsel to the General Partner and its affiliates. In connection with the Fund’s offering of Interests and subsequent advice to the Fund, the General Partner and its affiliates. Gray Plant Mooty will not be representing Limited Partners of the Fund.

**INDEPENDENT  
AUDITORS:**

Berdon LP

**FUND  
ADMINISTRATOR:**

SS&C GlobeOp

## **IV. INVESTMENT CONSIDERATIONS**

### **Risk Factors**

The statements made in this Memorandum regarding the future activity and opportunities in the real estate, distressed debt, and lien market are forward-looking statements. The matters discussed in such statements may be affected by a number of events, including general market and economic conditions and the other factors described in this Memorandum and in this Risk Factors section. Prospective investors are urged to read this Risk Factors section for a description of certain factors which may affect the performance of the Fund and which should be considered before making an investment in the Fund. The risks described in this section are not exhaustive and additional risks unanticipated by the General Partner may arise that could materially affect the value of the Fund and its portfolio investments.

### **Investment Risks**

All Fund investments risk the loss of capital. The General Partner believes that the Fund’s investment program and research techniques moderate this risk through a careful selection of investments, liens, mortgages, loans, debts and other financial instruments and assets. No guarantee or representation is made that the Fund’s program will be successful.

The Fund will invest in assets which may not have a market. There are several risks inherent in such investments, some of which are specifically referenced below. Not only are such investments subject to investment-specific fluctuations in value but also to macro-economic, market and industry-specific conditions. Those risks may be significantly enhanced by the concentration of the Fund's investments, its consequent lack of diversification and the potential that creates for volatility. No assurance can be given as to when or whether adverse events might occur which could cause significant and immediate loss in value of the Fund's portfolio.

### **Reliance on General Partner**

Decisions with respect to the management of the Fund will be made by the General Partner. The success of the Fund will largely depend on the ability of the General Partner to identify and consummate suitable investments and to dispose of investments of the Fund at a profit. The loss by the General Partner of the services of one or more of its partners could have an adverse impact on the Fund's ability to realize its investment objectives. Except for members of the Advisory Board, Limited Partners have no rights or powers to take part in the management of the Fund or make investment decisions and will not receive the level of financial information that is available to the General Partner. Accordingly, no person should purchase an Interest unless such person is willing to entrust all aspects of the management of the Fund to the General Partner.

The General Partner is a Delaware limited liability company. Delaware law and the Limited Liability Company Agreement of the General Partner provide for full indemnification of the partners of the General Partner (Messrs. David Aviram and Ted Martell), except for incidents of gross negligence and intentional misconduct. Each of the Limited Partners has provided the General Partner and its partners such indemnification rights in the Partnership Agreement. As such, except in cases of gross negligence or willful misconduct, a Limited Partner's right to proceed with a claim against the General Partner will be limited, and the Limited Partners will have no rights vis-à-vis the partners/members of the General Partner.

### **Unspecified Future Investments**

The Fund has not identified any particular investment to date. A purchaser of the Interests must rely upon the ability of the General Partner to identify, structure, and implement investments consistent with the Fund's investment objectives and policies. The Fund may be unable to find a sufficient number of attractive opportunities to meet its investment objectives. The success of the Fund will depend on the ability of the General Partner to identify suitable investments, to negotiate and arrange the closing of appropriate transactions, and to arrange the timely disposition of portfolio investments.

### **Minimum Fund Size**

There must be a minimum of \$15 million in commitments that must be sold before the General Partner may call a closing and the proceeds subsequently become available to the Fund. The actual amount we receive in this offering may be significantly less than expected. In such case, the Fund will not have the financial resources necessary to make the number of anticipated investments, which could impact the return to Limited Partners. The Fund's operations and ability to make investments might differ if the Fund is able to raise more than the minimum of \$15 million.

### **Lack of Liquidity**

Investments in the Fund generally are illiquid. Investors will not be permitted to withdraw from the Fund prior to its termination and interests in the Fund may be assigned or otherwise transferred only under limited circumstances, as provided for in the Limited Partnership Agreement. Under adverse market or

economic conditions, the Fund may find it more difficult to sell such assets when the General Partner believes it advisable to do so. The value of such investments will be determined in good faith by the General Partner.

### **Concentration of Investments in Real Estate Industry**

The Fund's investments will be in the narrow field of the real estate industry with an emphasis on acquiring liens. Concentration in a narrow field may involve risks, and consequently provide potential returns, greater than those generally associated with more diversified funds. To the extent that economic growth is relatively slow in this area, or to the extent that investment opportunities are relatively limited in this area, the Fund may not achieve the level of returns that it might have with a broader investment target and strategy.

### **Competition for Investments**

The Fund expects to encounter limited competition from other entities having similar investment objectives. Potential competitors include other investment partnerships, private equity funds, business development companies, strategic industry acquirers, and other financial investors investing directly or through affiliates. Some of these competitors may have more relevant experience, greater financial resources and more personnel than that of the General Partner. It is possible that over time competition for appropriate investment opportunities may increase, which could reduce the number of opportunities available to the Fund. There can be no assurance that the Fund will be able to identify or consummate investments satisfying its investment criteria or that such investments will satisfy the Fund's rate of return objectives. Likewise, there can be no assurance that the Fund will be able to realize the value of its investments or that it will be able to invest its committed capital. To the extent that the Fund encounters competition, returns to Limited Partners may decrease.

### **Risks of Litigation**

Investing in lien investments can be a contentious and adversarial process, and litigation is a common remedy employed by the Fund to address defaults in an investment, and in many cases is essential to the business plan of its investments. The costs of litigation are often unpredictable, and initial estimates from attorneys can be inaccurate and difficult to control. The duration of a legal action is also often unpredictable, as defendants can delay proceedings and judges can delay adjudication. Debtors may initiate counterclaims against the Fund, which may increase the time and expense of an investment, and the Fund would pay for a defense of these counterclaims.

### **Risks of Collateral**

Fund Investments are intended to be secured by real estate. The perfection of a security interest could be defective. Many investments will be in default or contested, and therefore it may be difficult to obtain title insurance policies on these investments. The value of collateral could be lower than estimated, creating an unsecured interest in an asset.

### **Risks of Deficient Claims**

Investments in mechanics liens and other Fund investments may result in a situation where the claim that underlies the security interest is inaccurate, overstated, or lacking in factual support of the claim. This could result in a decrease of security for the Fund Investment and/or counterclaims from a debtor.

## **General Real Estate Risks**

The assets acquired by the Fund will be secured by real estate. Real estate valuations generally will be subject to the risks incident to the ownership and operation of income producing real estate and/or risks, including (i) risks associated with the general economic climate; (ii) local real estate conditions; (iii) risks due to dependence on cash flow; (iv) risks and operating problems arising out of the absence of certain construction materials; (v) changes in supply of, or demand for, competing properties in an area (as a result, for instance, of over-building); (vi) the financial condition of tenants, buyers and sellers of properties; (vii) changes in availability of debt financing; (viii) energy and supply shortages; (ix) changes in tax, real estate, environmental and zoning laws and regulations beyond the control of the General Partner; (x) various uninsured or uninsurable risks; (xi) natural disasters; and (xii) the ability of the Fund or third-party borrowers to manage the real properties. If the Fund takes title to Real Estate through foreclosure or otherwise, the Fund will incur the burdens of ownership of real property, which include the paying of expenses and taxes, maintaining such property and any improvements thereon and ultimately disposing of such property. The Fund's investment strategy will involve a high degree of legal and financial risk, and there can be no assurance that the Fund's rate of return objectives will be realized or that there will be any return of capital. There is no assurance that there will be a ready market for resale of investments because investments in real estate generally are not liquid. Illiquidity may result from the absence of an established market for the investments, as well as from legal or contractual restrictions on their resale by the Fund. The possibility of partial or total loss of capital will exist and investors should not subscribe unless they can readily bear the consequences of such loss.

## **Risks of Counterparty Default**

Due to the nature of some of the investments that the Fund may undertake, the Fund relies on the ability of the counterparty to the transaction to perform its obligations. In the event that any such party fails to complete its obligations, for any reason, the Fund may suffer a loss of the amount so invested.

## **Non-Performing Nature of Loans**

Fund Investments may be non-performing and in default. Furthermore, the obligor and/or relevant guarantor may also be in bankruptcy or liquidation. There can be no assurance as to the amount and timing of payments with respect to these loans.

## **General Partner Conflicts of Interest**

Instances may arise where the interests of the General Partner or its principals may potentially or actually conflict with the interests of the Fund and the Limited Partners. For example, the existence of the General Partner's carried interest may create an incentive for the General Partner to make more speculative investments on behalf of the Fund than it would otherwise make in the absence of such an arrangement.

## **Failure to Make Capital Contributions**

If a Limited Partner fails to pay when due installments of its capital commitment to the Fund, and the contributions made by non-defaulting Limited Partners are inadequate to cover the defaulted capital contribution, the Fund may be unable to pay its obligations when due. As a result, the Fund may be subjected to significant penalties that could materially adversely affect the returns to the Limited Partners (including non-defaulting Limited Partners). If a Limited Partner defaults, it may be subject to various remedies as provided in the Partnership Agreement, including, without limitation, the loss of his, her or its investment and Interest in the Fund.

## **No Market for Limited Partnership Interests**

The Interests have not been registered under the Securities Act or applicable securities laws of any state or non-U.S. jurisdiction. Therefore, the Interests cannot be resold unless subsequently registered under the Act and other applicable laws or an exemption from such registration is available. As a result, there is no public market for the Interests and none is expected to develop. In addition, the Interests are not transferable except with the consent of the General Partner, which it may withhold in its sole discretion. Limited Partners may not withdraw capital from the Fund. Consequently, Limited Partners will not be able to liquidate their investments prior to the end of the Fund's term.

## **Restrictions on Resale**

The Interests are being offered pursuant to exemptions from federal and applicable state securities laws. The offers and sales are being made in reliance on certain private placement exemptions, including Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder and equivalent state securities law exemptions. Consequently, the Interests may not be transferred without being registered or qualified for an exemption from the registration requirements. In addition, the Interests may not be sold, transferred, assigned or otherwise hypothecated without the consent of the General Partner.

## **Limited Number of Investments**

The size of the Fund will support only a limited number of investments and, as a consequence, the aggregate return of the Fund may be substantially adversely affected by the unfavorable performance of any single investment.

## **Diverse Limited Partner Group**

The Limited Partners may have conflicting investment, tax and other interests with respect to their investments in the Fund. The conflicting interests of individual Limited Partners may relate to or arise from, among other things, the nature of investments made by the Fund, the structuring or the acquisition of investments and the timing of disposition of investments. As a consequence, conflicts of interest may arise in connection with the decisions made by the General Partner, including with respect to the nature or structuring of investments that may be more beneficial for one investor than for another investor, especially with respect to investors' individual tax situations. In structuring investments for the Fund, the General Partner will consider the investment and tax objectives of the Fund and its Partners as a whole, not the investment, tax or other objectives of any Limited Partner individually.

## **Investors Must Retain Their Own Advisors**

The Fund has not retained any independent professionals to review or comment on this offering or otherwise protect your interests. Although the Fund has retained its own counsel, neither such firm nor any other firm has made any independent examination of any factual matters represented by management herein, and purchasers of the Interests offered hereby should not rely on the firm so retained with respect to any matters described in this Memorandum.

## **Limited Partners Will Be Taxed on Profits Whether or Not Distributed**

The Fund is not required to distribute profits, and the General Partner may not make any distributions to Limited Partners during the Investment Period. If the Fund has taxable income in a fiscal year, such income will be taxable to the Limited Partners in accordance with their distributive shares of the Fund's profits, whether or not such profits have been distributed to the Limited Partners. In the event the Fund were to sustain losses, Limited Partners may still be required to pay tax on the interest income earned by

the Fund because any trading losses sustained will be, in most if not all cases, capital losses which are deductible against ordinary income only to the extent of Three Thousand Dollars (\$3,000) in any taxable year. The tax liability of Limited Partners for any profits of the Fund may exceed any distributions received from the Fund. An investment in the Fund involves complex tax considerations. Prospective investors are urged to consult their own tax advisors regarding the possible Federal, state, and local tax consequences of an investment in the Fund. The General Partner will use best efforts to distribute cash to Limited Partners if they are subject to “phantom income”.

### **Uncertain Tax Implications on Fund’s Transactions**

While the Fund will be taxed as a partnership, with owners being responsible to report any income and loss of the Fund and to pay taxes on income generated by the Fund, the Fund has not analyzed the possible tax effects of the Partnership’s possible future transactions and operations. Purchasers of the Interests offered hereby should consult their own tax advisors with respect to the foregoing.

### **Legal, Tax, and Regulatory Risks**

Legal, tax and regulatory changes could occur during the term of the Fund that may adversely affect the Fund or its Limited Partners. For example, from time to time the market for private equity transactions has been adversely affected by a decrease in the availability of senior and subordinated financing for transactions, in part in response to regulatory pressures on providers of financing to reduce or eliminate their exposure to such transactions. Each prospective investor is encouraged to consult his or her own legal and tax advisors regarding an investment in the Fund.

## **TAX CONSIDERATIONS**

The following discussion is a brief outline of some federal income tax considerations that might materially affect a Limited Partner’s investment in the Fund. This outline is general in nature and, of course, does not discuss all aspects of federal income tax law that may be relevant to a particular Limited Partner. Furthermore, no state, local or non-U.S. tax considerations are addressed. Thus, this outline should not be treated as a substitute for careful tax planning and prospective investors are urged to consult their own tax advisors, attorneys or accountants regarding their tax situation and potential changes in tax law.

### **Fund Characterization**

The General Partners intend to structure and operate the Fund in such a manner that it will be characterized as a partnership for federal income tax purposes. As a partnership, the Fund should not be subject to federal income tax. Each Limited Partner, however, must report and pay income tax on its allocable share of Fund income or loss for the year ending on or within the Limited Partner’s taxable year.

### **Allocable Share of Fund Income**

A Limited Partner’s share of Fund income will generally be based upon the manner that profits and losses are allocated pursuant to the terms of the Partnership Agreement. See the “Summary of Key Fund Terms.” Generally, the IRS will respect such allocations if they are considered to have “substantial economic effect” (i.e., the allocation of taxable income or loss to a particular Limited Partner will directly affect the economic benefits available to such Limited Partner). If the allocation is treated as not having substantial economic effect, the taxable income and loss will be allocated among the Limited Partners in a manner consistent, based on all facts and circumstances, with each Limited Partner’s economic interest. The General Partner expects, however, that the allocations provided in the Limited Partner Agreement will be respected by the IRS.

## **Sale or Transfer of Interest**

Upon a sale of an Interest, a Limited Partner will recognize gain or loss equal to the difference between (a) the proceeds of such sale plus such Limited Partner's share of the Fund's liabilities and (b) such Limited Partner's adjusted tax basis in its Interest. Such gain or loss recognized on a sale of an Interest by a Limited Partner that does not hold such interest as a "dealer" and that has held such interest for more than 12 months will generally be long-term capital gain or loss, as the case may be, with any net long-term capital gain being subject to tax at the capital gain rate, which for non-corporate taxpayers is currently 20%. However, the portion of the selling Limited Partner's gain allocable to (or amount realized, in excess of basis, attributable to) "inventory items" and "unrealized receivables" of the Fund as defined in Code Section 751 will be treated as ordinary income. It is expected that a portion of a Limited Partner's gain from the sale of an Interest could be attributable to "inventory items" and "unrealized receivables" and therefore will be treated as ordinary income.

## **Fees to the General Partner**

As described elsewhere in this Memorandum, the Fund will pay certain fees, such as the Management Fee, to the General Partner or its affiliates (the Management Company). The General Partner intends to cause the Fund to treat any such fees as guaranteed payments to the General Partner under Section 707(c) of the Code or as an amount paid to a nonpartner. Such treatment may include currently deducting such amounts or capitalizing and amortizing or depreciating such amounts.

There can be no assurance that the IRS will not challenge the tax treatment of these items, possibly asserting that (a) all or a portion of certain fees and expenses are in fact compensation for other services, (b) all or a portion of certain fees and expenses are in fact more appropriately treated as the General Partner's distributive share, (c) such fees are not reasonable in amount, or (d) such fees and expenses must be recovered, if at all, over a longer period of time. If such a challenge were successful, it could result in either (i) the deferral or disallowance of the deduction of the fees and expenses, or (ii) the re-characterization of such fees as the General Partner's distributive share or as a nondeductible and unamortizable item. In such event, the net income (or net loss) allocated to the Partners may be increased (or reduced).

Furthermore, with respect to Limited Partners who are individuals, the deductibility of such expenses could be disallowed to the extent that miscellaneous itemized deductions for such individuals do not, in aggregate, exceed 2% of adjusted gross income.

## **Limitation on Deductibility of Interest on Investment Indebtedness**

Interest paid or accrued on indebtedness properly allocable to property held for investment is investment interest. Interest expense incurred by a Limited Partner to acquire or carry its investment in the Fund or by the Fund to acquire or carry its investment assets will constitute investment interest. Such interest is generally deductible by non-corporate taxpayers only to the extent it does not exceed net investment income (that is, generally, the excess of (i) gross income from interest, dividends, rents and royalties, which would include a Limited Partner's share of the Fund's interest income, and (ii) certain gains from the disposition of investment property over the expenses directly connected with the production of such investment income). A non-corporate Limited Partner's net capital gain from the disposition of investment property will be included in clause (ii) of the preceding sentence only to the extent that such Limited Partner elects to make a corresponding reduction in the amount of net capital gain that is subject to tax at the capital gain rate, which for non-corporate taxpayers is currently 20%. Any investment interest expense disallowed as a deduction in a taxable year solely by reason of the above limitation is treated as investment interest paid or accrued in the succeeding taxable year.

## **Other Possible Tax Consequences to Limited Partners**

Section 469 of the Code provides that, in general, in the case of an individual, estate, trust, certain types of personal service corporations and certain types of closely held C corporations, the aggregate losses from business activities in which the taxpayer does not materially participate (such business activities are referred to herein as “passive activities”) are deductible only to the extent of the aggregate income from passive activities. In the case of certain closely held C corporations, the net aggregate loss from passive activities (and the net aggregate credit, in a deduction equivalent sense) may offset net active income but not portfolio income. The Company expects that a portion of its assets may give rise to gross income from interest, dividends, annuities or royalties not derived in the ordinary course of a trade or business (“portfolio assets”). As a result, with some exceptions, the income from such portfolio assets and gain from the disposition thereof (“portfolio income items”) will not be able to be offset by passive losses of a Limited Partner from other sources.

The amount of any loss of the Fund (including capital loss) that a Limited Partner is entitled to include in its income tax return is limited to such Limited Partner’s tax basis for its Interest as of the end of the Fund’s taxable year in which such loss occurs. Similarly, a Limited Partner that is subject to the “at risk” limitations (generally, non-corporate taxpayers and closely held corporations) may not deduct losses of the Fund (including capital losses) to the extent that they exceed the amount such Limited Partner has “at risk” with respect to its Interest at the end of the year. The amount that a Limited Partner has at risk will generally be the same as its adjusted basis, except that, other than described below with regard to real estate, it will not include any amount that the Limited Partner has borrowed on a nonrecourse basis or from a person that has an Interest or a person related to such person. Losses denied under the basis or at risk limitation are suspended and may be deducted in subsequent years, subject to these and other applicable limitations.

