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SECOND AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT  
OF  
AFRICAP, L.L.C.  
A Delaware Limited Liability Company

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AFRICAP, L.L.C.

SECOND AMENDED AND RESTATED  
LIMITED LIABILITY COMPANY AGREEMENT

THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT of AFRICAP, L.L.C., a Delaware limited liability company, dated as of the \_\_\_\_ day of \_\_\_\_, 2014, is by and among the Members.

WHEREAS, the Members entered into an amended and restated limited liability company agreement on November 19, 1999 (the "1999 Agreement").

WHEREAS, the Members, by written consent in accordance with Section 4.7.1 of the 1999 Agreement and in accordance with Section 1.8 of Exhibit C to the 1999 Agreement, approved the amendment of the 1999 Agreement by this Agreement and now wish to consummate that approval by entering in to this Agreement, with the Company executing this Agreement on behalf of the Members under the Power of Attorney granted to the Company by the Members in Section 11.22 of the 1999 Agreement.

WHEREAS, the Company, the Members and the Managers intend that this Agreement govern the business and affairs of the Company commencing as of the date hereof and to constitute the "limited liability company agreement" of the Company within the meaning of the Act commencing as of the date hereof.

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

ARTICLE I

Defined Terms

1.01 Defined Terms. The following capitalized terms shall have the respective meanings ascribed to them below:

"Act" means the Delaware Limited Liability Company Act.

"Adjusted Capital Account" means, for each Member, such Member's Capital Account balance increased by such Member's share of "minimum gain" and of "partner nonrecourse debt minimum gain" (as determined pursuant to Treasury Regulation Sections 1.704-2(g) and 1.704-2(i)(5), respectively).

"Affiliate" means, with respect to any specified Person, (i) any Person that directly or indirectly controls, is controlled by, or is under common control with such specified Person, or (ii) any individual that is a member of the immediate family of the specified Person who is an individual. For the purposes of this definition "control", when used with respect to any specified Person, shall mean the power to direct or cause the direction of the management and policies of

such Person, directly or indirectly, whether through ownership of voting securities or other ownership interests, by contract or otherwise; and the terms “controlling” and “controlled” shall have correlative meanings. For the avoidance of doubt, no current Member shall be deemed to be an Affiliate of any other current Member.

“Agreement” means this Second Amended and Restated Limited Liability Company Agreement.

“Assistant Secretary” means an Officer of the Company with the duties set forth in Section 6.03(i).

“Assistant Treasurer” means an Officer of the Company with the duties set forth in Section 6.03(j).

“Board of Managers” has the meaning given it in Section 6.01.

“Capital Account” means a separate account maintained for each Member and adjusted in accordance with Treasury Regulations under Section 704 of the Code. To the extent consistent with such Treasury Regulations, the adjustments to such accounts shall include the following:

(i) There shall be credited to each Member’s Capital Account the amount of any cash actually contributed by such Member to the capital of the Company, the fair market value of any other property contributed by such Member to the capital of the Company, the amount of liabilities of the Company assumed by the Member or to which property distributed to the Member was subject and such Member’s share of the Net Profits of the Company and of any items in the nature of income or gain separately allocated to the Members; and there shall be charged against each Member’s Capital Account the amount of all cash distributions to such Member, the fair market value of any other property distributed to such Member by the Company, the amount of liabilities of the Member assumed by the Company or to which property contributed by the Member to the Company was subject and such Member’s share of the Net Losses of the Company and of any items in the nature of losses or deductions separately allocated to the Members.

(ii) If the Company at any time distributes any of its assets in-kind to any Member, the Capital Account of each Member shall be adjusted to account for that Member’s allocable share of the Net Profits, Net Losses or items thereof that would have been realized by the Company had it sold the assets that were distributed at their respective fair market values (taking Code Section 7701(g) into account) immediately prior to their distribution.

(iii) Upon (A) the acquisition of Units in exchange for a Capital Contribution, or (B) the election of the Company, at any time specified in Treasury Regulation Section 1.704-1(b)(2)(iv)(f), the Capital Account balance of each Member shall be adjusted to the extent provided under such Treasury Regulation to reflect the Member's allocable share (as determined under Article V) of the items of Net Profits or Net Losses that would be realized by the Company if it sold all of its property at its fair market value (taking Code Section 7701(g) into account) on the day of the event giving rise to the adjustment; provided that, if after such adjustment the Capital Account of each Member does not equal each Member’s share of Company Capital

determined as set forth in Section 5.02(a)(ii), then each Member's Capital Account shall be adjusted to an amount equal to such share of Company Capital.

(iv) In the event any interest in the Company is Transferred in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent it relates to the Transferred interest.

"Capital Contribution" means any contribution by a Member to the capital of the Company.

"Carrying Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes; provided, however, that (i) the initial Carrying Value of any asset contributed to the Company shall be adjusted to equal its gross fair market value at the time of its contribution and (ii) the Carrying Values of all assets held by the Company shall be adjusted to equal their respective gross fair market values (taking Code Section 7701(g) into account) upon an adjustment to the Capital Accounts of the Members described in paragraph (iii) of the definition of "Capital Account." The Carrying Value of any asset whose Carrying Value was adjusted pursuant to the preceding sentence thereafter shall be adjusted in accordance with the provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)(g).

"Certificate of Formation" means the Certificate of Formation of the Company filed prior to the date hereof with the office of the Secretary of State of the State of Delaware.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company" means Africap, L.L.C., a Delaware limited liability company subject to this Agreement.

"Company Capital" means an amount equal to the sum of all of the Members' Adjusted Capital Account balances determined immediately prior to the allocation to the Members pursuant to Sections 5.02(a)(ii) or 5.02(b)(i) of any Net Profits or Net Losses, increased by the aggregate amount of Net Profits then allocated to the Members pursuant to Section 5.02(a)(ii) or decreased by the aggregate amount of Net Losses then allocated to the Members pursuant to Section 5.02(b)(i).

"DGCL" means the General Corporation Law of the State of Delaware.

"Dividend" means any distribution of cash or other property made by the Company prior to the dissolution and liquidation of the Company in respect of Units.

"Governmental Authority" means any governmental, administrative or regulatory agency, bureau, department or other body or instrumentality, whether federal, state, local or foreign.

"Indemnitee" has the meaning given it in Section 6.07(b).

“Lien” means any lien, charge, claim, pledge, security interest, security agreement, right to purchase, conditional sale agreement or other title retention agreement, mortgage, restriction, reservation, reversion, option, covenant or other encumbrance.

“Liquidation” means any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, provided that, unless otherwise provided herein, “Liquidation” shall not include any transaction governed by Section 18-209 of the Act.

“Liquidator” means any Person or Persons charged with winding up and/or liquidating the business, affairs and/or assets of the Company in accordance with the provisions hereof, each of which Persons shall be deemed to be a “liquidating trustee” within the meaning of the Act.

“Manager” has the meaning given it in Section 6.01.

“Member” means any Person which is a holder of record of one or more Units, as reflected in the Unit Register, in each such Person’s capacity as (and for the period during which such Person continues to be) such holder.

“Membership Interest” means all of a Member’s interest in the Company as a “member” within the meaning of the Act (for the avoidance of doubt, not including any interest as a creditor), including the rights, if any, to receive allocations of Net Profits and Net Losses and distributions of cash or other property, to buy or sell Units, and to vote, consent or approve.

“Net Profits” and “Net Losses” mean the taxable income or loss, as the case may be, as determined in accordance with Code Section 703(a) computed with the following adjustments:

(i) Items of gain, loss, and deduction shall be computed based upon the Carrying Values of the Company’s assets (in accordance with Treasury Regulation Sections 1.704-1(b)(2)(iv)(g) and/or 1.704-3(d)) rather than upon the assets’ adjusted bases for federal income tax purposes;

(ii) Any tax-exempt income received by the Company shall be included as an item of gross income;

(iii) The amount of any adjustments to the Carrying Values of any assets of the Company pursuant to Code Section 743 shall not be taken into account;

(iv) Any expenditure of the Company described in Code Section 705(a)(2)(B) (including any expenditures treated as being described in Code Section 705(a)(2)(B) pursuant to Treasury Regulations under Code Section 704(b)) shall be treated as a deductible expense;

(v) The amount of income, gain, loss or deduction specially allocated to any Members pursuant to Section 5.03 shall not be included in the computation; and

(vi) The amount of any items of Net Profits or Net Losses deemed realized pursuant to paragraphs (ii) and (iii) of the definition of “Capital Account” shall be included in the computation.

