

**EIGHTH AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT  
OF  
ITE RAIL FUND L.P.  
Dated as of March 20, 2024**

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EIGHTH AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT

OF

ITE RAIL FUND L.P.

Dated as of March 20, 2024

This Eighth Amended and Restated Limited Partnership Agreement is made and entered into as of the date set forth above by and among the undersigned Persons and shall hereafter govern the Partnership. Capitalized terms used in the preamble and recitals of this Agreement and not otherwise defined therein are defined in Article I.

R E C I T A L S:

WHEREAS, the Partnership was formed as a limited partnership under the Act by the filing of the Certificate of Limited Partnership of the Partnership with the Office of the Secretary of State of the State of Delaware on May 7, 2014, and the execution and delivery by the parties thereto of the Original Agreement;

WHEREAS, the Original Agreement was amended by the First Amended and Restated Partnership Agreement dated August 14, 2014 (the "First A&R Agreement");

WHEREAS, the First A&R Agreement was amended by the Second Amended and Restated Partnership Agreement dated October 1, 2015 (the "Second A&R Agreement");

WHEREAS, the Second A&R Agreement was amended by the Third Amended and Restated Partnership Agreement dated November 30, 2016 (the "Third A&R Agreement");

WHEREAS, the Third A&R Agreement was amended by the Fourth Amended and Restated Partnership Agreement dated February 13, 2018 (the "Fourth A&R Agreement");

WHEREAS, the Fourth A&R Agreement was amended by the Fifth Amended and Restated Partnership Agreement dated April 30, 2018 (the "Fifth A&R Agreement");

WHEREAS, the Fifth A&R Agreement was amended by the Sixth Amended and Restated Partnership Agreement dated March 5, 2020 (the "Sixth A&R Agreement");

WHEREAS, the Sixth A&R Agreement was amended by the Seventh Amended and Restated Partnership Agreement dated December 31, 2021 (the "Seventh A&R Agreement"); and

WHEREAS, the General Partner wishes to amend and restate the Seventh A&R Agreement in its entirety and to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree to continue the Partnership and hereby amend and restate the Seventh A&R Agreement, which is replaced and superseded in its entirety by this Agreement, as follows:

## ARTICLE I

### Interpretation

Section 1.01 Definitions. Unless otherwise expressly provided in this Agreement, the following terms used in this Agreement shall have the following meanings:

- "Accounting Period" means the following periods: each Accounting Period shall commence immediately after the close of the immediately preceding Accounting Period. Each Accounting Period hereunder shall close at the close of business on the first to occur of (i) the last day of each month, (ii) the date immediately prior to the effective date of the admission of a new Partner pursuant to Section 3.01, (iii) the date immediately prior to the effective date of an additional Capital Contribution from a Partner pursuant to Section 5.01, (iv) the date immediately prior to the effective date of a Partner's withdrawal of all or a portion of a Capital Account, (v) the date when the Partnership shall dissolve, and (vi) any other date the General Partner determines, in its sole discretion.
- "Act" means the Delaware Revised Uniform Limited Partnership Act (6 *Del. C.* § 17-101 *et seq.*), as amended from time to time.
- "Administrator" means [REDACTED], or any other firm or firms as the General Partner may, in its sole discretion, select, at the expense of the Partnership, for the purpose of maintaining the Partnership's books and records and performing administrative services (which may include back-office and mid-office services) on behalf of the Partnership, including tax and accounting functions.
- "Advisers Act" means the Investment Advisers Act of 1940, as amended.
- "Advisory Committee" shall have the meaning set forth in Section 4.08.
- "Affiliate" means, with respect to any specified Person:
- (a) any Person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with such specified Person;

- (b) any Person that serves as a director or officer (or in any similar capacity) of such specified Person; and
- (c) any Person with respect to which such specified Person serves as a general partner or trustee (or in any similar capacity).

For purposes of this definition, "control" (including "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

<u>"Agreement"</u>	means this Eighth Amended and Restated Limited Partnership Agreement.
<u>"Alternative Investment Vehicle"</u>	shall have the meaning set forth in Section 4.10.
<u>"Authorized Representative"</u>	means, with respect to any Person, directors, employees, agents, advisers, or representatives responsible for matters relating to the Partnership or any other Person approved in writing by the General Partner.
<u>"Beginning Value"</u>	for each Class means, with respect to any Accounting Period, the Net Asset Value attributable to such Class at the beginning of such Accounting Period (after deduction for any withdrawals effective on such date as determined pursuant to Section 6.06 and after taking into account Capital Contributions made as of such date).
<u>"BHCA"</u>	means the Bank Holding Company Act of 1956, as amended.
<u>"BHC Limited Partner"</u>	means any Limited Partner that is, or is a company that controls, is controlled by, or is under common control with, a bank holding company (as defined in Section 2(a) of the BHCA) that is subject to the provisions of Regulation Y issued by the Board of Governors of the Federal Reserve System, unless such Limited Partner has requested, and the General Partner agrees, that the Limited Partner not be treated as a BHC Limited Partner.
<u>"Business Day"</u>	means any day other than (a) Saturday and Sunday, and (b) any other day on which banks located in New York City are required or authorized by law to be closed.