Certain rules place limits on the use of entities taxed as partnerships to shift or duplicate losses. These rules effectively make an election under Section 754 of the Code mandatory in certain situations, resulting in an adjustment to the tax basis of the Fund’s assets. For example, such an entity must make basis adjustments under Section 743 of the Code following a transfer of a partnership interest if the partnership has a built-in loss of \$250,000 or more as if the Fund had made an election under Section 754 of the Code, whether or not such an election is actually in effect. This would affect the transferee Limited Partner, but not the other Limited Partners. Similar provisions govern distributions in-kind of property that has a built-in loss of \$250,000 or more, although it is unlikely that the Fund will make distributions that would cause these provisions to apply.

## **Audits**

If the IRS audits the Fund’s tax returns, an audit of the Partners’ own returns may result. The legal and accounting costs incurred in connection with any audit of the Fund’s tax returns will be borne by the Fund, but Limited Partners will bear the cost of audits of their own returns.

## **Changes in Tax Laws and Regulations**

Changes in federal income tax laws have occurred frequently in recent years. In addition, the Service has issued and revised many regulations, including several lengthy and complex revisions of regulations regarding the taxation of partnerships and partners, many of which have not been subjected to judicial review. The tax consequences provided by existing law may not continue and changes in the interpretation of applicable income tax laws may be made by administrative or judicial action that could adversely affect the tax consequences of an investment in the Fund. Any legislative, administrative, or judicial changes may or may not be retroactive with respect to transactions entered into prior to the effective date thereof.



**State and Local Tax Considerations**

In addition to the federal income tax consequences described above, investors should consider the state and local tax consequences of an investment in the Fund. This Memorandum makes no attempt to summarize the state and local tax consequences to an investor. Investors are urged to consult their own tax advisors regarding state and local tax obligations.

THE TAX RISKS IN AN INVESTMENT IN THE FUND ARE COMPLEX, AND THEY MAY NOT BE THE SAME FOR ALL INVESTORS. PROSPECTIVE INVESTORS ARE URGED TO CONSULT THEIR INDIVIDUAL TAX ADVISERS AS TO POSSIBLE TAX CONSEQUENCES FROM AN INVESTMENT IN THE FUND.

## **SUBSCRIPTIONS AND SUITABILITY STANDARDS**

In order to subscribe for an Interest in the Fund, each prospective investor must submit a completed Subscription Agreement and deliver an executed copy of the signature page to the Partnership Agreement (which is included with the Subscription Agreement). Copies of the Subscription Agreement and Partnership Agreement are included with this Memorandum and made a part hereof by Exhibit A and Exhibit B hereto. Investors must pay five percent (5%) of the Limited Partner's Capital Commitment concurrently with or within five (5) business days of receiving a Funding Notice from the General Partner of the scheduled date of the First Closing. While the General Partner will endeavor to provide Limited Partners with at least ten (10) business days' notice to pay calls on their Capital Commitments, the General Partner may require payment upon as little as five (5) business days' notice. A prospective investor will be notified of the acceptance of his, her or its offer to subscribe when the Fund has signed and returned a copy of the Subscription Agreement. The Fund reserves the right to accept, in part or in whole, or reject any subscription in its sole discretion.

In the Subscription Agreement, each prospective investor will be required to make certain warranties and representations to the Fund and provide certain information to the Fund relating to the suitability of the investment. Interests will be sold only to investors who the Fund believes are suitable. An investment in the Interests is suitable only for persons who can afford to make high-risk, non-liquid investments. The Interests will not be readily transferable, both because there is no established market and because of restrictions on transfer imposed by law and by the Partnership Agreement. For that reason, a prospective investor must view its investment in the Fund as a long-term, illiquid investment. An investment in the Fund involves a high degree of risk. See "Risk Factors" in this Memorandum. A purchaser may purchase an Interest only for the purchaser's own account and for investment purposes and not with a view toward sale or other disposition thereof. Transfers of Interests will be restricted and may be affected only if permitted by and effected pursuant to the Partnership Agreement. It is expected that potential investors will conduct their own independent investigation and analysis of the Fund before making an investment. Prospective investors and their representatives may ask questions concerning the terms and conditions of this offering and may obtain any additional information necessary to verify the accuracy of the information contained herein by contacting any of the principals of the General Partner.

## **HOW TO SUBSCRIBE**

All completed Subscription Agreements for Interests should be sent to the Partnership. If you intend to subscribe for Interests, you must review, complete and execute the Subscription Agreement attached to this Memorandum as **Exhibit B**, including the signature page to the Partnership Agreement included as part of the Subscription Agreement materials.

You should then send to the address below:

- one completed and signed original Subscription Agreement and
- one original signed signature page to the Partnership Agreement (included with the Subscription Agreement).

### **Mail Subscription Documents and Payment to:**

**Maverick Lien Fund III LP  
14 East 38th Street, 12th Floor  
New York, NY 10016**

You are encouraged to retain a photocopy of the executed Subscription Agreement, signature page to the Limited Partnership Agreement and any check. Confirmation of your purchase of Interests will be delivered to you as soon as practicable following acceptance by the Partnership of your subscription and closing of the sale. Each confirmation will be delivered to the address specified in the Subscription Agreement.

### **ADDITIONAL INFORMATION**

If you or your representatives would like additional information about the Partnership or the terms and conditions of this offering, you may contact either of Messrs. David Aviram or Ted Martell. Copies of documents, contracts and other Partnership records, which you or your representative may wish to review, will be made available for inspection. If you request information deemed confidential, the Partnership may require you to execute a non-disclosure agreement before you will be allowed to review certain documents and information. If you are interested in reviewing such documents, please contact David Aviram at [daviram@maverickrep.com](mailto:daviram@maverickrep.com) or at 646-450-0065 or Ted Martell at [tmartell@maverickrep.com](mailto:tmartell@maverickrep.com) or at 646-450-0063.

No person is authorized to give any information or make any representation other than as contained in this Memorandum, except for information which may be requested from and given by the Partnership. You will be asked to acknowledge in the Subscription Agreement that you were given the opportunity to obtain such additional information.

**Exhibit A – Limited Partnership Agreement  
to**

**Maverick Lien Fund III LP  
Confidential Offering Memorandum**

**Limited Partnership Agreement**

**CONFIDENTIAL**

**MAVERICK LIEN FUND III LP  
LIMITED PARTNERSHIP AGREEMENT**

# CONFIDENTIAL

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## MAVERICK LIEN FUND III LP

### LIMITED PARTNERSHIP AGREEMENT

THIS LIMITED PARTNERSHIP AGREEMENT (the “**Agreement**”) of Maverick Lien Fund III LP (the “**Partnership**”), dated as of March 9, 2015, among Maverick GP LLC, a Delaware limited liability company, as the general partner (the “**General Partner**”), David Aviram, the Initial Limited Partner, and each Person who is later admitted as a limited partner (each, a “**Limited Partner**” and collectively, the “**Limited Partners**”, and together with the General Partner, the “**Partners**”).

#### Article 1

##### Formation; General Provisions

- 1.1 **Name.** The name of the Partnership is Maverick Lien Fund III LP. The affairs of the Partnership shall be conducted under the Partnership name, or such other name as the General Partner may from time to time designate upon written notice to the Limited Partners. In no event may the Partnership conduct its business using the name of any Limited Partner without the prior written consent of such Limited Partner.
- 1.2 **Formation.** The Partnership was formed as a limited partnership organized under, and pursuant to, the laws of the State of Delaware, by the General Partner and the Initial Limited Partner on January 15, 2015. The Initial Limited Partner will withdraw from the Partnership upon the admission of Limited Partners other than the Initial Limited Partner on the First Closing. The General Partner shall take all actions necessary to assure the prompt filing of any Certificate of Limited Partnership required by Act. The General Partner shall appoint such agents and attorneys for service of process as may be necessary or appropriate in connection with the continuation of the Partnership under the laws of the State of Delaware. The General Partner shall take all other necessary action required by law to perfect and maintain the Partnership as a limited partnership under the Act and in all other jurisdictions in which the Partnership may elect to conduct business.
- 1.3 **Place of Business and Office; Registered Agent.** The principal office of the Partnership shall be 14 East 38th Street, 12th Floor, New York, New York, 10016, or such other place or places as the General Partner may from time to time designate. The name of the registered agent for service of process of the Partnership and the address of the Partnership’s registered office in the State of Delaware shall be Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808, New Castle County, or such other agent or office in the State of Delaware as the General Partner may from time to time designate. The General Partner may change the Partnership’s registered office, principal place of business, and/or registered agent in its discretion.
- 1.4 **Purposes and Powers of the Partnership**
  - (a) The Partnership is organized for the object and purpose of engaging in any lawful act or activity for which limited partnerships may be formed under the Act, including. Without limiting the foregoing, the Partnership has the purpose of investing in, purchasing, borrowing and lending with respect to, selling, and otherwise exercising all rights, powers, privileges and other incidents of ownership with respect to, loans secured by

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mortgages, loans secured by limited partnership or membership interests of companies that own real estate, mezzanine loans or preferred equity to real estate owning entities, mechanics liens, judgment liens, tax liens, and other investment assets.

- (b) The Partnership shall have the power to enter into, make and perform all contracts and other undertakings, and engage in all activities and transactions (including, without limitation, financings), that the General Partner deems necessary or advisable for, or incidental to, the carrying out of the foregoing objects and purposes, including without limitation:
    - (i) either by itself or by contract with others, including, without limitation, a corporation or partnership whose stockholders, partners, officers or employees are partners or employees of the General Partner or any Affiliate of the General Partner, to maintain for the conduct of Partnership affairs one or more offices and, in connection therewith, to rent or acquire office space, engage personnel, whether part-time or full-time, and to do, or cause to be done, such other acts as the General Partner deems necessary or desirable in connection with the maintenance and administration of the affairs of the Partnership;
    - (ii) to register or qualify the Partnership under any applicable United States Federal or state or foreign laws, or to obtain exemptions under such laws, if the General Partner deems such registration, qualification, or exemption to be necessary or desirable;
    - (iii) to form one or more subsidiary corporations, partnerships, limited liability companies, trusts, or other entities for the purpose of financing, making, holding, or disposing of any investment or investments and to register or qualify such corporations, partnerships, trusts, or other entities as provided in clause (ii) above, or to obtain the listing thereof on one or more securities exchanges;
    - (iv) to engage independent attorneys, accountants, consultants, appraisers, and/or such other persons as the General Partner deems necessary or desirable;
    - (v) for the purpose of financing any Partnership Investment prior to the receipt from the Limited Partners of Capital Contributions, to incur indebtedness for borrowed money, to issue notes and other evidence of indebtedness, to make guarantees and pledge assets of the Partnership, including, without limitation, the Available Commitments of the Limited Partners, in connection therewith; and
    - (vi) to take all such other actions as the General Partner deems necessary or desirable to achieve the objectives of the Partnership.
- 1.5 **Fiscal Year.** The fiscal year of the Partnership (the “**Fiscal Year**”) for financial statement and Federal income tax purposes shall end on December 31, or such other date as may be selected by the General Partner and permitted or required by law.
- 1.6 **Reliance by Third Parties.** Persons dealing with the Partnership are entitled to rely conclusively upon the power and authority of the General Partner as herein set forth.

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- 1.7 **Waiver of Partition.** Each Limited Partner hereby waives any right such Limited Partner may possess to a partition of any Partnership property.

### Article 2 Definitions

- 2.1 **Definitions.** For purposes of this Agreement the terms defined in this Article 2, except as otherwise expressly provided in this Agreement or unless the context clearly requires otherwise, have the following respective meanings:

**“Act”** means the Delaware Revised Uniform Limited Partnership Act, as amended from time to time.

**“Advisory Board”** means the committee consisting of a number of proposed Limited Partners or designees established by the General Partner pursuant to Article 8.

**“Affiliate”** with respect to any Person, means any Person that directly or indirectly controls, is under control of, or is under common control with, such Person.

**“Affiliated Limited Partner”** means a Limited Partner that is a member of the General Partner, an Affiliate of the General Partner, or an Affiliate of a member of the General Partner.

**“Available Commitment”** means, with respect to any Limited Partner as of any date, such Limited Partner’s Capital Commitment minus the sum of the Capital Contributions and Called Contributions of such Limited Partner.

**“Called Contributions”** means, with respect to any Limited Partner as of any date, an amount equal to the portion of such Limited Partner’s Capital Commitment that is required to be paid, or was required to have been paid, to the Partnership pursuant to a Funding Notice delivered on or prior to such date in accordance with Section 4.3, but which has not yet been paid.

**“Capital Contribution”** means, with respect to any Limited Partner as of any date, a Called Contribution which such Limited Partner has subsequently actually paid to the Partnership, and means, with respect to the General Partner as of any date, a contribution pursuant to Section 4.2 which the General Partner has subsequently actually paid to the Partnership.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time.

**“Delaware Secretary of State”** means the Secretary of State of the State of Delaware.

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

**“First Closing”** means the date called by the General Partner pursuant to the first Funding Notice with respect to the Initial Capital Commitment, which the General Partner may call after the Partnership has received Fifteen Million Dollars (\$15,000,000.00) in Capital Commitments.

**“General Partner”** means Maverick GP LLC or any Person who, at the time of reference thereto, serves as the general partner of the Partnership, in such Person’s capacity as a general partner.

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**“Initial Limited Partner”** has the meaning set forth in the Preamble.

**“Investment Company Act”** means the United States Investment Company Act of 1940, as amended.

**“Investment Percentage”** means, for each Limited Partner, a percentage equal to the ratio of (1) the Capital Contributions attributable to such Limited Partner to (2) the total Capital Contributions of all Limited Partners.

**“Key Individual”** means each of David Aviram and Edward (“Ted”) Martell.

**“Limited Partner”** means any Person other than the Initial Limited Partner who is a limited partner (which, except as otherwise indicated, shall include an Affiliated Limited Partner, an Additional Limited Partner, and a Substituted Limited Partner) at the time of reference thereto, in such Person’s capacity as a limited partner of the Partnership.

**“Partnership”** means the limited partnership hereby continued, as such limited partnership may from time to time be constituted.

**“Partnership Interest”** means the entire ownership interest of a Partner in the Partnership at the relevant time, including, without limitation, the right of such Partner to any and all distributions, voting rights, or other benefits to which a Partner may be entitled as provided in this Agreement, together with the obligations of such Partner to comply with all the terms and provisions of this Agreement.

**“Partnership Investment”** means an investment by the Partnership.

**“Person”** means any individual, partnership, limited liability company, corporation, trust, estate or other entity.

**“Subsequent Closing”** means a Closing that occurs after the First Closing at which any Additional Limited Partner is admitted to the Partnership or any existing Limited Partner increases its Capital Commitment.

**“Transfer”** means, with respect to any Partnership Interest, any sale, gift, assignment, exchange, pledge, transfer or other disposition or change in ownership thereof, the creation of a bankruptcy estate which includes such Partnership Interest, the assignment for the benefit of creditors which includes such Partnership Interest, the appointment of a trustee or receiver with respect thereto, the grant or appointment of an irrevocable proxy coupled with an interest with respect thereto, or the grant or imposition of a security interest or lien thereon, whether voluntary or involuntary, and to **“Transfer,”** when used as a verb, means, with respect to any Partnership Interest, to sell, give, assign, exchange, pledge, transfer or otherwise dispose or change ownership thereof, create a bankruptcy estate which includes such Partnership Interest, assign such Partnership Interest for the benefit of creditors, appoint a trustee or receiver with respect thereto, grant or appoint an irrevocable proxy coupled with an interest with respect thereto, or grant or act to permit the imposition of a security interest or lien thereon, whether voluntarily or involuntarily.

2.2 **Additional Definitions.** In addition to those terms defined in this Article 1, the following terms are defined in the following Sections of this Agreement:

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Additional Limited Partner	4.10
Administrative Expenses	3.6
Agreement	Recitals
Assignee	12.3
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Substituted Limited Partner	12.3
Termination Date	10.1

### Article 3 Management and Operations of the Partnership

- 3.1 **Management Generally.** The management of the Partnership shall be vested exclusively in the General Partner. Except for those Limited Partners that are members of the Advisory Board, the Limited Partners shall have no part in the management or control of the Partnership, shall have no authority or right to act on behalf of, or bind, the Partnership in connection with any matter, and

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shall have no right or authority to remove or replace the General Partner. In the event either of the Key Individuals no longer participates in the management of the Partnership, the Advisory Board may prohibit the General Partner from initiating a Called Contribution without the Advisory Board's prior consent.

3.2 **Authority of the General Partner.** The General Partner shall have the power on behalf and in the name of the Partnership to carry out any and all of the objects, purposes and powers of the Partnership set forth in Section 1.4 and to perform all acts that it deems necessary or advisable, including, without limitation, the power to:

- (a) purchase, sell, or convert, or contract to purchase, sell, or convert, any security or other property for the Partnership;
- (b) for the purpose of financing any Partnership Investment prior to the receipt of Capital Contributions from the Limited Partners, incur indebtedness for money borrowed, issue notes and other evidence of indebtedness, make guarantees and pledge assets of the Partnership, including, without limitation, the Available Commitments of the Limited Partners, in connection therewith;
- (c) open, maintain and close bank and brokerage accounts and draw checks or other orders for the payment of moneys;
- (d) manage the Partnership's investments, including, without limitation, the administration of investments actually made by the Partnership and the realization of those investments;
- (e) do any and all acts on behalf of the Partnership, and exercise all rights of the Partnership, including, without limitation, exercise of any:
  - (i) voting rights and other rights of the Partnership as a securityholder or creditor or as party to a shareholder, credit, or similar agreement and
  - (ii) rights to elect to adjust the tax basis of Partnership assets with respect to its interest in any Person;
- (f) employ and dismiss from employment any and all attorneys, accountants, consultants, appraisers, or custodians of the assets of the Partnership or other agents;
- (g) enter into, execute, supplement, acknowledge, and deliver any and all contracts, agreements, or other instruments as the General Partner shall determine to be appropriate or incidental to the furtherance of the purposes of the Partnership;
- (h) admit an Assignee of all or any portion of a Limited Partner's Partnership Interest to be a Substituted Limited Partner in the Partnership pursuant to and subject to the terms of Article 12;
- (i) incur all expenditures permitted by this Agreement, and, to the extent that funds of the Partnership are available or callable, pay, and establish reserves in respect of, expenses, debts, and obligations of the Partnership;

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- (j) admit one or more Additional Limited Partners to the Partnership pursuant to and subject to the terms of Section 4.10; and
- (k) take all actions necessary to, in connection with, or incidental to, any of the foregoing.

Each of the Limited Partners agrees that all determinations, decisions and actions made or taken by the General Partner shall be conclusive and absolutely binding upon the Partnership, the Partners, and their respective successors, assigns, and personal representatives.