“Officers” shall mean individuals with the duties set forth in Section 6.03.

“Permitted Persons” has the meaning given it in Section 7.01.

“Person” means any corporation, limited or general partnership, limited liability company, trust, unincorporated association, any other entity or organization, Governmental Authority, or an individual.

“President” means an Officer of the Company with the duties set forth in Section 6.03(g).

“Secretary” means an Officer of the Company with the duties set forth in Section 6.03(i).

“Securities Act” means the Securities Act of 1933, as amended.

“Tax Matters Partner” has the meaning given it in Section 8.05.

“Transfer” and any grammatical variation thereof shall, with respect to any Unit, refer to any sale, exchange, issuance, redemption, assignment, distribution, gift or other transfer, disposition or alienation in any way (whether directly or indirectly, and whether voluntarily, involuntarily or by operation of law) of such Unit.

“Treasurer” means an Officer of the Company with the duties set forth in Section 6.03(j).

“Unit” means a unit of Membership Interest, and any successor security (including any such security of a successor entity).

“Unit Register” means a list of Members and their respective holdings of Units, together with Capital Contributions relating to such Units, maintained with the books and records of the Company in the manner described in Section 8.01.

“Vice President” means an Officer of the Company with the duties set forth in Section 6.03(h).

## ARTICLE II

### General

2.01 Name of the Limited Liability Company. The name of the Company is “Africap, L.L.C.”. The name of the Company may be changed at any time or from time to time with the approval of the Board of Managers.

2.02 Office of the Limited Liability Company; Agent for Service of Process. The address of the registered office of the Company is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The name and address of the resident agent for service of process for the Company is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801. The Board of Managers may establish places of business of the Company within and without the

State of Delaware, as and when required by the Company's business and in furtherance of its purposes, and may appoint (or cause the appointment of) agents for service of process in all jurisdictions in which the Company shall conduct business. The Company may, with the approval of the Board of Managers, change from time to time its resident agent for service of process, or the location of its registered office in Delaware.

2.03 Certain Filings. The Board of Managers and any Officer may cause the Company to file such other certificates and documents as may be necessary or appropriate to comply with the Act and any other applicable requirements for the operation of a limited liability company in accordance with the laws of the State of Delaware and any other jurisdictions in which the Company shall conduct business, and to maintain such filings for so long as the Company conducts business therein.

2.04 Purposes; Powers. The Company may engage in any business or activity in which a limited liability company organized under the laws of the State of Delaware may lawfully engage, and shall have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the Act (including the borrowing of money and the issuance of guarantees of indebtedness of other Persons).

2.05 Members; Units and Percentage Interests.

(a) The name and business address of each of the Members shall be set forth in the Unit Register.

(b) Under the 1999 Agreement, each Member had a "Percentage Interest." Under this Agreement, each Percentage Interest has been converted in to Units, with each Member's Percentage Interest being calculated to six decimal places, then multiplied by 10,000 to determine the number of Units deemed to be held by the applicable Member in lieu of such Member's Percentage Interest. For example, if a Member had a Percentage Interest of 2.035760% under the 1999 Agreement, that Member will have 20,357.60 Units under this Agreement. This change from Percentage Interests to Units is to make the administration of the Company more efficient and is not intended to change the relative ownership interests of the Members as of the date of this Agreement. Additional Members may only be admitted to the Company in accordance with Section 2.05(c).

(c) Any Person acquiring one or more Units from the Company or from another Member in accordance with this Agreement shall, unless such acquiring Person is a Member as of immediately prior to such acquisition, be deemed to have been admitted to the Company as a Member, with no further action by the Board of Managers or any of the Members being necessary therefor, upon consummation of such acquisition of Units and execution by such acquiring Person of a copy of this Agreement or a counterpart hereof or another instrument evidencing such Person's agreement to be bound by the provisions hereof.

(d) In connection with any issuance of Units in accordance with the provisions of this Agreement, the Unit Register shall be amended to reflect each additional Member (if any), and any such amendment may be effected by the Board of Managers or any one or more Officers without any vote, consent, approval or other action of the Members.

(e) No Member shall have the right or power to resign, withdraw or retire from the Company as a Member prior to the dissolution and liquidation of the Company (except upon a Transfer of record ownership of all of such Member's Units in compliance with, and subject to, the provisions of Article IX).

(f) No Member may be expelled or required to resign, withdraw or retire from the Company (except upon a Transfer of record ownership of all of such Member's Units in compliance with, and subject to, the provisions of Article IX).

2.06 Liability of Members. Except as otherwise provided by non-waivable provisions of the Act or other applicable law, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and neither any Member nor any Manager shall be obligated personally for any such debt, obligation or liability of the Company by reason of being a Member or Manager. Without limiting the foregoing, (i) no Member, in its capacity as a Member (or, if applicable, as a Manager), shall have any liability to restore any negative balance in its Capital Account, and (ii) the failure of the Company to observe any formalities or requirements relating to exercise of its powers or management of its business or affairs under this Agreement or the Act shall not be grounds for imposing personal liability on the Members or the Managers for liabilities of the Company.

2.07 No Partnership. The Company is not intended to be a general partnership, limited partnership or joint venture, and no Member or Manager shall be considered to be a partner or joint venturer of any other Member or Manager, for any purposes other than foreign and domestic federal, state, provincial and local income tax purposes, and this Agreement shall not be construed to suggest otherwise.

2.08 Title to Company Property. All property owned by the Company, whether real or personal, tangible or intangible, shall be deemed to be owned by the Company as an entity, and no Member or Manager, individually, shall have any ownership of such property. The Company may hold any of its assets in its own name or in the name of its nominee, which nominee may be one or more trusts. Any property held by a nominee trust for the benefit of the Company shall, for purposes of this Agreement, be treated as if such property were directly owned by the Company.

### ARTICLE III

#### Capital Structure

##### 3.01 Units.

(a) All Membership Interests in the Company shall be denominated in Units. Subject to the other provisions of this Agreement (including those governing the Members' respective rights to receive allocations of Net Profits and Net Losses and distributions of cash or other property, and to buy or sell Units), each Unit shall have the rights, and be subject to the obligations, identical to those of each other Unit.



(b) The aggregate number of Units that the Company shall have authority to issue is 2,000,000.00.

(c) Each Member's holdings of Units shall be evidenced by a certificate therefor in the form approved by the Board of Managers. Each certificate representing Units will, until the time (A) such Units have been effectively registered under Section 5 of the Securities Act and disposed of pursuant to an effective registration statement or (B) such Units can be freely sold and transferred without restriction under the Securities Act, bear the following legends:

(i) “THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE “ACT”) OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND, UNLESS SO REGISTERED, THEY MAY NOT BE SOLD, OFFERED FOR SALE, TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE ACT AND APPLICABLE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION.”;

(ii) “THESE SECURITIES ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF AFRICAP L.L.C., DATED AS OF JULY \_\_\_\_, 2014 AS IT MAY BE FURTHER AMENDED AND/OR RESTATED THEREAFTER IN ACCORDANCE WITH THE TERMS THEREOF, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF AFRICAP L.L.C.”; and

(iii) any legend required by the “blue sky” laws of any state to the extent such laws are applicable to the Units represented by such certificate, or by any other applicable law.

(d) In connection with any issuance of any additional Units in accordance with the provisions of this Agreement, the Unit Register shall be amended to reflect the number of such Units, and any such amendment may be effected by the Board of Managers or any one or more Officers without any vote, consent, approval or other action of the Members.