" <u>Capital Account</u> "	means the capital account established for each Partner for each Class of Interests held by such Partner on the books of the Partnership and, where the context requires, any capital account established for any Partner on the books of any Alternative Investment Vehicle.
" <u>Capital Call</u> "	shall have the meaning set forth in Section 5.04(a).
" <u>Capital Commitment</u> "	means, with respect to each Partner, the aggregate amount of cash agreed to be contributed as capital to the Partnership (and each Class) by such Partner, as specified in the Subscription Agreement delivered to and accepted by the Partnership.
" <u>Capital Contribution</u> "	means a capital contribution by a Partner to the Partnership and, where the context requires, to any Alternative Investment Vehicle pursuant to the terms of this Agreement.
" <u>Cause Event</u> "	<div data-bbox="662 827 1432 1566" data-label="Image"> </div>
" <u>Catch-Up</u> "	shall have the meaning set forth in Section 5.07(d)(iii).
" <u>Class</u> "	means any class of Interests as may from time to time be established by the Partnership.
" <u>Clawback Account</u> "	shall have the meaning set forth in Section 5.07(g).
" <u>Clawback Allocation</u> "	means an allocation from a Clawback Account to the relevant Capital Account as set forth in Section 5.07.

" <u>Clawback Amount</u> "	shall have the meaning set forth in Section 5.07(i).
" <u>Commitment Credit Facilities</u> "	shall have the meaning set forth in Section 4.01.
" <u>Commitment Credit Facility Collateral</u> "	shall have the meaning set forth in Section 4.01.
" <u>Commitment Period</u> "	shall have the meaning set forth in Section 5.01(a).
" <u>Company Act</u> "	means the Investment Company Act of 1940, as amended.
" <u>Confidential Information</u> "	means all information concerning the business and affairs of the Partnership or its Affiliates that the General Partner in its sole discretion believes to be in the nature of trade secrets or other information, the disclosure of which the General Partner in its sole discretion believes is not in the best interests of the Partnership or its Affiliates, or could damage the Partnership or its Affiliates or their respective businesses, or which the Partnership or its Affiliates are required by law or agreement with a third party to keep confidential, including any information relating to the Partnership's financial and investment strategy (e.g., portfolio positions, trades and contemplated trades); all notices, letters and other communications whether written or oral between the Partnership or its Affiliates and any Limited Partner; the names and addresses of each of the Partners and their initial and subsequent Capital Contributions.
" <u>Controlled Affiliate</u> "	means any Person controlled, directly or indirectly, by the Partnership or that is under common control with the Partnership and has been organized to carry out business principally of and for the benefit of the Partnership or its Affiliates (including other funds managed by the Investment Manager).
" <u>Default Notice</u> "	shall have the meaning set forth in Section 5.05(a).
" <u>Defaulting Partner</u> "	shall have the meaning set forth in Section 5.05(a).
" <u>Ending Value</u> "	for each Class means, with respect to any Accounting Period, the Net Asset Value attributable to such Class at the end of such Accounting Period (adding back any distributions and Management Fee amortized or paid by the Partnership or one or more subsidiaries or special purpose vehicles of the Partnership during such Accounting Period and before giving effect to withdrawals occurring as of the

	applicable Withdrawal Date and any Investor-Related Taxes accrued or paid during such Accounting Period).
<u>"Excused Partner"</u>	shall have the meaning set forth in Section 5.16(a).
<u>"Event of Default"</u>	shall have the meaning set forth in Section 5.05(a).
<u>"Fifth A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"First A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"Fiscal Year"</u>	shall have the meaning set forth in Section 2.04.
<u>"Former Partner"</u>	means each such Person as hereafter from time to time ceases to be a Partner, whether voluntarily or otherwise, in accordance with this Agreement.
<u>"Fourth A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"GAAP"</u>	means U.S. generally accepted accounting principles, in effect from time to time.
<u>"General Partner"</u>	means ITE Rail GP L.L.C., a Delaware limited liability company, in its capacity as a general partner of the Partnership, and any additional or successor general partner, each in its capacity as a general partner of the Partnership.
<u>"Hurdle Amount"</u>	shall have the meaning set forth in Section 5.07(e).
<u>"Incentive Allocation"</u>	shall have the meaning set forth in Section 5.07(d)(iii).
<u>"Income"</u>	means ordinary income and capital gains (including short-term capital gains) for federal income tax purposes.
<u>"Income Distribution"</u>	shall have the meaning set forth in Section 6.03(a).
<u>"Income Distribution Amount"</u>	means, with respect to the Fiscal Year, the amount that a Limited Partner's Capital Account would have earned during such period if such Capital Account had achieved an annualized rate of return equal to 6% on the balance of such Limited Partner's Capital Account as of the beginning of such Fiscal Year.
<u>"Incentive Allocation Rate"</u>	means 20% or such other rate as may be agreed to by a Limited Partner and the General Partner in an Other Agreement.
<u>"Income Distribution Election"</u>	shall have the meaning set forth in Section 6.03(a).