- 3.3 **Management Fee.** Maverick Real Estate Partners LLC (the “**Manager**”), an affiliate of the General Partner, shall be entitled to receive from the Partnership with respect to each Limited Partner as compensation for management services to the Partnership, a management fee (the “**Management Fee**”). The Management Fee shall be an amount equal to the aggregate Capital Commitments of all Partners as of the first day of each such quarter multiplied by one-half of one percent (0.50%); *provided, however*, (i) that the Management Fee for each of the Partnership’s first and last fiscal quarters shall be proportionately reduced based upon the ratio the number of days in each such period bears to ninety (90), and (ii) that an additional Management Fee shall be payable upon the date of admission of any Additional Partner to the Partnership or to reflect the increased Capital Commitment of any Limited Partner, calculated as if such Partner were admitted to the Partnership on the date of this Agreement. Notwithstanding the foregoing, in the event the Partnership term and the Liquidation Period are extended pursuant to Section 10.1, then the quarterly Management Fee for any extended periods shall be an amount equal to the aggregate Capital Commitments of all Partners as of the first day of each such quarter multiplied by one-quarter of one percent (0.25%). For purposes of the obligation to pay the Management Fee, the General Partners will be considered a Limited Partner with respect to its Capital Commitment. The Partnership may pay such Management Fee from Capital Contributions made by the Limited Partner and may withhold the same from any distributions otherwise payable to a Limited Partner.
- 3.4 **Organizational Expenses.** The Partnership shall be solely responsible for the expense of organizing the Partnership, including, without limitation, all expenses and fees incurred by the General Partner in connection with the private placement by it of the limited partnership interests (“**Organizational Expenses**”), up to the sum of Seventy-Five Thousand Dollars (\$75,000.00). The General Partner shall pay any additional Organizational Expenses that exceed Seventy-Five Thousand Dollars (\$75,000.00). No Organizational Expenses paid by the General Partner shall constitute a Capital Contribution to the Partnership.
- 3.5 **Professional Expenses.** The Partnership shall be responsible for all expenses relating to accounting, auditing, legal, and tax services during the Investment Period and Liquidation Period.
- 3.6 **Administrative Expenses.** The Partnership shall be responsible for all Administrative Expenses (as defined below) incurred by it or by the General Partner on its behalf. Administrative Expenses shall not exceed (i) Ninety Thousand Dollars (\$90,000.00) per year during the Investment Period or (ii) Fifty Thousand Dollars (\$50,000) per year during the Liquidation Period, unless otherwise approved by the Advisory Board. All Administrative Expenses shall be paid out of cash funds of the Partnership determined by the General Partner to be available for such purpose; provided that the General Partner, in its discretion, may advance funds to the Partnership for the payment of Administrative Expenses, and the General Partner shall be entitled



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to the reimbursement of any funds so advanced. As used herein, “**Administrative Expenses**” include all administrative expenses related to the Partnership, including legal, audit, fund administration, consulting, technology, data, research and accounting expenses. For the avoidance of doubt, Administrative Expenses do not include any of the following expenses (“**Fund Expenses**”), all of which shall be borne and paid by the Partnership: (a) expenses relating to Partnership Investments or proposed Partnership Investments (including brokerage fees, commissions, legal fees, consulting services and Partnership Investment-related travel expenses); (b) expenses incurred in the collection of monies owed to the Partnership; (c) any taxes, fees or other governmental charges levied against the Partnership or any special purpose vehicle formed by the Partnership; (d) any legal expenses related to Partnership Investments (including litigation related and indemnification expenses); (e) expenses related to dead-deal costs; and (f) any expenses substantially comparable to the foregoing.

- 3.7 **Liability of Partners.** Except as provided herein or by the Act, the General Partner shall have the liabilities of a partner in a partnership without limited partners. The Limited Partners shall have no liability except as provided herein or by the Act.

Except as provided in Section 3.3, the penultimate sentence of Article 9, and Delaware law, the Limited Partners shall not be liable for the repayment or discharge of the debts or obligations of the Partnership beyond the extent of the sum of their respective Capital Contributions and Called Contributions. Subject to the following sentence, the Limited Partners are not obligated to contribute their respective Available Commitments, and creditors should not rely on these Available Commitments in extending credit. A Limited Partner’s obligation to make additional Capital Contributions in an amount up to such Limited Partner’s Available Commitments is a conditional obligation of each Limited Partner (within the meaning of Section 15-502 of the Act), payable only to the extent, and only in the amount, required to be paid to the Partnership pursuant to a Funding Notice in accordance with Section 4.3.

Subject to Section 3.3, the penultimate sentence of Article 9, and Delaware law, in no event shall any Limited Partner (or former Limited Partner) be obligated to make any contributions to the Partnership in addition to its Capital Contributions (or other payments provided for herein) or have any liability for the repayment or discharge of the debts and obligations of the Partnership; provided, however, that (i) until any Called Contribution of a Limited Partner in respect of the Partnership shall have actually been paid to the Partnership, such Limited Partner shall be liable to the Partnership for any portion of such Called Contribution not so paid, and (ii) after any Limited Partner has received a distribution from the Partnership, such Limited Partner may be liable to the Partnership for the amount of the distribution to the extent provided by Delaware law.

- 3.8 **Investment Opportunities and Restrictions.**

- (a) Each of the Limited Partners hereby agrees that the General Partner may offer the right to participate in investment opportunities of the Partnership to other private investors, groups, partnerships or corporations (“**Co-Investors**”) whenever the General Partner, in its discretion, so determines, including, without limitation, subsequent funds managed by some or all of the managers of the General Partner. The investment opportunity may be held either directly by the Partnership or indirectly through one or more investment vehicles. The Limited Partners may participate in any of the investment opportunities

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described in this Section 3.8 pro-rata in proportion to their Investment Percentage, with the prior written consent of the General Partner. The General Partner may charge certain asset management fees, acquisition fees, and incentive fees to Co-Investors to be determined at the time of the co-investment. The Partnership shall be entitled to sixty percent (60%) of any such fees.

- (b) The General Partner shall have the right in connection with any investment to direct the Capital Contributions of some or all of the Partners to be made through one or more alternative investment vehicles if, in the judgment of the General Partner, the use of such vehicle or vehicles would allow the Partnership to overcome legal or regulatory constraints or invest in a more tax efficient manner and would facilitate participation in certain types of investments. Any alternative investment vehicle shall contain terms and conditions substantially similar to those of the Partnership and will be managed by the General Partner. The profits and losses of an alternative investment vehicle generally will be aggregated with those of the Partnership for purposes of determining distributions by either the Partnership or such vehicle, unless the General Partner determines that such aggregation would increase the risk of any adverse tax or other consequences.
- (c) The General Partner shall not borrow money or otherwise incur indebtedness on behalf of the Partnership other than (i) short-term loans, of up to two-months, to the Partnership for the purpose of funding an acquisition or expense or (ii) any other indebtedness that has been approved by the Advisory Board.

### Article 4

#### Capital Commitments; Capital Contributions; Capital Accounts

- 4.1 **Capital Commitments and Percentages.** The names of the Partners and the amounts of their respective commitments to make Capital Contributions (each a “**Capital Commitment**”) shall be set forth in a schedule (the “**Schedule**”), that is to be filed with the records of the Partnership and may be amended from time to time by the General Partner. For each Partner there shall be determined a “**Percentage**”, which shall be determined for each Partner by (A) dividing the amount of such Partner’s Capital Commitment by the sum of all Capital Commitments and (B) multiplying the amount so obtained by one hundred (100). The sum of the Percentages shall at all times equal one hundred (100). The Percentage of each Partner shall be set forth in the Schedule. The Percentages of the Partners shall be adjusted as necessary to take into account the consequences of a Default as set forth in Section 6.1 and the admission of any Additional Limited Partner or the increase by an existing Limited Partner of its Capital Commitment, in each case as provided in Section 4.10. Any reference herein to a Partner’s Percentage means such Partner’s Percentage as then adjusted.
- 4.2 **Capital Contributions of the General Partner.** The General Partner shall make a Capital Commitment in an amount equal to two percent (2%) of all Capital Commitments, and shall make Capital Contributions pursuant thereto on the same basis as Limited Partners are obligated to make Capital Contributions pursuant to their Capital Commitments. The General Partner’s Capital Commitment shall be treated for purposes of this Agreement the same as Capital Commitments made by Limited Partners. The General Partner, in its capacity as such, shall not be required to lend any funds or to make any additional Capital Contributions.

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### 4.3 Capital Contributions of the Limited Partners; Funding Notices; Interest on Overdue Amounts.

- (a) The Capital Commitment of each Limited Partner will be set forth in a separate subscription agreement executed by such Limited Partner and accepted by the General Partner (a “**Subscription Agreement**”). The minimum Capital Commitment of a Limited Partner will be Two Hundred Fifty Thousand Dollars (\$250,000.00), subject to a reduction in the sole discretion of the General Partner. Each Limited Partner may pay their Capital Commitment to the Partnership as set forth in the Subscription Agreement. Each Limited Partner shall contribute five percent (5%) of its Capital Commitment to the Partnership pursuant to the instructions set forth in the Subscription Agreement and in any event no later than five (5) business days following the Limited Partner’s receipt of the first Funding Notice with respect to the First Closing (the “**Initial Capital Commitment**”). In its discretion, the General Partner may provide Limited Partners with more than five (5) business days to fund calls on his, her, or its Initial Capital Commitment. For purposes of this Agreement, “**Funding Notice**,” shall mean when the General Partner has sent a notice to a Limited Partner whereby the Limited Partner has an obligation to make Capital Contributions with respect to all or any portion of its Available Commitment to the Partnership. Thereafter, a Limited Partner shall have no obligation to make Capital Contributions with respect to all or any portion of its Available Commitment to the Partnership unless the General Partner, or such other Person or Persons as are designated by the General Partner, has sent a Funding Notice to such Limited Partner with at least five (5) business days’ prior written notice. Capital Contributions may be used to pay the expenses of the Partnership, make investments or repay indebtedness, as the General Partner determines in its sole discretion. Notwithstanding Section 5.1(a), in the General Partner’s sole discretion, rather than requiring the Limited Partners to make Capital Contributions, the General Partner may use Current Cash Flow from Investments and/or Net Proceeds from Investment Dispositions otherwise distributable to such Partners to meet commitments, pay such expenses, make such investments, or repay indebtedness. Such use shall be deemed consistent with the requirements of Section 5.1(a), and each such Partner’s Capital Commitment shall be reduced by such Partner’s share of Current Cash Flow from Investments and Net Proceeds from Investment Dispositions so used. Each such notice shall be sent by the General Partner by certified mail, return receipt requested, by overnight courier, or by mail delivery service. With respect to each Partnership Investment, the General Partner shall not discriminate among Limited Partners in any capital call, but shall make each capital call upon each Limited Partner in proportion to such Limited Partner’s Percentage. The foregoing shall be subject to appropriate adjustment, in the judgment of the General Partner, if there is a Defaulting Partner.
- (b) If any Partner fails to make a Called Contribution in the time period provided in Section 4.3(a), the General Partner, on behalf of the Partnership and in addition to any other recourse the General Partner or the Partnership may have against such Partner, may charge interest to such Partner on the amount of such overdue Called Contribution. Interest will accrue at a rate equal to ten percent (10%) from and including the due date of the Called Contribution until, but not including, the date it is paid.

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- 4.4 **Partners' Capital Accounts.** A capital account shall be established for each Partner (each, a "**Capital Account**"). There shall be credited to each Partner's Capital Account the amounts of such Partner's Capital Contributions and the amounts of any income and gains (including income and gain exempt from tax) of the Partnership allocated to such Partner. There shall be debited from each Partner's Capital Account the amounts of cash and the net fair value of any other property (as determined in good faith by the General Partner or persons selected by it) distributed to such Partner by the Partnership, any amounts debited pursuant to Section 3.3 in respect of Accrued Management Fees due from such Partner, and the amounts of any losses of the Partnership and Administrative Expenses (including losses and Administrative Expenses not deductible from taxable income) allocated to such Partner.
- 4.5 **Investment of Unemployed Funds.** The General Partner shall invest unemployed funds in cash or money market Investments. The General Partner shall have no obligation to distribute earnings from the investment of such unemployed funds or any other revenues that are not Current Cash Flow from Investments or Net Proceeds from Investment Dispositions prior to the termination of the Partnership. If the General Partner elects to distribute any such earnings or revenues, such earnings or revenues shall be distributed among the Partners in proportion to their Percentages.

After the General Partner has made appropriate reserves for expenses, liabilities and other obligations of the Partnership, any Capital Contributions that have not been invested in, or committed for investment in, one or more Partnership Investments during the period ending two (2) years after the Latest Closing Date, or such other date on which of the holders of 75% of the Limited Partners' Percentages (excluding the Percentages of any Affiliated Limited Partners from both the numerator and the denominator) vote to terminate the Commitment Period (the "**Commitment Period**"), shall be promptly returned after such date by the Partnership to the Partners that contributed the same. Upon the expiration of the Commitment Period, each Limited Partner shall be released from any further commitment to the Partnership in respect of any portion of such Partner's Capital Commitment that has not become due and payable to the Partnership on or before such date ("**Reserve Capital Commitment**"); provided, however, that the General Partner, in its sole discretion, at any time and from time to time, may require a Limited Partner to make additional Capital Contributions from time to time (in aggregate) up to the amount of such Limited Partner's Reserve Capital Commitment for the purposes of funding (x) investment commitments made by the Partnership prior to the expiration of the Commitment Period, or (y) additional investments by the Partnership in Investments, including, without limitation, investments made pursuant to the exercise of options and other rights.

Notwithstanding Section 5.1(a), in the General Partner's sole discretion, rather than requiring the Limited Partners to make additional Capital Contributions, the General Partner may use Current Cash Flow from Investments and/or Net Proceeds from Investment Dispositions otherwise distributable to such Partners to meet such commitments and make such investments during the Commitment Period. Such use shall be deemed consistent with the requirements of Section 5.1(a), and each such Partner's Reserve Capital Commitment shall be reduced by such Partner's share of Current Cash Flow from Investments and Net Proceeds from Investment Dispositions so used. Reserve Capital Commitments shall be considered "Capital Commitments" for all purposes of this Agreement. In addition, for all purposes of this Agreement, funds shall be deemed "committed for investment" and an "investment commitment" shall be deemed to have been made when the General Partner has (i) initially approved the making of a Partnership Investment, (ii) established reserves for the payment of Administrative Expenses that the General

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Partner in its judgment has determined are appropriate, or (iii) agreed that, or established other arrangements pursuant to which, the Partnership shall invest, regardless, in the case of clauses (i) and (iii), of the absence of any legally binding commitment of the Partnership or the existence of any contingencies with respect to such investment or co-investment, and without regard to whether the General Partner shall have theretofore sent a Funding Notice in respect of such investment or co-investment.

- 4.6 **Loans and Withdrawal of Capital Contributions.** No Partner shall be permitted to borrow, or to make a withdrawal of, any portion of its Capital Contributions.
- 4.7 **Restoration of Negative Capital Accounts.** Neither the General Partner nor any other Partner shall be obligated to restore any deficit balance in its Capital Account or shall be personally liable for the return of the Capital Contributions of the Limited Partners, or any portion thereof, it being expressly understood that, except as provided in Section 5.1(d), (a) any such return shall be made solely from Partnership assets, and (b) a deficit in a Partner's Capital Account shall not constitute a Partnership asset.
- 4.8 **Limited Partner Loans.** If a Limited Partner fails to make Capital Contributions required pursuant to Section 4.3 in immediately available funds on or prior to the date specified in the Funding Notice, the General Partner, in its sole discretion, to the extent permitted by applicable law, may arrange for a loan to such Limited Partner (a "**Limited Partner Loan**") and the proceeds of such Limited Partner Loan shall be used to fund such Capital Contribution; provided that the General Partner shall be under no obligation to make, or arrange, any such Loans; and provided further that the General Partner shall not itself make any such Loans. A Limited Partner Loan may be secured by such Limited Partner's Partnership Interest, including such Limited Partner's Available Commitment, shall have a maximum maturity of sixty (60) days, and shall provide for recourse to such Limited Partner only to the extent of its Partnership Interest, and shall have such other terms, including, without limitation, interest rate or rates, as the General Partner in its sole discretion shall deem to be commercially reasonable. Any Limited Partner on behalf of which a Limited Partner Loan is made shall remain liable to make payment of the remainder of its Capital Commitment in the amounts and at the times specified in Section 4.3, in addition to payment of any amounts owing in respect of any Limited Partner Loan.
- 4.9 **Formal Requirements for Admission of Limited Partners.** A Person shall be admitted as a Limited Partner of the Partnership at the time that (i) signature page to this Agreement is executed by or on behalf of such Person, (ii) the General Partner consents to the admission of such Person as a Limited Partner, and (iii) such Person is listed as a Limited Partner of the Partnership on the Schedule.
- 4.10 **Admission of Limited Partners after First Closing.** The Limited Partners agree that the General Partner shall have the right to admit additional Limited Partners (each an "**Additional Limited Partner**") to the Partnership, or permit an existing Limited Partner to increase its Capital Commitment, in one or more Subsequent Closings without any consent of the Limited Partners, but in no event shall a Subsequent Closing occur later than the date that is three (3) months after the date of the First Closing (excluding the Percentages of any Affiliated Limited Partners from both the numerator and the denominator) (the "**Latest Closing Date**"). The Limited Partners hereby consent to such admission of the Additional Limited Partners and the increase in the Capital Commitment of other existing Limited Partners after the First Closing and

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agree to take all reasonable actions requested by the General Partner to effectuate the same. Unless there has been a material change or significant event relating to a Partnership Investment that would justify a different valuation in the view of the General Partner, Additional Limited Partners admitted to the Partnership or existing Limited Partners who increase their Capital Commitments pursuant to a Subsequent Closing will make Capital Contributions and other payments to the General Partner and to the Partnership as described below. The amount required from each Partner participating in a Subsequent Closing shall be (a) a Capital Contribution equal to the product of (i) a fraction, the numerator of which equals the Additional Limited Partner's Capital Commitment or the increase in the existing Partner's Capital Commitment, as the case may be, and the denominator of which equals the Capital Commitments of all Partners (including the Capital Commitments of all Additional Limited Partners and the increase in Capital Commitments of all existing Partners) and (ii) all Capital Contributions theretofore made by Partners, and (b) an amount representing interest on the average daily balance of such Capital Contribution amount described in clause (a) of this sentence at a rate equal to ten percent (10%) per annum and (c) a Management Fee attributable to the Additional Limited Partner's Capital Commitment or the increase in the existing Limited Partner's Capital Commitment in an amount equal to (i) the Management Fee(s) that would have been paid through the date of such Subsequent Closing if such Capital Commitment had been made on the date of the First Closing as set forth in Section 3.3, plus (ii) an amount representing interest on the average daily balance of such amounts described at a rate equal to rate equal to five percent (5%) per annum. Only the amounts described in clauses (a) and (c)(i) shall be deemed Capital Contributions. The amounts described in clauses (a) and (b), above, will be paid to existing Limited Partners pro rata in accordance with the sum of the Capital Contributions theretofore made by Partners. The amounts described in clause (c) will be paid to the General Partner. For purposes of this Agreement, Capital Contributions made pursuant to this Section 4.10 and refunded pursuant hereto to a Limited Partner that participated in a previous Closing (a "**Refund Partner**") thereafter will be deemed for all purposes of this Agreement to have been made by the contributing Limited Partner (and not the Refund Partner) as of the date of on which the Refund Partner actually made (or was deemed to have originally made) such Capital Contribution.