### 3.02 Rights of Units.

(a) Subject to the other provisions of this Agreement (including those governing the Members' respective rights to receive allocations of Net Profits and Net Losses and to buy or sell Units), each Unit shall have the rights, and be subject to the obligations, identical to those of each other Unit. Units may be issued by the Company from time to time, provided that the aggregate number of Units issued by the Company shall not exceed the maximum number of Units the Company is authorized to issue as set forth in Section 3.01(b).

(b) The holders of Units shall be entitled to one vote for each whole Unit held and a partial vote each partial Unit held equal to the percentage of a full Unit which such partial Unit represents, at all meetings of Members (and written actions in lieu of meetings), with no

right to cumulative voting. Any Units which may be purchased or acquired by the Company may be reissued except as otherwise provided by law or this Agreement.

### 3.03 Capital Contributions.

(a) Any Person (including any Person that is a Member) acquiring one or more Units from the Company on or after the date hereof shall be deemed to have made a Capital Contribution in the amount of cash paid and/or the fair market value of any other property (including any promissory note or other evidence of indebtedness of such Person to the Company) and/or services transferred or otherwise contributed to the Company as consideration for such Units (or otherwise in connection with such acquisition thereof) which shall be reflected on the Unit Register of the Company.

(b) In connection with any issuance on or after the date hereof of additional Units in accordance with the provisions hereof, the Unit Register shall be amended to reflect the amount of the Capital Contribution attributable to such Units, if any, and any such amendment may be effected by the Board of Managers or any one or more Officers without any vote, consent, approval or other action of the Members.

3.04 No Withdrawal of or Interest on Capital. Except as otherwise expressly provided in Section 3.03 or elsewhere in this Agreement, no Member shall be obligated or permitted to make any additional Capital Contribution. No interest shall accrue on any Capital Contribution, and no Member shall have the right to withdraw or to be repaid any Capital Contribution or to receive any other payment in respect of its Membership Interest (including any payment contemplated by Section 18-604 of the Act, and this Section 3.04 shall expressly constitute “provision otherwise” for the purposes of Section 18-604 of the Act), except as specifically provided in this Agreement.

3.05 Debt Financing. In the event that the Company requires additional funds to carry out its purposes, to conduct its business, or to meet its obligations, the Company may borrow funds from such Persons (whether or not Members), and on such terms and conditions, as may be approved by the Board of Managers.

## ARTICLE IV

### Distributions

4.01 Dividends. Subject to the other provisions of this Agreement:

(a) Dividends shall be paid to the Members of record at such time or times prior to the dissolution and liquidation of the Company, and in such aggregate amounts, as the Board of Managers shall determine; and

(b) Distributions to be made by the Company prior to Liquidation shall be made to the Members in proportion to their respective holdings of Units as of the record date for the relevant distribution (determined in accordance with Section 6.02(i)).

4.02 Distribution of Assets in Kind. Except as otherwise expressly provided herein, no Member shall have any right to require any distribution of any assets of the Company in kind. If any assets of the Company are distributed in kind, such assets shall, unless otherwise expressly provided herein, be distributed on the basis of their fair market value as determined by the Board of Managers. Any Member entitled to any interest in such assets shall, unless otherwise determined by the Board of Managers, receive separate assets of the Company and not an interest as a joint owner or other undivided interest with any other Member.

## ARTICLE V

### Capital Accounts; Allocation Of Net Profits And Net Losses

5.01 Capital Accounts. For each Member (and each permitted assignee, if any), the Company shall establish and maintain a separate Capital Account.

5.02 Basic Allocations.

(a) Except as provided in Section 5.03 below (which shall be applied first), Net Profits of the Company for any relevant period shall be allocated as follows:

(i) First, to any Members having negative Adjusted Capital Account balances, in proportion to and to the extent of such negative balances; and

(ii) The balance, if any, to the Members in such proportions and in such amounts as would result in the Adjusted Capital Account balance of each Member being positive to the extent of the amount of cash that such Member would receive if the Company sold all of its property for an amount of cash equal to the book value (as determined pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)) of such property (reduced, but not below zero, by the amount of nonrecourse debt to which such property is subject) and all of the cash of the Company remaining after payment of all liabilities (other than nonrecourse liabilities) of the Company were distributed in liquidation immediately following the end of such taxable year in accordance with Section 10.03.

(b) Except as provided in Section 5.03 below (which shall be applied first), Net Losses of the Company for any relevant period shall be allocated among the Members as follows:

(i) First, to each Member with a positive Adjusted Capital Account balance, in the amount of such positive balance; provided, however, that if the amount of Net Losses to be allocated is less than the sum of the Adjusted Capital Account balances of all Members having positive Adjusted Capital Account balances, then the Net Losses shall be allocated to the Members in such proportions and in such amounts as would result in the Adjusted Capital Account balance of each Member equaling, as nearly as possible, such Member's share of the then Company Capital determined as set forth in Section 5.02(a)(ii) above; and

(ii) The balance, if any, to the Members in proportion to their respective holdings of Units.

(c) If the amount of Net Profits allocable to the Members pursuant to Section 5.02(a)(ii) or the amount of Net Losses allocable to them pursuant to Section 5.02(b)(i) is insufficient to allow the Adjusted Capital Account balance of each Member to equal such Member's share of the Company Capital, such Net Profits or Net Losses shall be allocated among the Members in such a manner as to decrease the differences between the Members' respective Adjusted Capital Account balances and their respective shares of the Company Capital in proportion to such differences.

(d) Allocations of Net Profits and Net Losses provided for in this Section 5.02 shall generally be made as of the end of the fiscal year of the Company; provided, however, that allocations of items of Net Profits and Net Losses described in clause (vi) of the definition of "Net Profits" and "Net Losses" shall be made at the time deemed realized as described in the definition of "Capital Account."

5.03 Regulatory Allocations. Notwithstanding the provisions of Section 5.02 above, the following allocations of Net Profits, Net Losses and items thereof shall be made in the following order of priority:

(a) Items of income or gain (computed with the adjustments contained in paragraphs (i), (ii) and (iii) of the definition of "Net Profits and Net Losses") for any taxable period shall be allocated to the Members in the manner and to the minimum extent required by the "minimum gain chargeback" provisions of Treasury Regulation Section 1.704-2(f) and Treasury Regulation Section 1.704-2(i)(4).

(b) All "nonrecourse deductions" (as defined in Treasury Regulation Section 1.704-2(b)(1)) of the Company for any year shall be allocated to the Members in the same manner as Net Profits or Net Losses; provided, however, that nonrecourse deductions attributable to "partner nonrecourse debt" (as defined in Treasury Regulation Section 1.704-2(b)(4)) shall be allocated to the Members in accordance with the provisions of Treasury Regulation Section 1.704-2(i)(1).

(c) Items of income or gain (computed with the adjustments contained in paragraphs (i), (ii) and (iii) of the definition of "Net Profits and Net Losses") for any taxable period shall be allocated to the Members in the manner and to the extent required by the "qualified income offset" provisions of Treasury Regulation Section 1.704-1(b)(2)(ii)(d).

(d) In no event shall Net Losses of the Company be allocated to a Member if such allocation would cause or increase a negative balance in such Member's Adjusted Capital Account (determined, for purposes of this Section 5.03(d) only, by increasing the Member's Capital Account balance by the amount the Member is obligated to restore to the Company pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(c)).

(e) In the event that items of income, gain, loss or deduction are allocated to one or more Members pursuant to any of subsections (a) through (d) above (the "Original Allocation"), subsequent items of income, gain, loss or deduction will first be allocated (subject to the provisions of subsections (a) through (d) above) to the Members in a manner designed to result in each Member having a Capital Account balance equal to what it would have been had

the Original Allocation not occurred; provided, however, that no such allocation shall be made pursuant to this subsection (e) if (i) the Original Allocation had the effect of offsetting a prior Original Allocation or (ii) the Original Allocation likely (in the opinion of the Company's accountants) will be offset by another Original Allocation in the future (e.g., an Original Allocation of "nonrecourse deductions" under subsection (b) above that likely will be offset by a subsequent "minimum gain chargeback" under subsection (a) above).

(f) Except as otherwise provided herein or as required by Code Section 704, for tax purposes, all items of income, gain, loss, deduction or credit shall be allocated to the Members in the same manner as are Net Profits and Net Losses; provided, however, that if the Carrying Value of any property of the Company differs from its adjusted basis for tax purposes, then items of income, gain, loss, deduction or credit related to such property for tax purposes shall be allocated among the Members so as to take account of the variation between the adjusted basis of the property for tax purposes and its Carrying Value in the manner provided for under Code Section 704(c).

5.04 Allocations Upon Transfer or Admission. In the event that a Member acquires Units either by Transfer from another Member or by acquisition from the Company, the Net Profits, Net Losses, gross income, nonrecourse deductions and items thereof attributable to the Units so Transferred or acquired shall be allocated among the Members based on a method chosen by the Board of Managers (or, if the Board of Managers so determines, by the Chief Financial Officer), in its sole discretion, which method shall comply with Section 706 of the Code and shall be binding on all Members. For purposes of determining the date on which the acquisition occurs, the Company may make use of any convention allowable under Section 706(d) of the Code.

## ARTICLE VI

### Management

#### 6.01 Board of Managers.

(a) Size of the Board of Managers. Subject to the provisions of this Agreement, the business of the Company shall be managed under the direction of its Board of Managers consisting of no less than five and no more than eleven Managers. The exact number of Managers of the Company will be fixed from time to time by resolution duly adopted by the Managers. Until modified by such resolution, the number of Managers of the Company shall be six. The Managers as of the date of this Agreement are listed on Schedule 6.01, each of whom shall serve until he or she is replaced in accordance with the terms and provisions hereof.

(b) Expenses. Each Manager but shall be entitled to the reimbursement of reasonable expenses incurred in connection with performing his or her duties as a Manager in accordance with Company policy as in effect from time to time. Any Manager who directly or indirectly performs other services for the Company as an employee, consultant or independent contractor, shall be entitled to reasonable compensation therefor.

(c) Voting. The vote of a majority of the Managers shall constitute the act of the Board of Managers. Notwithstanding the foregoing, if a Manager is directly interested in any transaction upon which the Board of Managers is voting (as reasonably determined by the remaining Managers), such interested Manager shall abstain from the vote thereon and the vote of a majority of the then remaining Managers shall constitute the act of the Board of Managers.

(d) Meetings and Consents. The Board of Managers may hold such meetings at such place and at such time as it may determine. No notice shall be required of a regular meeting if the time and place of such meetings are fixed by the Board of Managers. Notice of a special meeting shall be served to the Managers not less than twenty-four (24) hours before the date and time fixed for such meeting by facsimile or other electronic communication and not less than three (3) days prior thereto if notice is provided by overnight delivery service. A special meeting of the Board of Managers may be called by any two Managers. Any member of the Board of Managers may participate in a meeting by conference telephone or similar communications equipment. Any action required or permitted to be taken by the Board of Managers may be taken without a meeting if such action is evidenced in writing and signed by the same number of Managers required for a valid act of the Board of Managers as set forth in subsection (c) above.

(e) Vacancies. Any Manager may resign at any time by giving written notice to the Company. In the event of a vacancy in the Board of Managers, as the result of resignation, death, disability of a Manager, such vacancy shall be filled by resolution duly adopted by the remaining Managers.

(f) Management Powers and Duties of the Board. The Board of Managers shall have the full, exclusive and absolute right, power and authority to manage and control the Company and the property, assets, affairs and business thereof, except as limited by the Act or otherwise provided in this Agreement. Except as so expressly limited, the Board of Managers shall have all of the rights, powers and authority conferred upon it by law or under the provisions of this Agreement.

## 6.02 Members.

(a) Place of Meetings. All meetings of Members shall be held at such place within or without the State of Delaware as may be designated from time to time by the Board of Managers or, if not so designated, at the principal office of the Company. The Board of Managers may, in its sole discretion, determine that a meeting shall not be held at any geographical place, but shall instead be held solely by means of remote communication in a manner determined by the Board of Managers.

(b) Meetings. Meetings of Members may be called at any time by the Board of Managers or by any Member that holds at least 10% of all outstanding Units. Business transacted at any special meeting of Members shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

(c) Notice of Meetings. Except as otherwise provided by law, written notice of each meeting of Members, whether annual or special, shall be given not less than 10 nor more than 60 days before the date of the meeting to each Member entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to Members, any notice shall be effective if given by a form of electronic transmission consented to by the Member to whom the notice is given. The notices of all meetings shall state the place, if any, date and hour of the meeting and the means of remote communications, if any, by which Members and proxy holders may be deemed to be present in person and vote at such meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the Member at its address as it appears on the records of the Company. If notice is given by electronic transmission, such notice shall be deemed given upon receipt.

(d) Quorum. Except as otherwise provided by law or this Agreement, the holders of a majority of the Units outstanding and entitled to vote at the meeting, present in person, present by means of remote communication, if any, authorized by the Board of Managers in its sole discretion, or represented by proxy, shall constitute a quorum for the transaction of business.

(e) Adjournments. Any meeting of Members may be adjourned from time to time to any other time and to any other place, if any, at which a meeting of Members may be held under this Agreement by the Members present or represented at the meeting and entitled to vote, although less than a quorum, or, if no Member is present, by any Officer entitled to preside at or to act as secretary of such meeting. It shall not be necessary to notify any Member of any adjournment of less than 30 days if the time and place, if any, of the adjourned meeting, and the means of remote communication, if any, by which the Members may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting.

(f) Voting and Proxies.

(i) Each Member holding Units entitled to vote on the relevant matter(s) of record shall be entitled to vote at a meeting of Members, or to express consent or dissent to the Company action in writing (including by e-mail or other means of electronic communication) without a meeting.

(ii) A Member holding Units entitled to vote on the relevant matter(s) may vote or express consent or dissent in person or may authorize another person or persons to vote or act for him, her or it by written proxy executed by the Member or his, her or its authorized agent and delivered (including by e-mail or other electronic transmission) to any Officer. No such proxy shall be voted or acted upon after three years from the date of its execution, unless the proxy expressly provides for a longer period.

(iii) A Member holding Units entitled to vote on the relevant matter(s) may vote (or express consent) in favor of such matter with respect to one or more such Units

and, with respect to the same matter, vote (or express dissent) against such matter, and/or abstain from voting, with respect to the remainder of such Units (or a portion thereof). In the event any Member elects to vote (or express consent or dissent) on any matter as described in the preceding sentence, the groups of such Member's Units (A) voted in favor of such matter, (B) voted against such matter, and/or (C) abstaining from such vote, shall each be deemed held, with respect to such matter, by a different Member.

(g) Action at Meeting. When a quorum is present at any meeting, the Members representing a majority of the total Units outstanding and entitled to vote, voting together as a single class, shall decide any matter to be voted upon by the Members at such meeting, except when a different vote is required by express provision of law or this Agreement.

(h) Action without Meeting. Any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, without prior notice and without a vote, if a consent in writing (including e-mail or other means of electronic communication), setting forth the action so taken, is signed (or otherwise clearly assented to by means allowing the creation of a permanent record, including e-mail or other means of electronic communication) by the Members holding not less than the minimum aggregate of Units outstanding and entitled to vote with respect to such action that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote on such action were present and voted. Prompt notice of the taking of an action without a meeting by less than unanimous written consent shall be given to those Members entitled to vote thereon who have not consented in writing or otherwise clearly indicated their assent as permitted herein.

(i) Record Date. The Board of Managers may fix in advance a date as a record date for the determination of the Members entitled to notice of or to vote at any meeting of Members or to express consent (or dissent) to Company action in writing without a meeting, or entitled to receive payment of any Dividend (subject to Section 5.04), allotment of any rights in respect of any change, conversion or exchange of Units, or for the purpose of any other lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 10 days after the date of adoption of a record date for a written consent without a meeting, nor more than 60 days prior to any other action to which such record date relates.