### Article 5 Distributions and Allocations

#### 5.1 Distributions.

- (a) The amount and timing of distributions from the Partnership to Partners shall be at the sole discretion of the General Partner. Subject to the foregoing, proceeds from sales, refinancings, redemptions or other dispositions of Partnership Investments and amounts received as extraordinary dividends or distributions in recapitalizations, net of amounts required to establish reasonable reserves ("**Net Proceeds from Investment Dispositions**"), will be distributed as soon as practicable after receipt by the Partnership. Distributions in respect of cash interest, cash dividends, and any fees received by the Partnership in connection with a Partnership Investment or proposed Partnership Investment ("**Current Cash Flow from Investments**") shall be made in the sole discretion of the General Partner. Notwithstanding the foregoing, the General Partner may (i) retain in the Partnership any amount determined by it, in its sole discretion, to be necessary or advisable to retain to meet the actual or anticipated expenses, liabilities or other obligations of the Partnership and (ii) require the return of all amounts distributed to

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the Limited Partners to meet actual or anticipated expenses, liabilities, or other obligations of the Partnership; provided, however, that the General Partner may not require the return of any amount distributed two (2) years after the distribution was received by the Limited Partners.

- (b) Subject to the first sentence of Section 5.1(a) and Article 6, Current Cash Flow from Investments and Net Proceeds from Investment Dispositions will be distributed as follows:
  - (i) First, to all Partners (including the General Partner with respect to its Capital Commitment) pro rata in proportion to their Percentage Interests until the Partners have received, taking into account all prior distributions by the Partnership of Current Cash Flow, a return of all Capital Contributions of the Partners;
  - (ii) Second, to all Partners (including the General Partner with respect to its Capital Commitment) pro rata in proportion to their Percentage Interests until the Partners have received, taking into account all prior distributions by the Partnership of Current Cash Flow an amount equal to the Preferred Return. For purposes of this Agreement, “**Preferred Return**” shall mean distributions that would result in a ten percent (10%) per annum compound rate of return in respect to a Limited Partner’s Capital Contribution taking into account the amount and timing of each capital contribution and distribution;
  - (iii) Third, to the General Partner until the aggregate amount distributed to the General Partner equals twenty percent (20%) of the sum of the amount distributed pursuant to Section 5.1(b)(ii) and this Section 5.1(b)(iii) on account of the Partners (including the General Partner with respect to its Capital Commitment); and
  - (iv) Thereafter, (A) 80% to all Partners (including the General Partner with respect to its Capital Commitment) pro rata in proportion to their Percentage Interests and (B) 20% to the General Partner.
- (c) If the General Partner elects to distribute any earnings from the investment of unemployed funds pursuant to Section 4.5 or any other revenues that are not Current Cash Flow from Investments or Net Proceeds from Investment Dispositions prior to the termination of the Partnership, such distributions shall be made pursuant to Section 4.5.
- (d) If, at the time of the termination of the Partnership, taking into account all prior distributions to Partners, any Partners have not received distributions in an amount at least equal to such Partners’ Capital Contributions, at the termination of the Partnership, General Partner will contribute to the Partnership, for the sole purpose of distribution to Partners who have not received distributions in an amount at least equal to such Partners’ Capital Contributions, in proportion to such shortfalls, distributions, if any, received by the General Partner pursuant to Sections 5.1(b)(iv), to the extent of the amount necessary to make up such shortfalls. For purposes of Section 5.1(b) and this Section 5.1(d), amounts so contributed and distributed pursuant to the preceding sentence shall be treated

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as if such amounts are distributed pursuant to Section 5.1(b)(i), and as if such amounts had never been distributed to the General Partner pursuant to Section 5.1(b)(iv).

- (e) At the termination of the Partnership, the General Partner (or other liquidator appointed by the Limited Partners pursuant to Section 10.3) shall sell all assets held by the Partnership. After all fees and expenses of the Partnership have been paid or duly provided for, the remaining assets and cash, if any, of the Partnership shall be distributed to the Partners in accordance with Section 5.1(b).

**5.2 Tax Distributions to the General Partner.** Notwithstanding any contrary provision of Section 5.1, the General Partner shall have the authority to cause the Partnership to make distributions to the General Partner with respect to a Fiscal Year equal to anticipated taxes with respect to the income and gains allocated to the General Partner for such Fiscal Year under Sections 5.1(b)(iii) and 5.1(b)(iv)(B). All calculations of anticipated taxes pursuant to this definition shall assume the highest applicable marginal federal, state and local tax rates applicable to any of the General Partner's members or former members, taking into account the deductibility of state and local taxes, any the limitations on deductibility imposed by the Code, and the character of any gains or losses. Distributions made pursuant to this Section 5.2 shall be treated as advances of distributions and shall be taken into account in determining the amount of future distributions to the General Partner pursuant to Sections 5.1 and 10.3.

**5.3 Allocations of Partnership Income and Loss.** Subject to other more specific provisions of this Article 5 and the provisions set forth in **Appendix A** hereto, items of income, gain, loss and expense, realized by the Partnership shall be allocated as follows:

- (a) Partnership income and gain shall be allocated to the Partners as follows:
  - (i) First, to the Partners to the extent necessary to recoup losses allocated under Section 5.3(b)(ii) until all such losses have been recouped in reverse chronological order; and
  - (ii) The balance, if any, among the Partners in such proportions and in such amounts as would result in each Partner's Capital Account balance at the end of such period equaling, as nearly as possible, the amount such Partner would receive as a distribution under the terms of this Agreement upon a hypothetical sale of the Partnership's assets at book value and the liquidation of the Partnership at the end of such period pursuant to Section 10.3.
- (b) Partnership loss and deduction shall be allocated to the Partners as follows:
  - (i) First, to the Partners in proportion to and to the extent, if any, of their positive Capital Account balances at the end of such period; provided, however, if the amount of loss and deduction to be allocated is less than the sum of the Capital Account balances of all of the Partners having positive Capital Account balances, then such loss and deduction shall be allocated to the Partners in such proportions and in such amounts as would result in each Partner's Capital Account balance at the end of such period equaling, as nearly as possible, the amount such Partner would receive as a distribution under the terms of this Agreement upon a



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hypothetical sale of the Partnership's assets at book value and the liquidation of the Partnership at the end of such period pursuant to Section 10.3; and

- (ii) The balance, if any, to the Partners in proportion to their Percentage Interests.

5.4 **Special Allocations Related to Subsequent Closings.** Notwithstanding Section 5.3, if Additional Limited Partners are admitted to the Partnership at a Subsequent Closing or if a Limited Partner increases its Capital Commitment at a Subsequent Closing, the items of income, gain, loss and expense of the Partnership allocable to the Limited Partners thereafter shall be allocated among the Partners in such manner that, to the extent possible, the cumulative amount thereof allocable to each Partner will be what it would have been if all Partners had been admitted and all Capital Commitments had been made as of the date of the First Closing.

5.5 **Allocation of Certain Tax Expenses.** Items of tax expense payable by the Partnership, or withheld on income received by the Partnership, shall be allocated to the Partners in the same proportion that the income to which such expense relates is allocated; provided, however, that where an item of tax expense payable by the Partnership is calculated, under applicable law, with respect to income allocable to some but not all of the Partners, or to the extent income allocable to some of the Partners is exempt from tax in the hands of the Partnership, such tax expense shall be allocated, as reasonably determined by the General Partner, only to such Partners to whom allocations of income are subject to tax in the hands of the Partnership. The General Partner may, in its discretion, distribute on a current basis to Partners whose allocable shares of income from the Partnership are not subject to tax in the hands of the Partnership, such reduction in tax payable by the Partnership, or may make appropriate adjustments to the Partners' Capital Accounts.

5.6 **Intent of Allocations.** The Partners intend that the foregoing tax allocation provisions of this Article 5 shall produce final Capital Account balances of the Partners such that liquidating distributions made in a manner identical to the order of priorities set forth in Section 5.1 will be in accordance with final Capital Account balances as determined under Section 4.4. To the extent that the tax allocation provisions of this Article 5 would fail to produce such final Capital Account balances, (i) such provisions shall be amended by the General Partner if and to the extent necessary to produce such result and (ii) taxable income and taxable loss of the Partnership for prior open years (or items of gross income and deduction of the Partnership for such years) shall be reallocated by the General Partner among the Partners to the extent it is not possible to achieve such result with allocations of items and income (including gross income) and deduction for the current year and future years, as approved by the General Partner. This Section 5.6 shall control notwithstanding any reallocation or adjustment of taxable income, taxable loss, or items thereof by the Internal Revenue Service or any other taxing authority.

5.7 **Withholding.** The Partnership may withhold taxes from distributions to Partners to the extent the General Partner reasonably believe that such withholding is required by law. Any such withholdings shall be treated as if distributed to the Partner to whom such withholding relates.

## Article 6 Default

6.1 **Remedies for Default; Partial Forfeiture of Capital Accounts.** Upon the failure of any Limited Partner to contribute any Called Contribution in full when such Called Contribution is

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required to be paid pursuant to Section 4.3 of this Agreement (a “**Default**”, with such Limited Partner being referred to as the “**Defaulting Partner**”), the General Partner shall send a notice of default (“**Notice of Default**”) to the Defaulting Partner. The Defaulting Partner shall have ten (10) days from the receipt of the Notice of Default (the “**Cure Period**”) to cure such Default. If the Defaulting Partner does not cure the Default within the Cure Period, the General Partner, in its sole and absolute discretion, may (a) allow an additional reasonable cure period, (b) arrange a Limited Partner Loan to such Defaulting Partner pursuant to Section 4.8, or (c) cause a forfeiture of 50% of the Defaulting Partner’s Partnership Interest, in which case the Defaulting Partner’s Capital Account and Percentage shall be reduced by 50%, and the amounts of such reduction shall be credited to the Capital Accounts and Percentages of the other Partners (the “**Non-Defaulting Partners**”) in proportion to such Non-Defaulting Partners’ relative Percentages prior to the Default.

- 6.2 **Defaulting Partner’s Forfeiture of Income and Gains; Interest in Other Items.** After a Default and a forfeiture as described in Section 6.1(d), (i) no portion of any income or gain with respect to Partnership Investments not previously allocated shall be allocated to the Defaulting Partner; and (ii) such Defaulting Partner shall continue to be allocated expenses of the Partnership in accordance with the Defaulting Partner’s Percentage as adjusted for Default. The amount of income or gain that would have been allocated to the Defaulting Partner absent the Default shall be allocated to the Non-Defaulting Partners (as though the Percentage of the Defaulting Partner equaled zero and the Non-Defaulting Partners’ Percentages are increased pro rata by the amount of reduction of the Defaulting Partner’s Percentage) in accordance with Article 5. The amount of income and gain that would have been distributed to the Defaulting Partner absent the Default shall be distributed to the Non-Defaulting Partners in accordance with Article 5 as though the Percentage of the Defaulting Partner equaled zero and the Non-Defaulting Partners’ Percentages are increased pro rata by the amount of reduction of the Defaulting Partner’s Percentage. Items of loss and expense shall be allocated to the Defaulting Partner in accordance with its Percentage.

## Article 7

### Reports to Limited Partners; Tax Matters Partner

- 7.1 **Reports to Limited Partners.** The Partnership shall distribute to each Limited Partner: (i) quarterly financial and capital account statements of the Partnership, (ii) tax information regarding the Partnership necessary for the completion of each Limited Partner’s tax returns, (iii) periodic reports providing summary financial and other information on the Partnership, and (iv) annual audited financial statements. The Partnership shall hold an annual meeting at the General Partner’s office, or other location as determined by the General Partner, with at least twenty-one (21) prior days’ notice. The Limited Partners may participate in the annual meetings by phone.
- 7.2 **Tax Matters Partner.** Each Limited Partner hereby appoints and designates the General Partner as tax matters partner of the Partnership, as such term is defined under the Code, and hereby agrees that any action taken by the General Partner in connection with audits of the Partnership under the Code will, to the extent permitted by law, be binding upon the Limited Partners. To the extent permitted by law each Limited Partner further agrees that such Limited Partner will not treat any Partnership item inconsistently on such Limited Partner’s individual income tax return with the treatment of the item on the Partnership’s tax return and that such Limited Partner will not independently act with respect to tax audits or tax litigation affecting the Partnership, unless

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previously authorized to do so in writing by the General Partner, which authorization may be withheld in the complete discretion of the General Partner.

As tax matters partner, the General Partner may cause the Partnership to make all elections required or permitted to be made by the Partnership under the Code (including an election under Section 754 thereof permitting the adjustment in basis of Partnership assets upon the occurrence of certain events, such as a sale of an interest or the death of a Limited Partner) and not otherwise expressly provided for in this Agreement, in the manner that the General Partner believes will be most advantageous to the Partners generally.

### **Article 8** **Advisory Boards and Committees**

- 8.1 **Selection of Advisory Boards and Committees.** The General Partner, in its sole discretion, shall have the authority to establish boards of advisors and committees to assist in performing its duties as General Partner of the Partnership, including, but not limited to, an Advisory Board. The Partnership's Advisory Board shall consist of Limited Partners or representatives of Limited Partners selected by the General Partner. Any Limited Partner member (or representative of a Limited Partner member) of the Advisory Board may resign by giving the General Partner ten (10) days' prior written notice. Except as a result of a vacancy, upon resignation, death, or removal, the Advisory Board shall consist of not less than three (3) individuals nor more than five (5) individuals. The members of the Advisory Board shall not receive any compensation in connection with their membership on the Advisory Board; provided, however, that the members of the Advisory Board shall be reimbursed for the reasonable travel expenses incurred by its representative to attend meetings of the Advisory Board.
- 8.2 **Functions of Advisory Board.** The Advisory Board will consult with and advise the General Partner with respect to conflicts of interest and such other matters as the General Partner and the Advisory Board may agree. The General Partner must obtain consent by a majority of the members of the Advisory Board with respect to: (i) certain service contracts with Affiliates of the General Partner, (ii) investments where there may be a perceived conflict of interest, (iii) loans made by the General Partner to the Partnership, (iv) a Partnership investment that is greater than fifteen percent (15%) of Capital Commitments to the Partnership, (v) any loan obtained on behalf of the Partnership other than short-term loans provided for in Section 3.8(c)(i), (vi) a Partnership investment whose only collateral is located outside of New York, New Jersey, Connecticut, or Pennsylvania, (vii) an investment that is not a (a) loan secured by a mortgage, (b) loan secured by limited partnership or membership interests of companies that own real estate, (c) mezzanine loan or preferred equity to real estate owning entities, (d) mechanics lien, (e) judgment or judgment lien, or (f) tax lien, (viii) an extension of the Partnership term and Liquidation Period if proposed by the General Partner pursuant to Section 10.1 of this Agreement, and (ix) an increase in the budget for the Administrative Expenses.
- 8.3 **Meetings of and Action by Advisory Board.** A meeting of the Advisory Board shall be held at least once a year. Except as provided herein, in all instances where an approval is required by the Advisory Board, the Advisory Board shall act by affirmative vote of a majority of its members. Any action required or permitted to be taken at a meeting of the members of the Advisory Board may be taken without a meeting by written action signed, or consented to by authenticated electronic communication, by a majority of the Advisory Board members. The written action is

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effective when signed, or consented to by authenticated electronic communication, by the required members, unless a different effective time is provided in the written action. Except where approval of the Advisory Board is required, the recommendations of the Advisory Board shall be advisory only and shall not obligate the General Partner to act in accordance therewith. The General Partner or its designated representative shall be entitled to be present at all meetings of the Advisory Board, although the General Partner shall not be entitled to vote on matters requiring the vote of the Advisory Board and, upon request of the Advisory Board, shall excuse itself from the meeting until recalled.

### Article 9 Exculpation and Indemnification

Neither the General Partner, any member of the Partnership's Advisory Board, if any, any Limited Partner that has an employee or other representative as a member of the Advisory Board, nor any of their respective members, managers, officers, directors, governors, partners, employees and controlling Persons (if any) (collectively, the "**Indemnified Persons**"; each, including the General Partner, an "**Indemnified Person**") shall be liable to the Partnership, General Partner, or any Limited Partner for (i) any act or omission performed or omitted by such Person (other than a violation of Federal or state securities law or any other intentional or criminal wrongdoing or any material breach of this Agreement that results in improper gain to the General Partner), or for any costs, damages or liabilities arising therefrom, in the absence of willful misfeasance, gross negligence, or bad faith on such Person's part, (ii) any tax liability imposed on the Partnership or any Limited Partner, or (iii) any losses due to the negligence of any employees or other agents of the Partnership (whether or not such Persons are directly employed by any Indemnified Person) as long as such Persons are selected with due care. If the General Partner or any other Indemnified Person becomes involved in any capacity in any action, proceeding or investigation brought by or against any Person (including any Limited Partner) in connection with any matter arising out of or in connection with the Partnership's business or affairs (including a breach of this Agreement by any Limited Partner or any service on the Advisory Board), the Partnership will periodically reimburse such Indemnified Person for its legal and other expenses (including the cost of any investigation and preparation) incurred in connection therewith; provided that such Indemnified Person shall promptly repay to the Partnership the amount of any such reimbursed expenses paid to it if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Partnership in connection with such action, proceeding or investigation as provided in the exception contained in the next succeeding sentence. To the fullest extent permitted by law, the Partnership also will indemnify the Indemnified Persons against any losses, claims, damages or liabilities to which an Indemnified Person may become subject in connection with any matter arising out of or in connection with the Partnership's business or affairs, except to the extent that any such loss, claim, damage or liability results solely from the willful misfeasance, gross negligence, or bad faith of, or any violation of any Federal or state securities law or any other intentional or criminal wrongdoing by, the Indemnified Person. If for any reason (other than the willful misfeasance, gross negligence, or bad faith of, or any violation of any Federal or state securities law or any other intentional or criminal wrongdoing by, the Indemnified Person) the foregoing indemnification is unavailable to the Indemnified Person, or insufficient to hold it harmless, then the Partnership shall contribute to the amount paid or payable by the Indemnified Person as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Partnership on the one hand and the Indemnified Person on the other hand but also the relative fault of the Partnership and the Indemnified Person, as well as any relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Partnership under this Article 9 shall be in addition to any liability that the Partnership may otherwise have, shall

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extend upon the same terms and conditions to all Indemnified Persons. The amount of the Partners' Available Commitments shall be available to satisfy the reimbursement, indemnity and contribution obligations of the Partnership under this Article 9; in addition, the General Partner may require the Partners (or former Partners) to contribute again to the Partnership in satisfaction of any such obligations an amount equal to the greater of (x) all or any portion of the Capital Contributions that have been previously returned to the Partners and (y) amounts distributed to such Partners, less, in the case of each of (x) and (y), any amounts theretofore returned to the partnership pursuant to this Article 9. The foregoing provisions shall survive any termination of this Agreement.

### Article 10

#### Duration, Extension, and Dissolution of the Partnership

- 10.1 **Duration and Extension.** Subject to the provisions of Section 10.2, the statutory existence of the Partnership shall commence upon the date of the filing of the Certificate of Limited Partnership with the office of the Secretary of State of the State of Delaware and shall continue until four (4) years after the date of the First Closing (the "**Termination Date**"), subject to the last sentence of this Section 10.1. The Partnership shall make investments during the first two (2) years after the filing of the Certificate of Limited Partnership (the "**Investment Period**"). The term of the Investment Period may be extended for one nine (9) month period, at the sole discretion of the General Partner. From the end of the Investment Period until the Termination Date, the Partnership shall liquidate investments (the "**Liquidation Period**"). The General Partner, with the approval of the Advisory Board, may extend the Partnership term and Liquidation Period for up to two additional one (1) year periods. Upon any such extension, the Termination Date automatically will be changed to be the last day of such extension period.
- 10.2 **Dissolution.** Subject to applicable laws and regulations, the General Partner, in its sole discretion, may dissolve the Partnership at any time. The Partnership shall also be dissolved in the event of the withdrawal of the General Partner, or the assignment by the General Partner of its entire Partnership Interest, except as permitted in Article 11, or if the General Partner (i) makes an assignment for the benefit of creditors, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged bankrupt or insolvent, or has entered against it an order for relief in any bankruptcy or insolvency proceeding, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, custodian, receiver or liquidator of the General Partner or of all or any substantial part of its properties, or if 120 days after the commencement of any proceeding against the General Partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without its consent or acquiescence of a trustee, custodian, receiver or liquidator of the General Partner or of all or any substantial part of its properties, the appointment is not vacated or stayed, or if within 90 days after the expiration of any such stay, the appointment is not vacated, or any other event occurs that, under the Act, causes the General Partner to cease to be a General Partner of the Partnership, except pursuant to this Article 10, unless (i) at the time of the occurrence of such event there is a remaining General Partner of the Partnership who is hereby authorized to continue the business of the Partnership without dissolution and such General Partner does continue the business of the Partnership, or (ii) in any such case where there is no

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remaining General Partner, all the Limited Partners agree in writing to continue the business of the Partnership and appoint, effective as of the event giving rise to such election, a new General Partner within 90 days after such event. If the Limited Partners so elect to continue the Partnership business, an appropriate amendment to the Partnership's Certificate of Limited Partnership shall be filed immediately after such election is made.

- 10.3 **Liquidation of the Partnership.** At dissolution, the Partnership's business shall be liquidated in an orderly manner. The General Partner shall be the liquidator to wind up the affairs of the Partnership pursuant to this Agreement, except that if there shall be no General Partner, the Limited Partners, upon the consent of the holders of a 75% of the Limited Partners' Percentages, may appoint one or more liquidating trustees to act as the liquidator in carrying out such liquidation, and such liquidator in the winding up of the affairs of the Partnership shall have all powers of the General Partner pursuant to this Agreement. The liquidator shall distribute the assets of the Partnership, or the proceeds from the disposition thereof, in accordance with the provisions of Section 5.1(e). In performing its duties, the liquidator is authorized to sell, distribute, exchange or otherwise dispose of the assets of the Partnership in any reasonable manner that the liquidator shall determine to be in the best interest of the Partners. During the liquidation of the Partnership, the liquidator shall furnish to the Partners the financial statements and other information specified in Article 7. The expenses incurred by the liquidator in connection with winding up the Partnership, all other losses or liabilities of the Partnership incurred in accordance with the terms of this Agreement, and reasonable compensation for the services of the liquidator shall be borne by the Partnership. The liquidator shall dispose of or distribute all Partnership assets (other than those being held to make reasonable provision for the payment of liabilities of the Partnership) within a reasonable period of time, taking into account the nature of the Partnership's remaining assets, the degree of participation of the liquidator in the management of entities whose securities are owned by the Partnership, the financial and other effects of a distribution to the Partners of assets in kind and the objective of maximizing the value of the Partnership's assets. The liquidator shall not be liable to any Partner for any loss attributable to any act or omission of the liquidator taken in good faith in connection with the liquidation of the Partnership and the distribution of its assets.
- 10.4 **Claw Back.** If, upon liquidation of the Partnership in accordance with Section 10.3, it is determined that the General Partner received cumulative distributions in excess of the amount otherwise distributable to the General Partner pursuant to Section 10.3, applied on an aggregate basis covering all Partnership transactions, the General Partner will be required to restore funds to the Partnership for distribution to the Partners; provided that, but in no event will the General Partner be obligated to restore more than cumulative distributions received by the General Partner pursuant to Section 5.1(b)(iv).

## Article 11

### Transferability of the General Partner's Interest; Removal of General Partner

- 11.1 **Transferability of the General Partner's Interest.** Except as provided herein, the General Partner may not Transfer all or any part of its Partnership Interest. The General Partner may Transfer all or part of its Partnership Interest to any Person upon the prior consent of the holders of a majority of the Limited Partners' Percentages (excluding the Percentages of any Affiliated Limited Partners from both the numerator and the denominator). Any person to whom the General Partner Transfers all or part of its Partnership Interest in accordance with this Article 11

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shall simultaneously with such Transfer become the sole or an additional general partner of the Partnership, as the case may be, and shall continue the business of the Partnership, and no dissolution of the Partnership shall be effected thereby. Any transferee of the entire Partnership Interest of the General Partner in accordance with this Article 11 is hereby authorized to and shall continue the business of the Partnership without dissolution.

- 11.2 **Removal of General Partner.** The General Partner may be removed at any time by a vote of Limited Partners (other than Defaulting Partners) holding 75% of the Limited Partners' Percentages (excluding the Percentages of any Affiliated Limited Partners from both the numerator and the denominator) and payment to the General Partner, in cash, of an amount equal to the fair market value of its Partnership Interest in the Partnership.

### **Article 12** **Transferability of Limited Partner Interests**

#### **12.1 Restrictions on Transfer of Interests**

- (a) Notwithstanding any other provisions of this Article 12, no Transfer of all or any portion of a Limited Partner's Partnership Interest may be made to a person that is not an "accredited investor" as defined in Regulation D promulgated under the Securities Act of 1933, as amended, nor may such Transfer be made without (i) the prior written consent of the General Partner and (ii), unless waived by the General Partner, the receipt by the General Partner not less than ten (10) business days prior to the date of any proposed Transfer of a written opinion of responsible counsel (who may be counsel for the Partnership), satisfactory in form and substance to the General Partner, to the effect that such Transfer would not result in:
- (i) a violation of the United States Securities Act of 1933, as amended, or any "Blue Sky" laws or other securities laws of any state of the United States applicable to the Partnership or the Partnership Interest to be Transferred;
  - (ii) the Partnership or the General Partner being required to register, or seek an exemption from registration, as an investment company under the Investment Company Act;
  - (iii) the termination of the Partnership for tax purposes; or
  - (iv) any risk that the Partnership would be treated as a publicly traded partnership or otherwise be taxable as an association for Federal income tax purposes.

Such opinion or opinions of counsel shall also cover such other matters as the General Partner may reasonably request and may include, at the request of the General Partner, an opinion of counsel to the transferor or transferee that the transferee is an "accredited investor" as defined in Regulation D promulgated under the Securities Act of 1933, as amended. The General Partner agrees to cooperate with any Limited Partner wishing to make a Transfer permitted by this Agreement by providing promptly such records and other factual information as may be reasonably requested with respect to any proposed Transfer. Each Limited Partner hereby severally agrees that it will not Transfer or

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attempt to Transfer all or any portion of its Partnership Interest except as permitted by this Agreement.

- (b) Nothing herein contained shall prohibit the Transfer by any Limited Partner of such Limited Partner's entire Partnership Interest to a third party if such Limited Partner's holding of such Partnership Interest would violate any Federal or state statute, law or regulation affecting such Limited Partner, and, if requested by such Limited Partner, the General Partner will use its best efforts to assist such Limited Partner in locating a suitable Assignee in accordance with this Article 12; provided, however, that (i) the Limited Partner shall have obtained the prior written consent of the General Partner (which consent shall not be unreasonably withheld by it after taking into account all factors that the General Partner in its reasonable judgment deems relevant, including, without limitation, (A) the reason for the proposed Transfer and (B) the financial capacity (in the light of all of its other obligations) of the proposed Assignee), (ii) the General Partner, prior to such voluntary Transfer, shall have received the opinion or opinions of counsel described in paragraph (a) of this Section 12.1, and (iii) such transferring Limited Partner shall otherwise comply with this Article 12.
- (c) Notwithstanding any of the foregoing, (i) no Transfer of all or any portion of a Limited Partner's Partnership Interest may be made at any time there remains owing any amount in respect of any Limited Partner Loan made pursuant to Section 4.8 relating to such Partnership Interest, and (ii) the General Partner may prohibit any Transfer that in its judgment may result in (A) the assets of the Partnership being treated as "plan assets" for purposes of ERISA (or comparable law or regulation) or (B) the Partnership or the General Partner being required to register, or seek an exemption from registration, as an investment company under the Investment Company Act.
- (d) Any purported Transfer not in compliance with this Article 12 shall be void and of no force and effect.

12.2 **Expenses of Transfer.** The transferring Limited Partner agrees that it will pay all expenses, including, without limitation, attorneys' fees, incurred by the Partnership in connection with any Transfer of all or any portion of its Partnership Interest.

12.3 **Indemnification by Transferor.** If the Partnership or the General Partner becomes involved in any capacity in any action, proceeding or investigation brought by or against any Person (including any Limited Partner) in connection with any Transfer, or purported or attempted Transfer, by a Limited Partner of a Limited Partner's Partnership Interest or the admission into the Partnership of any purchaser, assignee, transferee, donee, heir, legatee, distributee or other recipient (each an "**Assignee**") of such transferring Limited Partner's Partnership Interest (any such Assignee, when so admitted, being hereinafter called a "**Substituted Limited Partner**"), the Limited Partner who has Transferred all or any portion of its Partnership Interest will periodically reimburse each of the Partnership and the General Partner for each of their legal and other expenses (including, without limitation, the cost of any investigation and preparation) incurred in connection with such action, proceeding or investigation. To the fullest extent permitted by law, the transferring Limited Partner also will indemnify the Partnership and the General Partner against any losses, claims, damages or liabilities to which either of them may become subject in connection with such Transfer. The reimbursement and indemnity obligations of the transferring



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Limited Partner under this paragraph shall be in addition to any liability that the transferring Limited Partner may otherwise have, shall extend upon the same terms and conditions to the members, managers, employees, and controlling Persons of the General Partner, and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Partnership, the General Partner, and any such Persons. The foregoing provisions shall survive any termination of this Agreement.

- 12.4 **Responsibility for Capital Commitments.** Any Person that acquires all or any portion of the Partnership Interest of a Limited Partner (whether or not admitted as a Substituted Limited Partner) shall be obligated to contribute to the Partnership the appropriate portion of any amounts thereafter becoming due in respect of the Capital Commitment made by its predecessor in interest, and will be subject to partial forfeiture of its Partnership Interest to the extent provided in Article 6 in respect of such amounts. Each Limited Partner agrees that, notwithstanding the Transfer of all or any portion of its Partnership Interest, as between it and the Partnership it will remain liable for Called Contributions in each case as required by this Agreement to be made with respect to its Partnership Interest (as such Partnership Interest existed prior to such Transfer) and will be subject to partial forfeiture of its Partnership Interest to the extent provided in Article 6 prior to the time, if any, when the Assignee of such Partnership Interest, or portion thereof, is admitted as a Substituted Limited Partner.
- 12.5 **Recognition of Transfer.** The Partnership shall not recognize for any purpose any purported Transfer of all or any portion of the Partnership Interest of a Limited Partner unless (i) the provisions of Section 12.1 shall have been complied with and (ii) there shall have been filed with the Partnership a dated notice of such Transfer, in form satisfactory to the General Partner, executed and acknowledged by both the transferring Limited Partner and the Assignee and such notice (x) contains the acceptance by the Assignee of all the terms and provisions of this Agreement and the Assignee's agreement to be bound thereby and (y) represents that such Transfer was made in accordance with all applicable laws and regulations. Unless and until an Assignee of a Partnership Interest is admitted as a Substituted Limited Partner, such Assignee shall not be recognized as a Partner for any purpose and, in particular, shall not be entitled to give consents with respect to such Partnership Interest
- 12.6 **Status of Transferor.** Any Limited Partner that Transfers all of its Partnership Interest shall cease to be a Limited Partner, except as provided in Section 12.4 and except that, unless and until a Substituted Limited Partner is admitted in its stead, such transferring Limited Partner shall retain the statutory rights of a limited partner under the Act. Anything herein to the contrary notwithstanding, both the Partnership and the General Partner shall be entitled to treat the transferring Limited Partner of a Partnership Interest as the absolute owner thereof in all respects, and shall incur no liability for distributions made in good faith to it, until such time as the Assignee of the Partnership Interest has been admitted into the Partnership as a Substituted Limited Partner.
- 12.7 **Transfers by Assignee.** A Person who is the Assignee of all or any portion of the Partnership Interest of a Limited Partner as permitted hereby but does not become a Substituted Limited Partner and who desires to make a further Transfer of such Partnership Interest shall be subject to all of the provisions of this Article 12 to the same extent and in the same manner as any Limited Partner desiring to make a Transfer of its Partnership Interest.

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- 12.8 **Substituted Limited Partners.** No Limited Partner shall, except as stated in Section 13.1, have the right to substitute an Assignee of all or any fraction of such Limited Partner's Partnership Interest as a Limited Partner in its place. Any such Assignee of a Partnership Interest (whether pursuant to a voluntary or involuntary Transfer) shall be admitted to the Partnership as a Substituted Limited Partner only (i) by satisfying the requirements of Sections 12.1, 12.5, and 12.9 and (ii) upon the receipt of all necessary governmental consents.
- 12.9 **Conditions of Admission.** Each Assignee, as a condition to its admission as a Substituted Limited Partner, shall execute and acknowledge such instruments, in form and substance satisfactory to the General Partner, as the General Partner reasonably deems necessary or appropriate to effectuate such admission, including a counterpart to this Agreement.
- 12.10 **Rights Prior to Admission.** Until an Assignee shall have been admitted to the Partnership as a Substituted Limited Partner pursuant to Section 12.9, such Assignee shall not be entitled to any rights in the Partnership, including economic rights, voting rights, and rights to information.
- 12.11 **Transfers During a Fiscal Year.** In the event of a Transfer of a Partner's Partnership Interest at any time other than the end of the Partnership's Fiscal Year, the distributive shares of the various items of partnership income, gain, loss and expense as computed for tax purposes shall be allocated between the transferor and the Substituted Limited Partner on such proper basis as the transferor and the Substituted Limited Partner shall agree; provided, however, that no such allocation shall be effective unless (i) the transferor and the Substituted Limited Partner shall have given the Partnership written notice, prior to the effective date of such Transfer, stating their agreement that such allocation shall be made on such proper basis, (ii) the General Partner shall have consented to such allocation, and (iii) the transferor and the Substituted Limited Partner shall have agreed to reimburse the Partnership for any incremental accounting fees and other expenses incurred by the Partnership in making such allocation.
- 12.12 **Withdrawal or Death of a Limited Partner.** A Limited Partner may not, other than pursuant to, and to the extent permitted by, this Article 12, withdraw from the Partnership prior to its termination. The death, incompetency, bankruptcy or dissolution of a Limited Partner shall not in and of itself dissolve the Partnership or entitle the Limited Partner's successor to withdraw the interest of such deceased Limited Partner. Upon the death of an individual Limited Partner, the rights and obligations of such Limited Partner shall accrue to his or her estate. Except as expressly provided in this Agreement and the Act, no other event affecting a Limited Partner (including, without limitation, bankruptcy or insolvency) shall affect this Agreement.

### Article 13 Power of Attorney

Each Limited Partner, by becoming a Limited Partner of the Partnership, irrevocably appoints the General Partner as his, her, or its true and lawful attorneys-in-fact, with full power and authority to act in his, her, or its name, place, and stead, to make, swear to, execute, acknowledge, and file documents relating to the Partnership and its business, including, without limitation, the following:

- (a) Any and all Limited Partnership Certificates of the Partnership and any amendments or supplements thereto that may be required by the Act;

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- (b) Any certificate or other instrument and any amendments thereto that may be required to be filed by the Partnership in order to accomplish the business and purposes of the Partnership, including any business certificate, fictitious name certificate, or assumed name certificate;
- (c) Any cancellation of such Limited Partnership Certificates and any and all other documents and instruments that may be required upon the dissolution and liquidation of the Partnership; and
- (d) Any amended limited partnership agreement or Limited Partnership Certificate that has been duly adopted hereunder or authorized hereby.

The foregoing appointment by all Limited Partners of the General Partner as their attorney(s)-in-fact shall be deemed to be a special, irrevocable power coupled with an interest and shall survive the bankruptcy, death, adjudication of incompetence, or dissolution of any Person hereby giving such power and the Transfer of all or any part of the Partnership Interest of such Person. Such power may be exercised by the General Partner either by signing separately as attorney-in-fact for each Limited Partner or by listing all Limited Partners executing any instrument and signing once as attorney-in-fact for all of them.

### Article 14 Miscellaneous

- 14.1 **Amendments to the Agreement.** This Agreement may be changed or amended by the General Partner with the consent of the holders of a majority of the Limited Partners' Percentages; provided, however, that no amendment of this Agreement shall (a) without the consent of all the Limited Partners (other than Defaulting Partners), amend Section 4.7, Article 8, Section 10.1, Section 10.4, Section 14.9, or this Section 14.1; or (b) (i) increase the liability of a Limited Partner beyond the liability of such Limited Partner expressly set forth in this Agreement, (ii) decrease the Partnership Interest of any Limited Partner (other than as expressly provided for in this Agreement), (iii) change the Capital Commitment of any Limited Partner, or (iv) change the method of allocations made under Article 5 to any Limited Partner, without the express written consent of such Limited Partner; and provided further that the General Partner may amend this Agreement as to administrative or similar matters that do not have a material adverse effect on any Partner, without the vote or approval of any Limited Partner, and shall provide notice of the same to all Limited Partners.
- 14.2 **Method of Accounting.** The Partnership shall elect such basis of accounting for financial statement purposes and for Federal, state and local income tax purposes as the General Partner may determine.
- 14.3 **Investment Representation.** Each Partner, by executing this Agreement, represents and warrants that (i) it is a U.S. person (as defined in Regulation S promulgated under the Securities Act of 1933, as amended), (ii) its Partnership Interest has been acquired by it for its own account, or for the account of a commingled pension trust or other institutional investor previously specified in writing to the Partnership with respect to whom it has full investment discretion, for investment and not with a view to resale or distribution thereof, (iii) it is an accredited investor (as defined in Regulation D promulgated under the Securities Act of 1933, as amended), and (iv)

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it is fully aware that, in agreeing to admit it as a Partner, the General Partner and the Partnership are relying upon the truth and accuracy of this representation and warranty.