If no record date is fixed, the record date for determining Members entitled to notice of or to vote at a meeting of Members shall be at the close of business on the day before the day on which notice is given, or, if notice is waived, at the close of business on the day before the day on which the meeting is held. The record date for determining Members entitled to express consent to Company action in writing without a meeting, when no prior action by the Board of Managers is necessary, shall be the day on which the first written consent is properly delivered to the Company. The record date for determining Members for any other purpose shall be at the close of business on the day on which the Board of Managers adopts the resolution relating to such purpose.

A determination of Members of record entitled to notice of or to vote at a meeting of Members shall apply to any adjournment of the meeting; provided, however, that the Board of Managers may fix a new record date for the adjourned meeting.



### 6.03 Officers.

(a) Enumeration. The officers of the Company (the “Officers”) shall consist of a President, a Treasurer, a Secretary and such other Officers with such other titles as the Board of Managers shall determine, including one or more Vice Presidents, Assistant Treasurers, and Assistant Secretaries. The Board of Managers may appoint such other Officers as it may deem appropriate.

(b) Appointment. Any Officer may be appointed by the Board of Managers at any time.

(c) Qualification. No Officer need be a Member. Any two or more offices may be held by the same person.

(d) Tenure. Except as otherwise provided by law, or by this Agreement, each Officer shall hold office until his or her successor is duly appointed hereunder, unless a different term is specified by the Board of Managers, or until his or her earlier death, resignation or removal.

(e) Resignation and Removal. Any Officer may resign by delivering his or her written resignation to the Board of Managers. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any Officer may be removed at any time, with or without cause, by the Board of Managers, but such removal shall be without prejudice to the rights of such Officer, if any, under any contract or agreement between such Officer and the Company.

(f) Vacancies. The Board of Managers may fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any office. Each such successor shall hold office for the unexpired term of his or her predecessor and until his or her successor is duly appointed hereunder, or until his or her earlier death, resignation or removal.

(g) President. The President shall, subject to the direction of the Board of Managers, have general charge and supervision of the day-to-day business of the Company. The President shall perform such other duties and possess such other powers as the Board of Managers may from time to time prescribe.

(h) Vice Presidents. Any Vice President shall perform such duties and possess such powers as the Board of Managers may from time to time prescribe. In the event of the absence, inability or refusal to act of the President, the Vice President (or if there shall be more than one, the Vice Presidents in the order determined by the Board of Managers) shall perform the duties of the President and when so performing shall have all the powers of and be subject to all the restrictions upon the President. The Board of Managers may assign to any Vice President the title of Executive Vice President, Senior Vice President or any other title selected by the Board of Managers.

(i) Secretary and Assistant Secretaries. The Secretary shall perform such duties and possess such powers as the Board of Managers may from time to time prescribe. In

addition, the Secretary shall perform such duties and possess such powers as are incident to the office of the secretary of a corporation organized under the DGCL, including the duty and power to give notices of all meetings of Members, to attend all meetings of Members and keep a record of the proceedings, to maintain the Unit Register, and to be custodian of the Company records.

Any Assistant Secretary shall perform such duties and possess such powers as the Board of Managers or the Secretary may from time to time prescribe. In the event of the absence, inability or refusal to act of the Secretary, the Assistant Secretary (or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Managers) shall perform the duties and exercise the powers of the Secretary.

In the absence of the Secretary or any Assistant Secretary at any meeting of Members, the person presiding at the meeting shall designate a temporary secretary to keep a record of the meeting.

(j) Treasurer and Assistant Treasurers. The Treasurer shall perform such duties and possess such powers as may from time to time be assigned to him or her by the Board of Managers. In addition, the Treasurer shall perform such duties and possess such powers as are incident to the office of the treasurer of a corporation organized under the DGCL, including the duty and power to keep and be responsible for all funds and securities of the Company, to deposit funds of the Company in depositories selected to keep and disburse such funds as ordered by the Board of Managers, to make proper accounts of such funds, and to render as required by the Board of Managers statements of financial transactions and of the financial condition of the Company.

The Assistant Treasurers shall perform such duties and possess such powers as the Board of Managers, the Chief Financial Officer or the Treasurer may from time to time prescribe. In the event of the absence, inability or refusal to act of the Treasurer, the Assistant Treasurer (or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Managers) shall perform the duties and exercise the powers of the Treasurer.

(k) Salaries. Officers shall be entitled to such salaries, compensation or reimbursement (if any) as shall be fixed or allowed from time to time by the Board of Managers, in accordance with the Budget.

6.04 Binding the Company. Except as authorized by the Board of Managers, and subject to the other provisions of this Agreement, no deeds, leases, contracts, bonds, notes, checks, drafts or other obligations made, accepted or endorsed by the Company shall be signed by any one or more Officers.

6.05 Contracts with Members, Board of Managers and Officers. In addition to the transactions contemplated hereby, the Company may engage in business with, or enter into one or more agreements, leases, contracts or other arrangements for the furnishing to or by the Company of goods, services, technology or space with, any Member, any member of the Board of Managers or Officer, or an Affiliate of any Member, any member of the Board of Managers or Officer, and may pay compensation in connection with such business, goods, services, technology or space, provided in each case the amounts payable thereunder are reasonably

comparable to those which would be payable to unaffiliated Persons under similar arrangements, and if the Board of Managers determines in good faith that such amounts are so comparable.

#### 6.06 Exculpation and Indemnification of the Board of Managers.

(a) The Managers shall have no liability to the Company or to any Member or Manager for any loss suffered by the Company which arises out of any action or inaction in their capacity as a Manager hereunder, regardless of whether such action or inaction was taken (or omitted to be taken) in good faith, reasonably, in reliance on the provisions of this Agreement, in (or not opposed to) the best interests of the Company, or otherwise.

(b) The Company shall, to the fullest extent permitted by applicable law, indemnify each member of the Board of Managers against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually incurred by or on behalf of a Manager in connection with any threatened, pending or completed action, suit or proceeding (and any appeal therefrom), whether civil, criminal, administrative or investigative, to which a Manager was or is a party or is threatened to be made a party by reason of the fact that a Manager is or was, or has agreed to become, a Manager, or by reason of any action taken or omitted, or alleged to have been taken or omitted, by a Manager in such capacity. In connection with any such action, suit or proceeding (and any appeal therefrom), the Company shall either (i) assume the defense thereof at its own expense, with legal counsel reasonably acceptable to the Manager, or (ii) pay in advance of the final disposition of such matter any expenses (including attorneys' fees) actually incurred by a Manager in defending any such action, suit or proceeding (and any appeal therefrom).

(c) The Company shall not indemnify a Manager to the extent the Manager is reimbursed from the proceeds of insurance, and in the event the Company makes any indemnification payments to a Manager and the Manager is subsequently reimbursed from the proceeds of insurance, the Manager shall promptly refund such indemnification payments to the Company to the extent of such insurance reimbursement.

(d) The rights of a Manager under this Section 6.06 (i) shall not be deemed exclusive of (but shall be without duplication of) any other rights to which the Manager may be entitled hereunder, and (ii) shall inure to the benefit of Manager's successors and permitted assigns.

#### 6.07 Exculpation and Indemnification of Officers.

(a) No Indemnitee shall have any liability to the Company or to any Member or Manager for any loss suffered by the Company which arises out of any action or inaction by such Indemnitee with respect to the Company if such Indemnitee so acted or omitted to act (i) in the good faith (A) and reasonable belief that such course of conduct was in, or was not opposed to, the best interests of the Company, or (B) reliance on the provisions of this Agreement, and (ii) such course of conduct did not constitute gross negligence or willful misconduct of such Indemnitee.

(b) The Company shall, to the fullest extent permitted by applicable law, indemnify each Person who was or is a party or is threatened to be made a party to any

threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was, or has agreed to become, an Officer, or is or was serving, or has agreed to serve, at the request of the Company, as a Manager, officer, manager or trustee of, or in a similar capacity with, another corporation, partnership, limited liability company, joint venture, trust or other enterprise (including any employee benefit plan) (each such Person being referred to hereafter as an “Indemnatee”), or by reason of any action taken or omitted, or alleged to have been taken or omitted, in such capacity, against all expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by or on behalf of such Indemnatee in connection with such action, suit or proceeding and any appeal therefrom.