- 14.4 **Other Activities of the General Partner and Affiliates.** Each Limited Partner expressly agrees that the General Partner and any Affiliate of the General Partner may engage independently or with others, for its or their own accounts and for the accounts of others, in other business ventures and activities of every nature and description whether such ventures are competitive with the business of the Partnership or otherwise, including, without limitation, purchasing, selling or holding assets related to liens or other debt instruments for the account of any other Person or enterprise or for its or his own account, regardless of whether or not any such assets are also purchased, sold or held for the account of the Partnership. Neither the Partnership nor any Limited Partnership shall have any rights or obligations by virtue of this Agreement in and to such independent ventures and activities or the income or profits derived therefrom.
- 14.5 **Successor Funds.** The General Partner and/or its Affiliates, in its or their discretion, may form other limited partnerships or other entities substantially similar to the Partnership for the purpose of making Partnership Investments and may sell, market, or distribute limited partnership interests or other interests or securities in such limited partnerships or other entities formed by it.
- 14.6 **Additional Investments by Limited Partners**
- (a) The Limited Partners further acknowledge and agree that the General Partner or its Affiliates may (but shall not be obligated to) offer to any Limited Partner, in its individual capacity, the opportunity to invest in the debt or equity securities of, or to make loans to, any Person in which the Partnership acquires or holds Partnership Investments, and no other Limited Partner shall have any right to participate, or have any interest therein by virtue of this Agreement or the partnership relation created hereby.
  - (b) The Limited Partners (other than an Affiliated Limited Partner) shall not be obligated to refer investments to the Partnership and shall not be restricted in any investments they make. No Partner shall be obligated to do or perform any act in connection with the investments of the Partnership not expressly set forth in this Agreement.
- 14.7 **Successors; Counterparts.** This Agreement (i) shall be binding as to the executors, administrators, estates, heirs and legal successors of the Partners; and (ii) may be executed in several counterparts with the same effect as if the parties executing the several counterparts had all executed one counterpart as of the day and year first above written; provided, however, that each separate counterpart shall have been executed by the General Partner.
- 14.8 **Governing Law; Severability.** **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE.** In particular, it shall be construed to the maximum extent possible to comply with all of the terms and conditions of the Act. If, nevertheless, it shall be determined by a court of competent jurisdiction that any provision or wording of this Agreement shall be invalid or unenforceable under said Act or other applicable law, such invalidity or unenforceability shall not invalidate the entire Agreement. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of any applicable

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law, and, if such term or provision cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable provisions.

- 14.9 **Filings.** The General Partner shall promptly prepare, following the execution and delivery of this Agreement, any documents required to be filed, or, in the General Partner's view, appropriate for filing under the Act, and the General Partner shall promptly cause each such document to be filed in accordance with said Act and, to the extent required by local law, to be filed and recorded, and/or notice thereof to be published, in the appropriate place in each state in which the Partnership may hereafter establish a place of business. The General Partner shall also promptly cause to be filed, recorded and published such statements of fictitious business name and other notices, certificates, statements or other instruments required by any provision of any applicable law of the United States or any state or other United States or non-United States jurisdiction that governs the formation of the Partnership or the conduct of its business from time to time.
- 14.10 **No Bill for Partnership Accounting.** Subject to mandatory provisions of law applicable to a Limited Partner and to circumstances involving a breach of this Agreement, each of the Partners covenants that it will not (except with the consent of the General Partner) file a bill for partnership accounting.
- 14.11 **Goodwill.** No value shall be placed on the name or goodwill of the Partnership.
- 14.12 **Notices.** Any written notice herein required to be given to the Partnership by any of the Partners shall be deemed to have been given if addressed to the Partnership and delivered at the principal office of the Partnership in New York, New York. Any written notice required to be given to a Partner shall be deemed to have been given if addressed to such Partner at the address set forth on the Schedule or such other address as such Partner shall have specified in writing to the Partnership and deposited in the United States mail; provided that any notice required to be given under Section 4.3(a) shall also comply with the specific requirements of that Section.
- 14.13 **Headings.** The titles of the Articles and the headings of the Sections of this Agreement are for convenience of reference only and are not to be considered in construing the terms and provisions of this Agreement.

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IN WITNESS WHEREOF, the undersigned have hereto set their hands to this Limited Partnership Agreement as of the day and year first above written.

**GENERAL PARTNER:**

**MAVERICK GP LLC**

By: /s/ Edward "Ted" Martell  
Name: Edward "Ted" Martell  
Title: Manager

**INITIAL LIMITED PARTNER:**

/s/ David Aviram  
David Aviram

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## APPENDIX A TO AGREEMENT OF LIMITED PARTNERSHIP OF MAVERICK LIEN FUND III LP

### Profits, Losses, Tax and Other Allocations

1. **Certain Definitions.** The following terms have the definitions hereinafter indicated whenever used in this Appendix or the Agreement:

- 1.1. **Adjusted Capital Account Deficit:** With respect to any Partner, the deficit balance, if any, in such Partner's Capital Account as of the end of the relevant Fiscal Year or other period, after giving effect to the following adjustments:

- (a) Credit to such Capital Account any amounts which such Partner is obligated to restore to the Partnership pursuant to Treas. Reg. § 1.704-1(b)(2)(ii)(c) or is deemed to be obligated to restore pursuant to Treas. Reg. § 1.704-2(g)(1) or Treas. Reg. § 1.704-2(i)(5); and
- (b) Debit to such Capital Account the items described in Treas. Reg. §§ 1.704-1(b)(2)(ii)(d)(4), (d)(5), and (d)(6).

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

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

- 1.3. **Gross Asset Value:** With respect to any asset of the Partnership, such asset's adjusted basis for federal income tax purposes, except as follows:

- (a) the initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset at the time of contribution determined by the General Partner using such reasonable method of valuation as it may adopt;
- (b) in the discretion of the General Partner, the Gross Asset Values of all Partnership assets shall be adjusted to equal their respective gross fair market values, as reasonably determined by the General Partner, immediately prior to the following events:
  - (i) a Capital Contribution (other than a *de minimis* Capital Contribution) to the Partnership by a new or existing Partner as consideration for a Partnership Interest;

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- (ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Partnership property as consideration for the redemption of a Partnership Interest; and
- (iii) the liquidation of the Partnership within the meaning of Treas. Reg. § 1.704-1(b)(2)(ii)(g); and
- (c) the Gross Asset Values of Partnership assets distributed to any Partner shall be the gross fair market values of such assets as reasonably determined by the General Partner as of the date of distribution.

At all times, Gross Asset Values shall be adjusted by any Depreciation taken into account with respect to the Partnership's assets for purposes of computing profits and losses. Gross Asset Values shall be further adjusted to reflect adjustments to Capital Accounts pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(m) to the extent not otherwise reflected in adjustments to Gross Asset Values. Any adjustment to the Gross Asset Values of Partnership property shall require an adjustment to the Partners' Capital Accounts as described in the definition of "Capital Account."

- 1.4. **Nonrecourse Deductions:** Nonrecourse deductions as defined in Treas. Reg. § 1.704-2(b)(1). The amount of Nonrecourse Deductions for a Fiscal Year equals the net increase, if any, in the amount of Partnership Minimum Gain during such Fiscal Year reduced by any distributions during such Fiscal Year of proceeds of a Nonrecourse Liability that are allocable to an increase in Partnership Minimum Gain, determined according to the provisions of Treas. Reg. § 1.704-2(c) and 1.704-2(h).
- 1.5. **Nonrecourse Liability:** A liability as defined in Treas. Reg. § 1.704-2(b)(3).
- 1.6. **Partner Minimum Gain:** An amount, with respect to each Partner Nonrecourse Debt, equal to Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Treas. Reg. § 1.704-2(i)(3).
- 1.7. **Partner Nonrecourse Debt:** A liability as defined in Treas. Reg. § 1.704-2(b)(4).
- 1.8. **Partner Nonrecourse Deductions:** The partner nonrecourse deductions as defined in Treas. Reg. § 1.704-2(i)(2). The amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Fiscal Year equals the net increase, if any, in the amount of Partner Minimum Gain during such Fiscal Year attributable to such Partner Nonrecourse Debt, reduced by any distributions during that Fiscal Year to the Partner that bears the economic risk of loss for such Partner Nonrecourse Debt to the extent that such distributions are from the proceeds of such Partner Nonrecourse Debt and are allocable to an increase in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined according to the provisions of Treas. Reg. §§ 1.704-2(h) and 1.704-2(i).
- 1.9. **Partnership Minimum Gain:** The aggregate gain, if any, that would be realized by the Partnership for purposes of computing profits and losses with respect to each Partnership asset if each Partnership asset subject to a Nonrecourse Liability were disposed of for the amount outstanding on the Nonrecourse Liability by the Partnership in a taxable transaction. Partnership Minimum Gain with respect to each Partnership asset shall be further determined in accordance with Treas. Reg. § 1.704-2(d) and any subsequent rule or regulation governing the determination of minimum gain. A Partner's share of Partnership Minimum Gain at the end of any Fiscal Year shall equal the aggregate Nonrecourse Deductions allocated to such Partner (or his predecessors in interest) up to that time, less such Partner's (and predecessors') aggregate share of decreases in Partnership Minimum Gain determined in accordance with Treas. Reg. § 1.704-2(g).



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2. **Allocations.** The following provisions are incorporated in the Agreement.

2.1. **Mandatory Allocations.**

- (a) **Minimum Gain Chargeback.** Notwithstanding any other provision of this **Appendix A**, if there is a net decrease in Partnership Minimum Gain during any Fiscal Year, then, subject to the exceptions set forth in Treas. Reg. § 1.704-2(f)(2), (3), (4) and (5), each Partner shall be specially allocated items of the Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain, as determined under Treas. Reg. § 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in such Section in accordance with Treas. Reg. § 1.704-2(f). This Section 2.1 of this **Appendix A** is intended to comply with the minimum gain chargeback requirements in Treas. Reg. § 1.704-2(f) and shall be interpreted consistently therewith.
- (b) **Partner Minimum Gain Chargeback.** Notwithstanding any other provision of this **Appendix A** except Section 2.1(a), if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Fiscal Year, then, subject to the exceptions set forth in Treas. Reg. § 1.704-2(i)(4), each Partner who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Treas. Reg. § 1.704-2(i)(5), shall be specially allocated items of the Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Treas. Reg. § 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be determined in accordance with Treas. Reg. § 1.704-2(i)(4). This Section 2.1(b) is intended to comply with the minimum gain chargeback requirement in such Section of the Regulations and shall be interpreted consistently therewith.
- (c) **Qualified Income Offset.** Notwithstanding any other provision of this **Appendix A**, except Sections 2.1(a) and 2.1(b), if any Partner receives any adjustments, allocations or distributions described in Treas. Reg. § 1.704-1(b)(2)(ii)(d)(4), (5), or (6), that cause or increase an Adjusted Capital Account Deficit of such Partner, items of the Partnership income and gain shall be specially allocated to such Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Partner as quickly as possible.
- (d) **No Excess Deficit.** To the extent that any Partner has or would have, as a result of an allocation of Loss (or item thereof), an Adjusted Capital Account Deficit, such amount of Loss (or item thereof) shall be allocated to the other Partners in accordance with Section 5.6 of the Agreement, but in a manner which will not produce an Adjusted Capital Account Deficit as to such Partners. To the extent such allocation would result in all Partners having Adjusted Capital Account Deficits, such Loss shall be allocated to the General Partner.
- (e) **Nonrecourse Deductions.** Nonrecourse Deductions for any Fiscal Year attributable shall be allocated to the Partners in such manner as the General Partner determines accordance with applicable Treasury Regulations.

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- (f) **Partner Nonrecourse Deductions.** Any Partner Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Treas. Reg. § 1.704-2(i)(1).
- (g) **Code 754 Adjustments.** To the extent an adjustment to the adjusted tax basis of any the Partnership asset pursuant to Code § 734(b) or 743(b) is required, pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such item of gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations.

Each Partner hereby agrees to provide the Partnership with all information necessary to give effect to an election made under Code § 754 if the General Partner determines to make such an election; **provided** that the cost associated with such an election shall be borne by the Partnership as a whole. With respect to such election:

- (i) Any change in the amount of the depreciation deducted by the Partnership and any change in the gain or loss of the Partnership, for federal income tax purposes, resulting from an adjustment pursuant to Code § 743(b) shall be allocated entirely to the transferee of the Partnership Interest or portion thereof so transferred. Neither the Capital Contribution obligations of, nor the Partnership Interest of, nor the amount of any cash distributions to, the Partners shall be affected as a result of such election, and except as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(m), the making of such election shall have no effect except for federal and (if applicable) state and local income tax purpose.
  - (ii) Solely for Federal and (if applicable) state and local income tax purposes and not for the purpose of maintaining the Partners' Capital Accounts (except as provided in Treas. Reg. § 1.704-1(b)(2)(iv)(m)), the Partnership shall keep a written record for those assets, the bases of which are adjusted as a result of such election, and the amount at which such assets are carried on such record shall be debited (in the case of an increase in basis) or credited (in the case of a decrease in basis) by the amount of such basis adjustment. Any change in the amount of the depreciation deducted by the Partnership and any change in the gain or loss of the Partnership, for federal and (if applicable) state and local income tax purposes, attributable to the basis adjustment made as a result of such election shall be debited or credited, as the case may be, on such record.
- (h) **Curative Allocations.** The allocations set forth in Sections 2.1(a), 2.1(b), 2.1(c), and 2.1(d), above (the "**Regulatory Allocations**") are intended to comply with certain requirements of Treas. Reg. § 1.704-1(b). The Regulatory Allocations shall be taken into account for the purpose of equitably adjusting subsequent allocations of profits and losses, and items of income, gain, loss, and deduction among the Partners so that, to the extent possible, the net amount of such

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allocations of profits and losses and other items to each Partner shall be equal to the net amount that would have been allocated to each such Partner if the Regulatory Allocations had not occurred.

- (i) **Nonrecourse Debt Distribution.** To the extent permitted by Treas. Reg. § 1.704-2(h)(3) and 1.704-2(i)(6), the General Partner shall endeavor to treat distributions as having been made from the proceeds of Nonrecourse Liabilities or Partner Nonrecourse Debt only to the extent that such distributions would cause or increase a deficit balance in any Partner's Capital Account that exceeds the amount such Partner is otherwise obligated to restore (within the meaning of Treas. Reg. § 1.704-1(b)(ii)(c)) as of the end of the Partnership's taxable year in which the distribution occurs.

### 2.2. **Allocations for Tax Purposes.**

- (a) Except as otherwise provided in this Section 2.2, for federal income tax purposes, each item of income, gain, loss and deduction shall be allocated among the Partners in the same manner as its correlative item of Profits or Losses is allocated pursuant to Section 5.3 of the Agreement and Section 2.1 of this Appendix A.
- (b) In accordance with Code §§ 704(b) and 704(c) and the Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Partnership shall, solely for federal income tax purposes, be allocated among the Partners so as to take into account any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and the initial Gross Asset Value of such property. If the Gross Asset Value of any Partnership property is adjusted as described in the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and the Gross Asset Value of such asset in the manner prescribed under Code §§ 704(b) and 704(c) and the Regulations thereunder. In furtherance of the foregoing, the Partnership shall employ any reasonable method selected by the General Partner.

### 2.3. **Allocations to Transferred Interests.** Profits and losses allocable to a Partnership Interest assigned or reissued during a Fiscal Year shall be allocated to each Person who was the holder of such Partnership Interest during such Fiscal Year, in proportion to the number of days that each such holder was recognized as the owner of such Partnership Interest during such Fiscal Year or by an interim closing of the books or in any other proportion permitted by the Code and selected by the General Partner in accordance with this Agreement, without regard to the results of the Partnership operations or the date, amount or recipient of any distributions which may have been made with respect to such Partnership Interest.

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**Exhibit B – Subscription Agreement  
to**

**Maverick Lien Fund III LP  
Confidential Offering Memorandum**

**Subscription Agreement and Letter of Investment Intent**

# Maverick

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## REAL ESTATE PARTNERS

### **Maverick Lien Fund III LP (a Delaware limited partnership)**

### **SUBSCRIPTION AGREEMENT**

This Subscription Agreement (this “**Agreement**”) is made among Maverick Lien Fund III LP, a Delaware limited partnership (the “**Fund**”), Maverick GP LLC, a Delaware limited liability company and the Fund’s general partner (the “**General Partner**”), and the subscriber (the “**Subscriber**”) named on the signature page to this Agreement.

WHEREAS, the Subscriber desires to acquire a limited partnership interest (each, an “**Interest**,” and, collectively, the “**Interests**”) in, and to become a limited partner of, the Fund (an “**Investor**”).

WHEREAS, capitalized terms used but not otherwise defined in this Agreement will have the meanings specified in the Fund’s Limited Partnership Agreement (as amended or restated from time to time, the “**Partnership Agreement**”), and the Fund’s Confidential Private Placement Memorandum (as amended, supplemented or updated from time to time, the “**Memorandum**”). The Partnership Agreement and the Memorandum are collectively referred to as the “**Fund Documents**.”

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements set forth in this Agreement, the parties hereto agree as follows:

### **ARTICLE 1 SUBSCRIPTION FOR INTERESTS**

1.1 Subscription for Interests. Subject to and in accordance with the respective terms and conditions of this Agreement and the Fund Documents, the Subscriber hereby subscribes for and agrees to purchase the Interest and to become an Investor of the Fund, to be bound by all of the provisions of the Fund Documents and to make a capital contribution to the Fund (“**Capital Contribution**”) in the amount set forth next to “TOTAL CAPITAL CONTRIBUTION AMOUNT” on the signature page below.

(a) Acceptance or Rejection. The General Partner reserves the right to accept or reject the Subscriber’s subscription, in whole or in part, in its sole discretion. If rejected, the Fund will promptly return the subscription funds to the same account (by bank-to-bank wire transfer) from which its investment in the Fund was originally remitted and this Agreement will be void. If accepted, the Fund will issue the Interests to the Subscriber and the Subscriber will be admitted to the Fund as an Investor. Until the issuance of the Interests to the Subscriber, the subscription and this Agreement may be revoked by the Subscriber at any time in writing.

(b) Delivery of Completed Subscription Agreement. Investors must ensure that a completed and executed original subscription form is received by the General Partner sufficiently in advance of the intended subscription date.

1.2 Payment of Capital Commitment. In accordance with Article 4 of the Partnership Agreement and this Section 1.2, the Subscriber hereby agrees that by the date specified by the General

Partner that is at least five (5) business days following the General Partner's delivery of a Funding Notice to the Subscriber, the Subscriber will deliver the unfunded portion of his, her, or its Capital Commitment to the following account or if different the account designated by the Fund as set forth in the Funding Notice:

Wire Transfer Instructions

Bank:  
ABA:  
Swift:  
A/C:  
A/C#:

With respect to the First Closing, each Limited Partner shall contribute five percent (5%) of his, her, or its Capital Commitment to the Partnership no later than five (5) business days following the Limited Partner's receipt of the first Funding Notice (the "***Initial Capital Commitment***"). Each Limited Partner shall contribute the remainder of its Capital Commitment to the Partnership as requested by the General Partner, by the date specified by the General Partner that is at least five (5) business days following the General Partner's delivery of a Funding Notice. In its discretion the General Partner may provide Limited Partners with more than five (5) business days to transfer his, her, or its Capital Commitment to the Partnership. In no event shall any Limited Partner be required to contribute capital in an aggregate amount in excess of its Capital Commitment. If a Subscriber fails to deliver the unfunded portion of a Capital Commitment in accordance with Funding Notice, then such noncontributing Limited Partner will be subject to the Fund's rights pursuant to Section 4.3 of the Partnership Agreement.

1.3 First Closing. The Fund may proceed with the First Closing when the Fund has received a minimum of Fifteen Million Dollars (\$15,000,000.00) in commitments.

**ARTICLE 2**  
**REPRESENTATIONS AND WARRANTIES OF THE SUBSCRIBER**

2.1 Representations and Warranties. In connection with his, her or its subscription for the Interests, and as a material inducement to the Fund to issue the Interests to the Subscriber, the Subscriber hereby makes the following representations and warranties to the General Partner and the Fund. ***The Subscriber further represents and warrants that it will notify the General Partner in writing promptly (but in all events within 30 days after the applicable change) of any actual or anticipated change in any facts or circumstances, which change would make any of the representations and warranties set forth below in this Section 2.1 untrue if made as of the date of such change (after giving effect thereto).***

(a) Power and Authority. The Subscriber is fully authorized, empowered and qualified to execute and deliver this Agreement, to subscribe for and purchase the Interests and to perform its obligations under and to consummate the transactions that are contemplated by this Agreement. Without limiting the generality of the foregoing, the subscription for and the purchase of the Interests, and the execution and delivery of this Agreement, by the Subscriber have been authorized by all necessary corporate or other action of, or on behalf of, the Subscriber, and this Agreement is a legal, valid and binding obligation of the Subscriber, enforceable against the Subscriber in accordance with its terms. The signature of the person, individual or other party signing this Agreement as, or on behalf of, the Subscriber is binding on and enforceable against the Subscriber.

(b) Compliance with Laws; No Conflict. The execution and delivery of the Subscription Agreement by or on behalf of the Subscriber and the performance of the Subscriber's obligations under, and the consummation of the transactions contemplated by, this Agreement does not and will not conflict with or result in any violation of, or default under, any provision of any charter, bylaws, trust agreement, partnership agreement or other governing instrument applicable to the Subscriber, or other agreement or instrument to which the Subscriber is a party or by which the Subscriber is, or any of its assets are, bound, or any permit, franchise, judgment, decree, statute, rule, regulation or other law applicable to the Subscriber or the business or assets of the Subscriber.

(c) Binding Effect. The Subscriber acknowledges that this Agreement may not be assigned by the Subscriber without the prior written consent of the General Partner and may not be canceled, terminated or revoked by the Subscriber.

(d) Residence and Principal Place of Business. The address set forth on the signature page to this Agreement is the Subscriber's correct residence or principal place of business (as applicable), and the Subscriber has no present intention of moving its residence or principal place of business (as applicable) to any other domestic or foreign jurisdiction.

(e) Receipt of Documents; Access to Information. The Subscriber has received copies of the Fund Documents and this Agreement. The Subscriber has carefully reviewed and is familiar with the terms of the Fund Documents and this Agreement. The Subscriber has been given the opportunity to ask questions, and has received satisfactory answers, concerning the terms and conditions of an investment in the Fund, and has been given the opportunity to obtain any additional information, and has obtained all such information requested by the Subscriber, in order to evaluate the merits and risks of an investment in the Fund and to verify the accuracy of the information contained in the Fund Documents and this Agreement.

(f) Reliance. The Subscriber has relied on nothing other than the Memorandum and this Agreement (including all exhibits and appendices thereto) in deciding whether to make an investment in the Fund.

(g) Sophistication and Economic Loss. The Subscriber is a sophisticated investor with such knowledge and experience in business and financial matters as renders the Subscriber able to evaluate the merits and risks of an investment in the Fund and the Subscriber's financial situation is such that the Subscriber is able to bear the economic risk and lack of liquidity of an investment in the Fund.

(h) Investment Risks. The Subscriber understands that the purchase of the Interests involves certain risks, including those set forth in the Memorandum. **Without limiting the generality of the foregoing, the Subscriber acknowledges and understands that (1) the General Partner cannot guarantee that the Fund will achieve its stated investment objective or achieve positive or competitive investment returns, and (2) the Subscriber will bear the risk that the Subscriber could lose a portion or all of its investment in the Fund.**

(i) Investment Intent. The Subscriber is acquiring the Interests for its own account for investment only, and not with a view to any distribution thereof in violation of the Securities Act of 1933, as amended (the "*Securities Act*"), or any other applicable domestic or foreign securities law, and the Subscriber has no present plans to enter into any contract, undertaking, agreement or arrangement for any such distribution.

(j) No Registration of Interests; Limitations on Transfer. The Subscriber acknowledges that, based in part upon its representations and warranties contained in this Agreement and

in reliance upon applicable federal and state exemptions, no Interest acquired by the Subscriber has been or will be registered under the Securities Act or the securities laws of any domestic or foreign jurisdiction. **Accordingly, no Interest may be transferred, offered or sold unless the Interest is registered under the Securities Act and any applicable state and foreign securities laws or exemptions from such registration requirements are available. In addition, the Subscriber understands that sales or transfers of an Interest are further restricted by the provisions of the Partnership Agreement. The Subscriber hereby agrees that it will not, directly or indirectly, assign, transfer, offer, sell, pledge, hypothecate or otherwise dispose of all or any part of an Interest (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of all or any part of an Interest) except in accordance with the registration provisions of the Securities Act and the securities laws of any other applicable domestic or foreign jurisdiction, or available exemptions from such registration provisions, and the terms of the Partnership Agreement.**

(k) Status of Subscriber. Subscriber represents that it is (*check one of the following categories*):

- ☐ An individual that is a United States person (including their trusts).
- ☐ An individual that is not a United States person (including their trusts).
- ☐ A broker-dealer.
- ☐ An insurance company.
- ☐ An investment company registered with the SEC.
- ☐ An issuer that would be an investment company as defined in Section 3 of the Investment Company Act of 1940, as amended (the “***Investment Company Act***”) but for Section 3(c)(1) or 3(c)(7) of that Act.
- ☐ A non-profit.
- ☐ A pension plan (excluding governmental pension plans).
- ☐ A banking or thrift institution (proprietary).
- ☐ A state or municipal government entity (excluding governmental pension plans).
- ☐ A state or municipal government pension plan.
- ☐ A sovereign wealth fund or foreign official institution.
- ☐ An entity that is not a United States person and does not otherwise meet one of the foregoing categories.
- ☐ Other: \_\_\_\_\_  
(please specify)

(l) Securities Act – Accredited Investor Status. (*Please check each applicable box in this Section.*) The Subscriber is an “accredited investor” because the Subscriber is:



- ☐ (i) A natural person with an individual net worth, or joint net worth with your spouse, as of the date hereof is in excess of \$1,000,000. *The value of your primary residence must be excluded in the calculation of net worth. Any mortgage on such residence (up to the value of the residence) may likewise be excluded. If the mortgage balance exceeds the value of the residence, the excess amount must be included as a reduction of net worth. Additionally, any increase in the mortgage balance within the preceding 60 days must be included as a reduction of net worth, unless the residence was purchased at the time of such increase.*
- ☐ (ii) A natural person with an individual income in excess of \$200,000, or joint income with your spouse in excess of \$300,000, in each of the two most recent years with a reasonable expectation of reaching the same income level in the current year.
- ☐ (iii) A director or executive officer of the General Partner.
- ☐ (iv) A trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring Interests, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) of Regulation D under the Securities Act.
- ☐ (v) An employee benefit plan within the meaning of the Employee Retirement Income Security Act, as amended (“**ERISA**”), and (please check one):
  - ☐ the investment decision has been made by a plan fiduciary, as defined in Section 3(21) of ERISA, which is either a bank, savings and loan association, insurance company or registered investment adviser, or
  - ☐ the employee benefit plan has total assets of \$5,000,000, or
  - ☐ if a self-directed plan, investment decisions are made solely by persons that are accredited investors and all participants and beneficiaries in such plan are accredited investors.
- ☐ (vi) A private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, as amended (the “**Investment Advisers Act**”).
- ☐ (vii) An organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), corporation, Massachusetts or similar business trust or partnership, not formed for the specific purpose of acquiring interests in the Fund, with total assets in excess of \$5,000,000.
- ☐ (viii) A bank as defined in Section 3(a)(2) of the Securities Act, or a savings and loan association or other institution as defined in Section (3)(a)(5)(A) of the Securities Act whether acting in an individual capacity for your own account or fiduciary capacity for the account of another accredited investor.
- ☐ (ix) A broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”).

- ☐ (x) An insurance company as defined in Section 2(13) of the Securities Act acting for its own account or for the account of an accredited investor.
- ☐ (xi) An investment company registered under the Investment Company Act of 1940 (the “***Investment Company Act***”) or a business development company as defined in Section 2(a)(48) of the Investment Company Act and was not formed for the specific purpose of investing in the Fund.
- ☐ (xii) A Small Business Investment Company licensed by the Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958, as amended.
- ☐ (xiii) A plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000.
- ☐ (xiv) An entity in which each of the equity owners is an accredited investor as defined in Rule 501(a) of Regulation D.
- ☐ (xv) You otherwise qualify as an accredited investor. Please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (m) Investment Company Act.

*If the Subscriber is a natural person, please skip this Section and continue with Section (n). If the Subscriber is not a natural person, please complete each portion of this Section.*

(i) You must check one of the following two boxes:

- ☐ The Subscriber was not formed, organized, reorganized, capitalized or recapitalized for the purpose of making an investment in the Fund.
- ☐ The Subscriber is unable to so represent.

(ii) You must check one of the following two boxes:

- ☐ The Subscriber’s subscription does not exceed 40% of its total assets and does not exceed 40% of its committed capital.
- ☐ The Subscriber is unable to so represent.

(iii) You must check one of the following two boxes:

- ☐ The shareholders, partners, members or other beneficial owners of the Subscriber (including plan participants if the Subscriber is an employee benefit or pension plan) do not, and will not, have individual discretion as to their participation in particular investments made by the Subscriber.

☐ The Subscriber is unable to so represent.

(iv) You must check one of the following two boxes:

☐ The Subscriber is not an “investment company” that is registered or required to be registered under the Investment Company Act and is not relying on the exclusions set forth in Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act as the basis for its exclusion from the definition of “investment company” set forth in Section 3(a) of the Investment Company Act.

☐ The Subscriber is unable to so represent.

*If the Subscriber is unable to make any of the representations set forth in paragraphs (i) through (iv) above, please attach a schedule that includes the name and address of each shareholder, partner, member or other beneficial owner of the Subscriber. **The Subscriber warrants that it will promptly notify the General Partner in writing of any changes to such schedule at any time during the Subscriber’s investment in the Fund.***

(n) Benefit Plan Investor Status. In order for the Fund to accurately monitor its “Benefit Plan Investor” participation, please review the following definition and make the appropriate representations by checking all applicable boxes following the definition. A “Benefit Plan Investor” is (i) any employee benefit plan subject to the fiduciary responsibility provisions of Title I of ERISA, (ii) any individual retirement plan or account subject to the prohibited transaction rules of Section 4975 of the Code or (iii) any entity whose underlying assets include “plan assets” (as defined by ERISA and the regulations thereunder) by reason of a plan’s investment in the entity. *Please check applicable sections below:*

☐ The Subscriber is not a Benefit Plan Investor.

☐ The Subscriber is not a Benefit Plan Investor and it is a Controlling Person. A Controlling Person is excluded from the Fund’s 25% ERISA calculation and is (i) any person (including an entity) with discretionary investment authority or responsibility over the Fund’s assets, or who provides investment advice to the Fund for a fee, or (ii) any person controlling, controlled by or under common control with a person described in (i).

☐ The Subscriber is a Benefit Plan Investor that is:

☐ An employee benefit plan subject to Part 4 of Title I of ERISA (e.g., U.S. corporate pension and profit-sharing plans, “multiemployer plans” and “Taft-Hartley Plans”). (Please provide the names of any other employee benefit plans sponsored by the same or an affiliated employer known to be investing or invested in the Fund):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ An individual retirement account (IRA), Keogh plan and/or other plan subject to Section 4975 of the Code but not subject to Title I of ERISA.

- ☐ An entity (e.g., a fund of funds) whose underlying assets include “plan assets.” With respect to this category, the Subscriber also represents that the percentage of its assets that are “plan assets” compared to the total value of its assets is not more than (please check the box below that represents the lowest percentage applicable to Subscriber):

☐ 10%\*      ☐ 20%\*      ☐ 30%      ☐ 40%      ☐ 50%  
☐ 60%      ☐ 70%      ☐ 80%      ☐ 90%      ☐ 100%

(\*Applicable to entities with multiple classes, one of which exceeds the 25% threshold for Benefit Plan Investors.)

- ☐ An insurance company general account (or is investing general account assets under the U.S. Department of Labor Advisory Opinion Letter 2005-19A). The Subscriber also represents that the percentage of the underlying assets of the general account that are deemed to be “plan assets” is not more than:

☐ 10%      ☐ 20%      ☐ 30%      ☐ 40%      ☐ 50%  
☐ 60%      ☐ 70%      ☐ 80%      ☐ 90%      ☐ 100%

- ☐ A group trust, a bank common or collective trust or an insurance company separate account.

If the Subscriber is, or is acting on behalf of, a benefit plan investor, the Subscriber represents and warrants that it has accurately and fully completed Exhibit A to Subscription Agreement for Benefit Plan Investors (Identification of Fiduciaries and Affiliates) attached hereto.

The Subscriber agrees (i) to notify the General Partner at least 30 days prior to the date that any information set forth in this Section (or in Exhibit A) is no longer true or likely to become untrue (or as soon as such information is known or should become known to the Subscriber) and (ii) to provide the General Partner upon request such information as may be required to confirm and/or refine the representations provided above.

(o) Investment Company Act and Investment Advisers Act. The Subscriber understands that the Fund does not intend to register as an investment company under the Investment Company Act, and that neither the General Partner nor its managers, nor any other person or entity selected by the General Partner to act as an agent of the Fund with respect to managing the affairs of the Fund, is registered as of the date hereof as an investment adviser under the Investment Advisers Act of 1940, as amended (the “*Investment Advisers Act*”); provided that the General Partner, its managers, and/or any other person or entity selected by the General Partner to act as an agent of the Fund with respect to managing its affairs of the Fund may, in their sole discretion, register as investment advisers under the Investment Advisers Act.

(p) Special Notice to Florida Subscribers Only. Each Subscriber that is a Florida resident is hereby informed of the Subscriber’s right to void the acquisition of an Interest within three days after the Subscriber first tenders its subscription funds. The Subscriber represents and warrants that the Subscriber has been given access to all material books and records of the Fund and has been given access to all material contracts and documents relating to the Subscriber’s acquisition of the Interests.

(q) Anti-Money Laundering Policy. The Subscriber hereby acknowledges that the Fund seeks to comply with all applicable laws concerning money laundering and related activities. In furtherance of those efforts, the Subscriber hereby represents, warrants and agrees that, to the best of the Subscriber's knowledge based upon appropriate diligence and investigation:

- (i) None of the cash or property that the Subscriber has paid, will pay or will contribute to the Fund has been or will be derived from, or related to, any activity that is deemed criminal under United States law; and
- (ii) No contribution or payment by the Subscriber to the Fund, to the extent that it is within the Subscriber's control, will cause the Fund or the General Partner to be in violation of the United States Bank Secrecy Act of 1970, the United States Money Laundering Control Act of 1986, or the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001.

The Subscriber agrees to provide to the General Partner any additional information regarding the Subscriber that the General Partner deems necessary or convenient to ensure compliance with all applicable laws concerning money laundering and similar activities. The Subscriber understands and agrees that if at any time it is discovered that any of the foregoing representations are incorrect, or if otherwise required by applicable law or regulation related to money laundering and similar activities, the General Partner may undertake appropriate actions to ensure compliance with applicable law or regulation, including, but not limited to, segregation and/or redemption of the Subscriber's investment in the Fund. The Subscriber further understands that the General Partner may release confidential information about the Subscriber and, if applicable, any underlying beneficial owners, to proper authorities if the General Partner, in its sole discretion, determines that it is in the best interests of the Fund in light of relevant rules and regulations under the laws set forth in subsection (ii) above. The Subscriber's execution of this Agreement authorizes the General Partner to provide the Fund, its legal advisers and its auditors with information regarding the Subscriber's investment in the Fund.

In order to comply with United States and if applicable international laws aimed at the prevention of money laundering and terrorist financing, each prospective investor that is an individual will be required to represent in this Agreement that, among other things, he/she is not, nor is any person or entity controlling, controlled by or under common control with the prospective Investor, a prohibited person as described in this Agreement (generally, a person involved in money laundering or terrorist activities, including those persons or entities that are included on any relevant lists maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**"), any senior foreign political figures, their immediate family members and close associates, and any foreign shell bank) (a "**Prohibited Person**"). Further, each prospective investor that is an entity will be required to represent in this Agreement that, among other things, (i) it has carried out thorough due diligence to establish the identities of its beneficial owners, (ii) it reasonably believes that no beneficial owner is a Prohibited Person, (iii) it holds the evidence of such identities and status and will maintain such information for at least five years from the date of its complete withdrawal from the Fund, and (iv) it will make available such information and any additional information that the General Partner may require upon request that is required under applicable regulations.

The General Partner reserves the right to request such further information and documentation as it considers necessary to verify the identity of a prospective Investor and/or the source of funds. In the event of delay or failure by the prospective Investor to produce any information and/or documentation required for verification purposes, the General Partner may refuse to accept an application

until proper information has been provided and any funds received will be returned without interest to the account from which the moneys were originally debited.

U.S. federal regulations and executive orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain non-U.S. countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC web site at [www.treas.gov/ofac](http://www.treas.gov/ofac). Each prospective Investor must represent and warrant in this Agreement that, among other things, the prospective Investor, any person controlling, controlled by or under common control with the prospective Investor, any person having a beneficial interest in the prospective Investor or any person for whom the prospective Investor is acting as agent or nominee in connection with its investment in the Fund is a country, territory, person or entity named on an OFAC list or is a person or entity that resides or has a place of business in a country or territory named on such list. The General Partner will not accept any investment from a prospective Investor if it cannot make the representation described in the preceding sentence.

In addition to OFAC restrictions, prospective Investors are required to provide all information and documentation requested by the General Partner to comply with U.S. anti-money laundering laws and regulations as well as, possibly, comparable laws and regulations in other jurisdictions. This is an evolving area of the law, and the full extent of the disclosures which may be required cannot be predicted. By way of example, General Partner reserves the right to request such additional information as is necessary to verify the identity of a prospective Investor and its source of funds. Any delay in providing this information by the investor will in course delay the process of any application and may cause the application to be held over.

(r) No Need for Liquidity. The Subscriber has no need for liquidity in connection with its purchase of the Interests. The Subscriber acknowledges and is aware that there are substantial restrictions on the transferability of the Interests. There will be no public market for the Interests. There are restrictions on the transfer rights of the Subscriber in relation to the Interests described in the Fund Documents.