(c) As a condition precedent to his or her right to be indemnified, the Indemnatee must notify the Company in writing as soon as practicable of any action, suit, proceeding or investigation involving him or her for which indemnity hereunder will or could be sought; provided that no failure to so notify the Company shall relieve the Company of its obligations to an Indemnatee hereunder except to the extent that the Company is prejudiced by such failure. With respect to any action, suit, proceeding or investigation of which the Company is so notified, the Company will be entitled to participate therein at its own expense and/or to assume the defense thereof at its own expense, with legal counsel reasonably acceptable to the Indemnatee.

(d) In the event that the Company does not assume the defense of any action, suit, proceeding or investigation of which the Company receives notice under this Section 6.07, the Company shall pay in advance of the final disposition of such matter any expenses (including attorneys’ fees) incurred by an Indemnatee in defending a civil or criminal action, suit, proceeding or investigation or any appeal therefrom as such expenses are incurred; provided, however, that the payment of such expenses incurred by an Indemnatee in advance of the final disposition of such matter shall be made only upon receipt of an undertaking by or on behalf of the Indemnatee to repay all amounts so advanced in the event that it shall ultimately be determined that the Indemnatee is not entitled to be indemnified by the Company as authorized in this Section 6.07, which undertaking shall be accepted without reference to the financial ability of the Indemnatee to make such repayment; and further provided that no such advancement of expenses shall be made if it is determined that (i) the Indemnatee did not act (A) in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company, or (B) in the good faith reliance on the provisions of this Agreement, or (ii) with respect to any criminal action or proceeding, the Indemnatee had reasonable cause to believe his or her conduct was unlawful.

(e) The Company shall not indemnify an Indemnatee seeking indemnification in connection with a proceeding (or part thereof) initiated by such Indemnatee unless the initiation thereof was approved by the Board of Managers. In addition, the Company shall not indemnify an Indemnatee to the extent such Indemnatee is reimbursed from the proceeds of insurance, and in the event the Company makes any indemnification payments to an Indemnatee and such Indemnatee is subsequently reimbursed from the proceeds of insurance, such Indemnatee shall promptly refund such indemnification payments to the Company to the extent of such insurance reimbursement.

(f) All determinations hereunder as to the entitlement of an Indemnitee to indemnification or advancement of expenses shall be made in each instance by (in order of priority) (i) the Board of Managers if the Board of Managers is not at that time a party to the action, suit or proceeding in question, (ii) a majority vote of a quorum of the outstanding Units, which quorum shall consist of Members who are not at that time parties to the action, suit or proceeding in question, (iii) independent legal counsel (who may, to the extent permitted by law, be regular legal counsel to the Company), or (iv) a court of competent jurisdiction.

(g) The rights of an Indemnitee under this Section 6.07 (i) shall not be deemed exclusive of any other rights to which an Indemnitee may be entitled under any law, agreement, resolution of the Board of Managers or otherwise, and (ii) shall inure to the benefit of the heirs, executors and administrators of such Indemnitee. The Company may, to the extent authorized from time to time by its Board of Managers, grant indemnification rights to other employees or agents of the Company or the Board of Managers, or other Persons serving the Company or the Board of Managers, and such rights may be equivalent to, or greater or less than, those set forth in this Section 6.07. Any indemnification to be provided hereunder shall be provided although the Person to be indemnified is no longer an Officer (or serving at the request of the Company as a Manager, officer, manager or trustee of, or in a similar capacity with, another corporation, partnership, limited liability company, joint venture, trust or other enterprise (including any employee benefit plan), as applicable).

## ARTICLE VII

### Freedom of Action

7.01 Freedom of Action. Each Member and its respective Affiliates and their respective employees, officers, managers, stockholders, members, managers, trustees, general and limited partners, agents and representatives) (collectively, the “Permitted Persons”) may have other business interests and may engage in any other business or trade, profession or employment whatsoever, on its own account, or in partnership with, or as employees, officers, managers, stockholders, members, managers, trustees, general or limited partners, agents or representatives of any other Person, and no Permitted Person shall be required to devote its entire time to the business of the Company (subject in each case to (A) the terms of any other agreement between such Permitted Person and the Company and/or the Board of Managers, and (B) fiduciary or other duties to which such Person may be subject in another capacity). Without limiting the generality of (but subject to the limitations set forth in clauses (A) and (B) of) the foregoing, each Permitted Person (i) may engage in similar activities or lines of business as the Company or develop or market any products or services that compete, directly or indirectly, with those of the Company, (ii) may invest or own any interest publicly or privately in, or develop a business relationship with, any Person engaged in similar activities or lines of business as, or otherwise in competition with, the Company and (iii) do business with any client or customer of the Company. Neither the Company nor any Member or member of the Board of Managers, nor any of any Affiliate thereof, by virtue of this Agreement, shall have any rights in and to any such independent venture or the income or profits derived therefrom, regardless of whether or not such venture was initially presented to a Permitted Person as a direct or indirect result of its connection with the Company. No Permitted Person shall have any obligation to present any business opportunity to the Company, even if the opportunity is one that the Company might

reasonably be deemed to have pursued or had the ability or desire to pursue, in each case, if granted the opportunity to do so, and no Permitted Person shall be liable to the Company or any Member or member of the Board of Managers (or any Affiliate thereof) for breach of any fiduciary or other duty relating to the Company (whether imposed by law or otherwise), as a Member or member of the Board of Managers or otherwise, by reason of the fact that a Permitted Person pursues or acquires such business opportunity, directs such business opportunity to another Person or fails to present such business opportunity, or information regarding such business opportunity, to the Company (subject in each case to (A) the terms of any other agreement between such Permitted Person and the Company and/or the Board of Managers, and (B) fiduciary or other duties to which such Permitted Person may be subject in another capacity).

## ARTICLE VIII

### Books and Records; Fiscal Matters

8.01 Books and Records. The Company or a third party designated by the Company shall keep, at the principal office of the Company or in such other location as the Board of Managers or any appropriate Officer may designate, complete and accurate books and records of the Company, maintained in such form and manner as any appropriate Officer may determine. The Company shall make available for examination and copying by any Member, at its reasonable request and at its expense during ordinary business hours, for any purpose reasonably related to such Member's interest in the Company and in compliance with such other conditions as may be reasonably established by the Board of Managers, all documents and information required to be furnished to the Members under the Act. Any request by a Member under this Section 8.01 shall be in writing and shall state the purpose of such request.

#### 8.02 Financial and Other Reports.

(a) The Company shall use its best efforts to provide to each Member copies of the Company's annual financial statements for each fiscal year within 120 days after the end of such fiscal year. Such financial statements will be accompanied by the report thereon, if any, of the independent accountants engaged by the Company or, if there is no report, the certificate of a Manager that the financial statements were prepared without audit from the books and records of the Company.

(b) The Company shall prepare and provide to the Members, or cause to be so prepared and provided, not later than 90 days after the end of each fiscal year of the Company, such information as is necessary for the Members to complete their respective federal and state income tax or information returns, and a copy of the Company's federal, state, and local income tax or information returns for that year.

(c) The Company shall bear the cost of all reports and information to be provided to the Members pursuant to this Section 8.02.

8.03 Bank Accounts. The Company may open and maintain one or more accounts with such one or more financial institutions as the Board of Managers or an appropriate Officer may determine to be necessary or advisable. To the extent deemed necessary or advisable by the

Board of Managers or any appropriate Officer, the Members shall adopt resolutions more specifically effectuating the foregoing provisions of this Section 8.03. No funds belonging to any Person other than the Company (whether or not a Member) shall in any way be deposited or kept in any such account of the Company or otherwise be commingled with any funds of the Company.