(s) Additional Information. The Subscriber understands and agrees that:

- (i) the General Partner may request from the Subscriber such additional information as it may deem necessary or appropriate to evaluate the eligibility of the Subscriber to acquire an Interest, and may request from time to time such information as the General Partner may deem appropriate to determine the Subscriber's suitability to hold an Interest, or to enable the General Partner to determine the Fund's compliance with applicable regulatory requirements, or pre-determine or verify tax status, to fulfill any tax withholding or other obligation relating to Subscriber, including but not limited to, any documentation necessary or reasonably requested to establish the Subscriber's eligibility for benefits under any applicable tax treaty or to establish your compliance with Section 1471 through Section 1474 of the Code ("**FACTA**"), or for any other reasonable purpose relating to the Partnership, and the Subscriber agrees to provide such information as may be so requested. The Subscriber will undertake promptly to notify the General Partner in writing if (a) the US Internal Revenue Service terminates any agreement entered into with the Subscriber relating to withholding, or (b) there is any change in any information provided to the General Partner pursuant to this clause (i).

- (ii) The Subscriber acknowledges that the Fund is obligated to withhold on all payments made by the Fund to Subscriber unless and until the General Partner is satisfied that the Subscriber has fully complied with the requirements under FACTA, as applicable to the Subscriber. The General Partner shall reasonably cooperate with the Subscriber in obtaining a refund of amounts withheld pursuant to this clause (ii) to the extent such refund may be available to the Subscriber.

(t) Investment Objectives. The purchase of the Interests by the Subscriber is consistent with the general investment objectives of the Subscriber.

(u) No Borrowing. The Subscriber has not borrowed any portion of its contribution to fund, either directly or indirectly, from the Fund, the General Partner or the Prime Broker or any affiliate of the foregoing.

(v) Fund Counsel Does Not Represent Investors. The Subscriber understands and acknowledges that Gray, Plant, Mooty, Mooty & Bennett, P.A. represents only the General Partner and the Fund, and not the Subscriber, in connection with the offer and sale of the Interests.

2.2 Effect and Time of Representations. The Subscriber's representations and warranties set forth in this Agreement are true, and have been complied with, as of the date of the Subscriber's execution of this Agreement and will be true and correct as of the Subscriber's admission to the Fund as an Investor. The Subscriber acknowledges that the Fund and each Investor thereof have relied and will rely upon the representations and warranties of the Subscriber set forth in this Agreement, and that all such representations and warranties will survive the execution and delivery of the Subscriber Agreements and the issue and sale of the Interests, notwithstanding any knowledge on the part of the General Partner of any breach of any such representation or warranty. The Subscriber hereby agrees to indemnify and hold harmless the Fund, the General Partner and their respective affiliates, directors, members, partners, shareholders, officers, employees and agents, from and against any and all claims, damages and liabilities (including without limitation reasonable attorneys' fees) resulting from, arising out of or relating to any breach of any representation or warranty contained in this Article II.

2.3 Reports. Unless the Subscriber elects not to receive e-mail communications by initialing below, the Subscriber consents to the General Partner and any third party administrators engaged by the General Partner to sending account statements, privacy notices, performance analysis, tax information, brochure offer and/or delivery, and any other communications, some of which may contain Subscriber information that is personal, non-public or confidential relating to Subscriber's investment in the Fund, to the Subscriber's e-mail address listed on the signature page of this Agreement. The Subscriber may revoke consent to e-mail delivery (or change the e-mail address to which communications should be sent) at any time by sending written notice to the General Partner. The Subscriber's revocation or e-mail address change will become effective only after the General Partner receives and processes it. Notwithstanding this consent, the General Partner retains the discretion to send any communication by traditional mail or delivery service.

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Initial

### **ARTICLE 3 POWER OF ATTORNEY**

3.1 Power of Attorney. The Subscriber hereby constitutes and appoints the General Partner, with full power of substitution and re-substitution, as the Subscriber's true and lawful attorney-in-fact, with full power and authority in the Subscriber's name, place and stead to make, execute, deliver, acknowledge, publish, file and swear to in the execution, delivery, acknowledgment, filing and/or recording of:

(a) the Partnership Agreement, and any amendments thereto as may be required to effect: the admission of additional Investors, the assignment or transfers of Interests, capital contributions or if applicable the withdrawal of Investors.

(b) the Fund's Certificate of Formation required under the laws of the State of Delaware or the laws of any other jurisdiction in which such Certificate of Formation is required to be filed and any amendments thereto or cancellation thereof;

(c) any certificates, instruments and documents, including without limitation, fictitious name certificates, as may be required by, or may be appropriate under, the laws of the United States, the laws of the State of Delaware or any other state or jurisdiction in which the Fund is doing or intends to do business;

(d) any other instrument which may be required to be filed by the Fund under the laws of any jurisdiction or by any governmental agency, or which such attorney-in-fact deems advisable to file; and

(e) any documents which may be required to effect the admission of a successor to the General Partner, a substitute Investor or the dissolution and termination of the Fund, in accordance with the terms of the Partnership Agreement.

3.2 Irrevocability; Survivability. The foregoing grant of authority:

(a) is a Special Power of Attorney coupled with an interest and is irrevocable;

(b) may be exercised by such attorney-in-fact for the Subscriber, and the Subscriber's name will be listed in the instrument as an Investor; and

(c) will survive the Subscriber's delivery of an assignment of the Interest except that where the assignee thereof has been approved by the General Partner for admission to the Fund as a substitute Investor as provided for in Article 9 of the Partnership Agreement, the Special Power of Attorney will survive the delivery of such assignment for the sole purpose of enabling such attorney-in-fact to execute, acknowledge and file any instrument necessary to effect such substitution.

3.3 Binding Effect; Waiver of Defenses; Ratification. The Subscriber hereby agrees to be bound by all the representations of the Subscriber's attorney-in-fact and waives any and all defenses which may be available to the Subscriber to contest, negate or disaffirm the actions of such attorney-in-fact under this Power of Attorney, and hereby ratifies and confirms all acts which said attorney-in-fact may take as attorney-in-fact hereunder in all respects as though performed by the Subscriber.



3.4 Conflicts with Partnership Agreement. In the event of any conflict between the provisions of the Partnership Agreement and any document executed or filed by the attorney-in-fact pursuant to this Power of Attorney, the Partnership Agreement will govern.

#### **ARTICLE 4 MISCELLANEOUS**

4.1 Notices. Any notice, request, demand or other communication required by or permitted to be given in connection with this Agreement will be in writing, except as expressly otherwise permitted herein, and will be delivered in person, sent by first class mail (e.g., postage prepaid and either certified or registered), sent by facsimile or similar means of communication, or delivered by a courier service (charges prepaid), to the respective party at its address as set forth on the signature page to this Agreement. Each party may change its address by notifying each other party of such change in accordance with the provisions of this Section 4.1. Any such notice, request, demand or other communication will be deemed to be given (i) when received, if personally delivered; (ii) if mailed, on the third business day after it is deposited in the United States mail, properly addressed, with proper postage affixed; (iii) if sent by facsimile or similar device, when electronically confirmed; and (iv) if sent by courier service, 24 hours after shipped by such courier service; provided, however, that any notice to the Fund will be effective only if and when received by the General Partner.

4.2 Governing Law; Consent to Jurisdiction. **This Agreement will be governed by and construed in accordance with the internal laws (and not the law of conflicts) of the State of Delaware. The parties hereby consent to the non-exclusive jurisdiction of the courts of the State of Delaware and any federal or state court located in New York, New York for any action arising out of this Agreement.**

4.3 Tax Compliance.

(a) IRS Form W-8 and Form W-9. A Subscriber who is a U.S. person must submit a Form W-9 to the Fund with this Agreement. A Subscriber who is not a U.S. person must submit an appropriate Form W-8 to the Fund with this Agreement. The Subscriber will submit updated or current Forms W-9 and W-8, as applicable, as requested by the Fund from time to time. Such forms are available from the Fund.

(b) Compliance with the HIRE Act. The HIRE Act provides that, beginning on January 1, 2014, a 30% withholding tax will be imposed on certain U.S. source income and proceeds from the sale of property that could give rise to U.S. source interest or dividends that are (i) payable to a foreign financial institution unless such foreign financial institution enters into an agreement with the IRS to disclose the name, address and taxpayer identification number of that financial institution's U.S. account holders, as well as certain other information relating to such account holders and (ii) payable to certain foreign entities unless such foreign entities certify they have no U.S. owners or certify their U.S. owners' identities. (Under final Treasury Regulations, the time for withholding may be delayed.) To the extent that these new provisions impact the Fund, the Fund will attempt to satisfy any obligations imposed on it to avoid the imposition of this withholding tax. **The Subscriber hereby undertakes and agrees to promptly provide the Fund and the General Partner any information the General Partner may reasonably request in its efforts to avoid this withholding tax. The Subscriber acknowledges and agrees that, should the Subscriber fail to timely provide any such information to the Fund, the Fund may mandatorily redeem a portion or all of the Subscriber's investment and/or reduce the amounts payable on any withdrawals by the Subscriber. The Subscriber is encouraged to consult with its own tax advisors regarding the possible implications of the HIRE Act on the Subscriber's investment in the Fund.**

4.4 Binding Effect and Severability. The Subscriber may not assign any of its rights or obligations under this Agreement without the prior written consent of the General Partner. This Agreement and the rights and obligations set forth herein will be binding upon, and will inure to the benefit of, the Subscriber, the Fund and the General Partner, and their respective successors and permitted assigns. If any provision of this Agreement, or the application of such provision to any circumstance, will be invalid under the laws of the applicable jurisdiction, the remainder of this Agreement or the application of such provision to other persons or circumstances or in other jurisdictions will not be affected thereby.

4.5 Entire Agreement. This Agreement, including the appendices hereto, constitutes the entire agreement, and supersedes all prior agreements or understandings, among the parties hereto with respect to the subject matter hereof.

4.6 Counterparts. This Agreement may be executed in one or more separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same agreement.

4.7 Amendments. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated except with the written consent of the Subscriber and the General Partner.

[THIS PAGE BLANK. SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Subscriber has executed this Subscription Agreement as of the date set forth below.

**TOTAL CAPITAL COMMITMENT AMOUNT:** \_\_\_\_\_

IF THE UNDERSIGNED IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ Individual account (*check if applicable*)

☐ Joint account (*check if applicable*)

\_\_\_\_\_  
Print name of individual

\_\_\_\_\_  
Print name of spouse (if a joint investment)

\_\_\_\_\_  
Signature of individual

\_\_\_\_\_  
Signature of spouse (if a joint investment)

IF THE UNDERSIGNED IS AN ENTITY (check one of the following boxes to indicate entity type):

☐ Corporation

☐ LLC

☐ Partnership

☐ Trust

☐ Other

\_\_\_\_\_  
Print name of entity

\_\_\_\_\_  
Print name of authorized representative

By: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Print title/capacity of authorized representative

ALL SUBSCRIBERS MUST COMPLETE THE FOLLOWING:

Residence Address/Principal Place of Business

Mailing Address if different:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Birth (*if applicable*): \_\_\_\_\_

Home Telephone #: \_\_\_\_\_

Business Telephone #: \_\_\_\_\_

Cell Phone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

U.S. Taxpayer ID # (SSN/EIN): \_\_\_\_\_

*This section to be filled out by General Partner*

Accepted as of \_\_\_\_\_, 2015

Maverick GP LLC, General Partner of  
Maverick Lien Fund III LP

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

Name:

Title:

**EXHIBIT A TO SUBSCRIPTION AGREEMENT  
FOR BENEFIT PLAN INVESTORS  
(IDENTIFICATION OF FIDUCIARIES AND AFFILIATES)**

This Exhibit A to the Subscription Agreement made by and among Maverick Lien Fund III LP, a Delaware limited partnership (the “**Fund**”), Maverick GP LLC, a Delaware limited liability company and the Fund’s general partner (the “**General Partner**”), and the Benefit Plan Investor subscriber named above (the “**Subscriber**”) discloses the Subscriber’s fiduciaries and their affiliates for purposes of the prohibited transaction rules of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), and the Internal Revenue Code of 1986, as amended (the “**Code**”).

**Part I – Identification of Investment Fiduciaries and Affiliates**

The Subscriber represents that the following legal entities or individuals are all the “investment fiduciaries” who have any authority or control over the Benefit Plan Investor’s investment in the Fund:

Subscriber’s Investment Fiduciaries:

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The Subscriber represents that the following legal entities or individuals are all the “affiliates” of such investment fiduciaries:

Investment Fiduciaries’ Affiliates\*:

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\*For this purpose, an “affiliate” of a person means:

- (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;
- (2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, 10 percent or more partner, or highly compensated employee as defined in Section 4975(e)(2)(H) of the Code (but only if the employer of such employee is the plan sponsor); and
- (3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in Section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets involved in the transaction. A named fiduciary (within the meaning of Section 402(a)(2) of ERISA) of a plan with respect to the plan assets involved in the transaction and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for this purpose if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary’s employment agreement.

The Subscriber agrees to provide prompt written notice to the Fund of any change in the information reported above.

## **Part II – Identification of Other Fiduciaries and Affiliates**

The Subscriber represents that the following legal entities or individuals are all the other “fiduciaries” who occupy positions of authority with respect to the Benefit Plan Investor or who render investment advice to the Benefit Plan Investor for a fee:

Subscriber’s Other Fiduciaries\*:

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\*For this purpose, a person is a “fiduciary” with respect to the Benefit Plan Investor to the extent he/she/it:

- (1) Exercises any discretionary authority or discretionary control respecting management of the Benefit Plan Investor or exercises any authority or control respecting management or disposition of the Benefit Plan Investor’s assets;
- (2) Renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the Benefit Plan Investor, or has any authority or responsibility to do so; or
- (3) Has any discretionary authority or discretionary responsibility in the administration of the Benefit Plan Investor.

The Subscriber represents that the following legal entities or individuals are all the “affiliates” of such other fiduciaries:

Other Fiduciaries’ Affiliates\*\*:

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\*\*For this purpose, the fiduciary’s “affiliates” include:

- (1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the fiduciary;
- (2) Any officer, director, partner, employee or relative (as defined in Section 3(15) of ERISA) of the fiduciary; and
- (3) Any corporation or partner of which the fiduciary is an officer, director or partner. For purposes of this definition, “control” means the power to exercise a controlling influence over the management or policies of a person other than an individual.

The Subscriber agrees to provide prompt written notice to the Fund of any change in the information reported above.

# CONFIDENTIAL





## EXHIBIT B TO SUBSCRIPTION AGREEMENT

### Electronic Funds Transfer Authorization Form

The Fund has subscribed to a federally-regulated, third party service to initiate electronic funds transfers to and from an account and financial institution of your choice. This account can be an existing account, or a new account, setup to fund the Subscriber's Capital Commitment. This service will reduce and in some cases eliminate the wire transfers fees that would otherwise be paid by Subscribers to transfer funds from their bank to the Fund, or reduce or eliminate the need to travel to the Fund's office or bank for those that would otherwise use manual checks.

❶	I hereby authorize the Company to initiate electronic funds transfers into the account (i.e., credit entries) and financial institution listed below in order to transfer cash from the Fund, to facilitate periodic distributions to the Limited Partners. All distributions will be announced via electronic mail at least five (5) business days prior to execution.
❷	I authorize the electronic funds transfers described in item 1 above to begin effective on <input type="text"/> . [INSERT DATE OF SUBSCRIPTION AGREEMENT]
❸	I understand that the authorizations provided in item 1 above will continue in full force until cancelled by the Authorized Signer below via a written cancellation notice sent to the Company.
❹	I understand that the Company will retain this original authorization in its records, and that the Company will send a photocopy of this authorization to me for my records.
❺	I agree to notify the Company of any changes made or needed to this electronic funds transfer authorization form.

The undersigned hereby agrees to items 1 through 5 above on this \_\_\_\_ day in the month of \_\_\_\_\_, 2015.

Bank Account Information	Authorized Signature
<b>Financial Institution Name:</b> <input type="text"/>	 _____ Authorized Signature
<b>Contact Person Name:</b> <input type="text"/>	
<b>City:</b> <input type="text"/> <b>State:</b> <input type="text"/> <b>Zip:</b> <input type="text"/> - <input type="text"/> <b>Phone:</b> <input type="text"/> - <input type="text"/> - <input type="text"/>	 _____ Printed Name of Signer
<b>ABA Banking Routing Number</b> (must be 9 #'s): <input type="text"/>	 _____ Entity Name, if Signing as an Entity
<b>Bank Account Number</b> (not to exceed 17 #'s): <input type="text"/>	 _____ Title of Signer, if Signing as an Entity

**MAVERICK LIEN FUND III LP**  
**LIMITED PARTNERSHIP AGREEMENT**

**LIMITED PARTNER SIGNATURE PAGE AND POWER OF ATTORNEY**  
(Individual Investor)

The undersigned hereby executes the Limited Partnership Agreement (the “**Agreement**”) of Maverick Lien Fund III LP, a Delaware limited partnership (the “**Partnership**”), and hereby agrees to all of its terms and provisions including, without limitation, the grant of the power of attorney contained in Article 13 thereof. The undersigned hereby appoints Maverick GP LLC, with full power of substitution, its true and lawful attorney-in-fact and agents, with all the powers and authority set forth in the Agreement, including without limitation, in its name, place and stead to make, execute, sign, acknowledge, swear to, deliver and file the Limited Partnership Agreement, or any other certificate reflecting the same, and amendments thereto for the purpose of admitting the undersigned and others as Limited Partners in the Partnership. The undersigned hereby joins and executes the Agreement and hereby authorizes this Signature Page to be attached thereto. The power of attorney granted hereby and by Article 13 of the Agreement shall be deemed to be coupled with an interest, shall be irrevocable and shall survive any Transfer of the undersigned’s Partnership Interest and the bankruptcy or dissolution of the undersigned.

Name of Individual (type or print): \_\_\_\_\_

Signature:      By \_\_\_\_\_

Name (type or print): \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Capital Commitment:      \$ \_\_\_\_\_

Date: \_\_\_\_\_, 2015

# CONFIDENTIAL

## MAVERICK LIEN FUND III LP LIMITED PARTNERSHIP AGREEMENT

### LIMITED PARTNER SIGNATURE PAGE AND POWER OF ATTORNEY (Entity Investor)

The undersigned hereby executes the Limited Partnership Agreement (the “**Agreement**”) of Maverick Lien Fund III LP, a Delaware limited partnership (the “**Partnership**”), and hereby agrees to all of its terms and provisions including, without limitation, the grant of the power of attorney contained in Article 13 thereof. The undersigned hereby appoints Maverick GP LLC, with full power of substitution, his/her/their true and lawful attorney-in-fact and agents, with all the powers and authority set forth in the Agreement, including without limitation, in his/her/their name(s), place and stead to make, execute, sign, acknowledge, swear to, deliver and file the Limited Partnership Agreement, or any other certificate reflecting the same, and amendments thereto for the purpose of admitting the undersigned and others as Limited Partners in the Partnership. The undersigned hereby joins and executes the Agreement and hereby authorizes this Signature Page to be attached thereto. The power of attorney granted hereby and by Article 13 of the Agreement shall be deemed to be coupled with an interest, shall be irrevocable and shall survive any Transfer of the undersigned’s Partnership Interest and the bankruptcy, death, or incompetence of the undersigned.

Name of Entity (type or print):

\_\_\_\_\_

Signature: By

\_\_\_\_\_

Name (type or print):

\_\_\_\_\_

Title or Capacity:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Capital Commitment:

\$ \_\_\_\_\_

Date:

\_\_\_\_\_, 2015