8.04 Fiscal Year. The fiscal year of the Company shall end on December 31 of each year.

8.05 Tax Matters Partner. Except as provided in this Section 8.05, FCA Investment Company or another Person designated at any time by the Board of Managers shall serve as the tax matters partner of the Company as defined under Code Section 6231(a)(7) (the “Tax Matters Partner”), to manage administrative Tax proceedings conducted at the Company level by the Internal Revenue Service with respect to Company matters. The Tax Matters Partner is specifically directed and authorized to take whatever steps it, in its sole and absolute discretion, deems necessary or desirable to perfect such designation, including, without limitation, filing any forms or documents with the Internal Revenue Service and taking such other action as may from time to time be required under Treasury Regulations. If at any time FCA Investment Company is not permitted to serve, or refuses to serve, as the Tax Matters Partner, the Board of Managers shall designate another Person consenting thereto to serve as the Tax Matters Partner. The Tax Matters Partner is hereby authorized to and shall perform all duties of a Tax Matters Partner and shall serve as Tax Matters Partner until the sooner of (i) its resignation; (ii) the designation of its successor; (iii) its removal by the Board of Managers; or (v) its not being eligible under the Code to serve. The Tax Matters Partner shall be reimbursed by the Company for all expenses actually incurred by the Tax Matters Partner in connection with his performance of its duties as such, and the Company shall indemnify and hold harmless the Tax Matters Partner from and against any and all losses, claims, liabilities, costs and expenses incurred by the Tax Matters Partner in connection with its performance of its duties as such.

## ARTICLE IX

### Transfers of Units

#### 9.01 General Restrictions on Transfer.

(a) Except as otherwise provided in this Agreement, no Member may (i) Transfer all or any part of the Units held by it, or any interest therein, to any Person, or (ii) hypothecate, pledge, grant any option to purchase or security interest in, place in trust, or create or suffer to exist any Lien on, all or any part of the Units held by it, or any interest therein, in each case unless such Member has complied with the provisions of Section 9.02 below and the Board of Managers has consented to such Transfer in writing, which consent shall not be unreasonably withheld or delayed. Any Transfer or attempted Transfer or action or attempted action described in clause (ii) of the foregoing sentence, in each case in contravention of the foregoing sentence or any other provision of this Agreement, shall be null and void *ab initio* and ineffective to transfer any Unit, or any interest therein, and shall not bind, or be recognized by, or

on the books of, the Company, and any Transferee in such transaction shall not be or be treated as or deemed to be a Member (or an assignee within the meaning of Section 18-702 of the Act) for any purpose.

(b) The Company shall not be required to recognize any Transfer of Units until the instrument conveying such Units, in form and substance reasonably satisfactory to the Company, has been delivered to the Company at its principal office for recordation on the books of the Company. The Company shall be entitled to treat the record owner of any Units as the absolute owner thereof in all respects, and shall incur no liability for distributions of cash or other property made in good faith to such owner until such time as the instrument conveying such Units, in form and substance reasonably satisfactory to the Company, has been received and accepted by the Company and recorded on the books of the Company.

(c) In connection with any Transfer of Units by any Member made in accordance with this Section 9.01, the Unit Register shall be amended to reflect such Transfer (and, to the extent necessary, the admission of each additional Member (if any) to the Company), and any such amendment may be effected by the Board of Managers or any one or more Officers without any vote, consent, approval or other action of the Members.

9.02 Right of First Refusal; Company Notice to Members. If any Member desires to sell, transfer or assign any of such Member's Units to a prospective purchaser other than the Company itself, such Member shall send a written notice to the Company, setting forth in reasonable detail the terms and conditions of the proposed sale or transfer and the identity of the proposed purchase or transferee. The Company shall have the right to purchase such Units on the terms and conditions set forth in the notice. Such right shall terminate as to such proposed sale or transfer unless the Company notifies the Member that it will purchase all or any part of the Units to be sold or transferred. If the Company does not notify the Member within such 60-day period, or if the Company's notice is not for all of the Units proposed to be sold or transferred, the Member shall be free, for a period of 60 days thereafter, to consummate the proposed sale, as to any and all Units not to be sold or transferred to the Company, to the proposed purchaser on terms and conditions no less favorable to the Member than those set forth in the Member's notice to the Company. After the final consummation of the transactions described above with respect to any sale, transfer or assignment, and if the Company has acquired Units from the transferring Member, the Company shall, subject to the Securities Act and all other applicable state and federal laws, notify the Members of the Company's acquisition of Units and solicit indications of interest from each Member regarding such Member's desire to purchase some or all of the Units on the same terms and conditions as they were acquired by the Company. If a Member indicates a desire to acquire the applicable Units, the Company shall use all reasonable business efforts to consummate the transaction with such Member as soon as practicable. If more than one of the Members indicates a desire to purchase Units pursuant to this Section 9.02, the Company shall allocate Units among such Members based on the relative numbers of Units owned by the Members who have indicated interest.

9.03 Agreement to be Bound. Notwithstanding anything to the contrary contained in this Agreement, no Member may Transfer any Units to any Transferee unless such Transferee, prior to such Transfer, agrees in writing, in form and substance satisfactory to the Board of



Managers, to be bound by the terms of this Agreement to the same extent, and in the same manner, as the Member proposing to Transfer such Units, which writing shall include the address of such Transferee to which notices given pursuant to this Agreement may be sent. In the event that any Member consummates such Transfer of its Units to a Transferee, all references in this Agreement to the Transferring Member shall be deemed to constitute, and shall be interpreted as, references to such Transferring Member (to the extent it remains a Member) and each such Transferee, as a group, for all purposes hereunder.

## ARTICLE X

### Dissolution and Liquidation

10.01 Events Causing Dissolution. The Company shall be dissolved and its affairs wound up solely upon the first to occur of the following:

- (a) Approval of dissolution of the Company by the Board of Managers;
- (b) December 31, 2024;
- (c) The time on which there are no Members, unless the Company is continued in accordance with the Act; or
- (d) The entry of a decree of judicial dissolution under Section 18-802 of the Act, or the occurrence of any other event which, pursuant to any non-waivable provision of the Act, causes dissolution of the Company.

For the avoidance of doubt, the Company shall not be dissolved upon the death, bankruptcy or dissolution of any Member or the occurrence of any other event that terminates the continued membership of any Member under the Act, and no Member shall have any right or power to cause dissolution of the Company by reason of the occurrence of any such event.

10.02 Procedures on Dissolution. Dissolution of the Company shall be effective on the day on which occurs the event giving rise to the dissolution, but the existence of the Company shall not terminate until the Certificate of Formation shall have been cancelled and the assets of the Company shall have been distributed as provided herein. Notwithstanding the dissolution of the Company, prior to the termination of the existence of the Company, as set forth above, the business of the Company and the affairs of the Members, as such, shall continue to be governed by this Agreement (subject to the powers granted to the Liquidator by the other provisions of this Article X and under applicable law). One or more Persons appointed as Liquidator by the Board of Managers shall liquidate the assets of the Company, apply and distribute the proceeds thereof as contemplated by this Agreement and cause the cancellation of the Certificate of Formation.

10.03 Distributions Upon Liquidation.

(a) Upon dissolution of the Company, the Liquidator shall satisfy liabilities owing to creditors, including by establishing such reserves as may be required by non-waivable provisions of Section 18-804(b) of the Act or as the Liquidator otherwise deems reasonably necessary for any contingent liabilities or obligations of the Company. Said reserves may be

paid over by the Liquidator to a bank, to be held in escrow for the purpose of complying with any such provisions of Section 18-804(b) of the Act or paying any such contingent liabilities or obligations and, at the expiration of such period as may be required by non-waivable provisions of Section 18-804(b) of the Act or as the Liquidator may deem advisable, such reserves shall be distributed to the Members or their assigns in the manner set forth in Section 10.03(b).

(b) After satisfying such liabilities (including by and through the creation of reserves), the Liquidator shall cause the remaining net assets of the Company to be distributed to all Persons which are Members as of the record date for the making of such liquidating distribution in proportion to their respective holdings or as may be otherwise provided herein.

In the event that any part of such net assets consists of notes or accounts receivable or other noncash assets, the Liquidator may take whatever steps it deems appropriate to convert such assets into cash or into any other form which would facilitate the distribution thereof. If any assets of the Company are to be distributed in kind, such assets shall be distributed on the basis of their fair market value net of any liabilities.

## ARTICLE XI

### Miscellaneous Provisions

11.01 Notices. Except as otherwise provided in this Agreement, any and all notices under this Agreement shall be effective (a) upon delivery or refusal of receipt if being sent by registered or certified mail, return receipt requested, postage prepaid, (b) upon delivery or refusal of receipt of express mail, or reputable commercial overnight delivery service providing a receipt for delivery, (c) on the date of actual hand delivery or (d) on the date actually received and accepted, if sent by any other method. In order to be effective, all such notices shall be addressed, if to the Company or any Officer, at the address of the Company's principal office as set forth in the books and records of the Company, and if to a Member or Board of Managers, at such Person's last address of record on the Company books.

11.02 Principles of Interpretation. In this Agreement, unless otherwise provided herein or therein:

- (a) words denoting the singular include the plural and vice versa;
- (b) words denoting a gender include all genders;
- (c) all exhibits, schedules and other attachments to the document in which the reference thereto is contained shall, unless the context otherwise requires, constitute an integral part of such document for all purposes;
- (d) references to a particular part, clause, section, paragraph, article, exhibit, schedule or other attachment shall be a reference to a part, clause, section, paragraph, or article of, or an exhibit, schedule or other attachment to, the document in which the reference is contained;

(e) a reference to any statute, regulation, proclamation, amendment, ordinance or law includes all statutes, regulations, proclamations, amendments, ordinances or laws varying, consolidating or replacing the same from time to time, and a reference to a statute includes all regulations, policies, protocols, codes, proclamations and ordinances issued or otherwise applicable under that statute unless, in any such case, otherwise expressly provided in any such statute or in the document in which the reference is contained;

(f) a reference to a particular section, paragraph or other part of a particular statute shall be deemed to be a reference to any other section, paragraph or other part substituted therefor from time to time;

(g) a definition of or reference to any document, instrument or agreement includes an amendment or supplement to, or restatement, replacement, modification or novation of, any such document, instrument or agreement unless otherwise specified in such definition or in the context in which such reference is used;

(h) a reference to any Person includes such Person's successors and permitted assigns in that designated capacity;

(i) any reference to "days" shall mean calendar days unless "business days" are expressly specified;

(j) if the date as of which any right, option or election is exercisable, or the date on which any notice is required or permitted to be given, or the date upon which any amount is due and payable, is stated to be on a date or day that is not a business day, such right, option or election may be exercised, such notice may be given, and such amount shall be deemed due and payable, on the next succeeding business day with the same effect as if the same was exercised, given or made on such date or day (without, in the case of any such payment, the payment or accrual of any interest or other late payment or charge, provided such payment is made on such next succeeding business day);

(k) words such as "hereunder", "hereto", "hereof" and "herein" and other words of similar import shall, unless the context requires otherwise, refer to the whole of the applicable document and not to any particular article, section, subsection, paragraph or clause thereof; and

(l) a reference to "including" means including without limiting the generality of any description preceding such term.

11.03 Binding Provisions; Assignment. Subject to the restrictions on Transfers of Units set forth herein, the covenants and agreements contained herein, and the rights and obligations of the parties hereunder, (i) shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, legal representatives, successors and permitted assigns, and (ii) may not be assigned except in connection with, and to the extent relating to, a Transfer of one or more Units permitted hereunder.

11.04 Applicable Law; Consent to Jurisdiction.

(a) This Agreement shall be construed and enforced in accordance with the laws of the State of Delaware, including the Act, as interpreted by the courts of the State of Delaware, notwithstanding any rules regarding choice of law to the contrary.

(b) Each of the parties hereto (i) consents to submit to the personal jurisdiction of any Federal court located in the State of Delaware or any Delaware state court in the event any dispute arises regarding this Agreement or the transactions contemplated hereby or thereby, (ii) agrees not to attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (iii) agrees not to bring any action relating to this Agreement or the transactions contemplated hereby or thereby in any court other than the Federal court sitting in the State of Delaware or any Delaware state court and (iv) waives any right to trial by jury with respect to any action related to, or arising out of, this Agreement or the transactions contemplated hereby or thereby.

11.05 Counterparts. This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

11.06 Separability of Provisions. Each provision of this Agreement shall be considered separable. To the extent that any provision of this Agreement is prohibited or ineffective under the Act or other applicable law, this Agreement shall be considered amended to the minimum extent possible in order to make the Agreement effective under the Act or such other applicable law (and, if the Act or such other applicable law is subsequently amended or interpreted in such manner as to make effective any provision of this Agreement that was formerly rendered invalid, such provision shall automatically be considered to be valid from the effective date of such amendment or interpretation).

11.07 Section Titles. Article and Section titles are included herein for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

11.08 Amendments. Except as otherwise provided in this Agreement (including Sections 2.05, 3.01, 3.03 and 3.04 and Article IX), this Agreement may be amended or modified only upon approval of (i) the Board of Managers and (ii) the Members (acting in accordance with Section 6.02); provided that:

(a) Any repeal or modification of Section 6.07 shall not adversely affect any right or protection of a Manager (or any of his, her or its successors or permitted assigns) existing at the time of such repeal or modification with respect to actions or omissions occurring prior to such repeal or modification, and any repeal or modification of Section 6.07 shall not adversely affect any right or protection of an Indemnitee existing at the time of such repeal or modification with respect to actions or omissions occurring prior to such repeal or modification;

(b) Notwithstanding any other provision of this Agreement (including the foregoing provisions of this Section 11.08), the Board of Managers may modify Article V of this Agreement and related defined terms if the Company is advised at any time by its legal counsel that the allocations of Net Profits and Net Losses and similar items provided for in Article V are unlikely to be respected for federal income tax purposes, either because of the promulgation and

adoption of Treasury Regulations under Code Section 704 or other developments in applicable law. In making any such amendment, the Board of Managers shall use its reasonable best efforts to effect as little change in the tax arrangements among the Members as it shall determine in its sole discretion to be necessary to provide for allocations of Net Profits and Net Losses and similar items to the Member which it believes will be respected for federal income tax purposes. No such amendment shall give rise to any claim or cause of action by any Member.

11.09 Third Party Beneficiaries. Except to the extent provided in any separate written agreement between the Company and another Person, the provisions of this Agreement, including Article III, are not intended to be for the benefit of any creditor (other than a Member or member of the Board of Managers which is a creditor) or other Person (other than a Member or member of the Board of Managers in its capacity as such) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Company or any of the Members or member of the Board of Managers. Moreover, notwithstanding anything contained in this Agreement, including Article III (but subject to the immediately following sentence), no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the Company or any Member or member of the Board of Managers. Notwithstanding the foregoing, each Indemnitee that is not a party to this Agreement shall be deemed to be an express third party beneficiary of this Agreement for all purposes relating to such Person's exculpation and indemnification rights hereunder.

11.10 Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. The Members and the members of the Board of Managers hereby agree that each Member, Manager and Officer shall be entitled to rely on the provisions of this Agreement, and no Member, Manager or Officer shall be liable to the Company or any other Person for any action or refusal to act taken in good faith reliance on the terms of this Agreement.

11.11 Waiver of Partition. Each Member and member of the Board of Managers agrees that irreparable damage would be done to the Company if any Member or member of the Board of Managers brought an action in court to partition the assets or properties of the Company. Accordingly, each Member and member of the Board of Managers agrees that it shall not, either directly or indirectly, take any action to require partition or appraisal of the Company or of any of the assets or properties of the Company, and notwithstanding any provisions of this Agreement to the contrary, each Member and member of the Board of Managers (and its successors and assigns) accepts the provisions of the Agreement as its sole entitlement on termination, dissolution and/or liquidation of the Company and hereby irrevocably waives any and all right to maintain any action for partition or to compel any sale or other liquidation with respect to its interest, in or with respect to, any assets or properties of the Company.

*[Remainder of This Page Intentionally Left Blank]*

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

**MEMBERS**

Africap, L.L.C., as attorney-in-fact for the Members

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

Name:

Title:

**SCHEDULE 6.01**

Board of Managers of

of

Africap, L.L.C.

George Beatty

Gezahgen Kebede

Max Patterson

Robert W. Scharar

Kofi Sekyere

Eunice Trozzo Shich