<u>"Indemnified Losses"</u>	shall have the meaning set forth in Section 4.05(a).
<u>"Indemnified Party"</u>	means the General Partner, the Investment Manager and each of their respective Affiliates, members, partners, officers, employees and legal representatives ( <i>e.g.</i> , executors, guardians and trustees) of any of them, and the members of the Advisory Committee (and the Limited Partners they represent, if any), including, in all such cases, Persons formerly serving in such capacities.
<u>"Initial Year"</u>	shall have the meaning set forth in Section 5.07(g).
<u>"Interests"</u>	means any partnership interests issued by the Partnership to the Partners in accordance with this Agreement.
<u>"Internal Revenue Code"</u>	means the Internal Revenue Code of 1986, as amended.
<u>"Investor-Related Tax"</u>	means any tax withheld from the Partnership or paid over by the Partnership, in each case, directly or indirectly, with respect to or on behalf of a Partner, and interest, penalties and/or any additional amounts with respect thereto, including without limitation, (i) a tax that is determined based on the status, action or inaction (including the failure of a Partner to provide information to eliminate or reduce withholding or other taxes) of a Partner, or (ii) an "imputed underpayment" within the meaning of Section 6225 of the Internal Revenue Code and any other similar tax, attributable to a Partner, as determined by the General Partner in its discretion.
<u>"Investments"</u>	means rail car assets and related assets, interests commonly referred to as securities, other financial instruments of U.S. and non-U.S. entities and other assets, including, without limitation, capital assets; capital stock; shares of beneficial interest; partnership interests and similar financial instruments; bonds, notes and debentures (whether subordinated, convertible or otherwise); currencies; commodities; physical and intangible assets; real estate (including storage or repair facilities); master limited partnerships; interest rate, currency, commodity, equity and other derivative products, including, without limitation, (i) futures contracts (and options thereon) relating to stock indices, currencies, U.S. Government securities and securities of non-U.S. governments, other financial instruments and all other commodities, (ii) swaps, options, swaptions, warrants, caps, collars, floors and forward rate agreements, (iii) spot and forward currency transactions and

(iv) agreements relating to or securing such transactions; mortgage-backed obligations issued or collateralized by U.S. federal agencies (including, without limitation, fixed-rate pass-throughs, adjustable rate mortgages, collateralized mortgage obligations, stripped mortgage-backed securities and REMICs); repurchase and reverse repurchase agreements; equipment lease certificates; equipment trust certificates; loans; structured finance instruments; accounts and notes receivable and payable held by trade or other creditors; trade acceptances; contract and other claims; executory contracts; participations; mutual funds, exchange traded funds and similar financial instruments; money market funds; obligations of the United States or any non-U.S. government, or any country, state, governmental agency or political subdivision thereof; commercial paper; certificates of deposit; bankers' acceptances; choses in action; trust receipts; and any other obligations and instruments or evidences of indebtedness of whatever kind or nature that exist now or are hereafter created, whether or not publicly traded or readily marketable.

"Investment Manager"

means ITE Management L.P., a Delaware limited partnership, or other Persons affiliated with and selected by the General Partner to provide certain management and administrative services to the Partnership.

"IPO"

shall have the meaning set forth in Section 4.11(a).

"IPO Entity"

shall have the meaning set forth in Section 4.11(a).

"Judicially Determined"

means (i) found by a court of competent jurisdiction upon entry of a judgment rendered by such court or (ii) solely with respect to claims brought by one or more Limited Partners, the final determination of an arbitrator in accordance with Section 11.10.

"Key Person Event"

shall have the meaning set forth in Section 6.02(h).

"Key Person Suspension Period" shall have the meaning set forth in Section 6.02(h).

"Limited Partner"

means each Person admitted as a limited partner of the Partnership in accordance with this Agreement, including any Persons hereafter admitted as Limited Partners in accordance with this Agreement and excluding any Persons who cease to be Limited Partners in accordance with this Agreement.

"Liquidating Vehicle"

shall have the meaning set forth in Section 6.02(b)(i).

" <u>Lock-Up Period</u> "	shall have the meaning set forth in Section 6.02(a).
" <u>Losses</u> "	means deductions, ordinary losses and capital losses (including long-term capital losses) for federal income tax purposes.
" <u>Loss Recovery Account</u> "	shall have the meaning set forth in Section 5.07(j)(i).
" <u>Loss Recovery Allocation</u> "	shall have the meaning set forth in Section 5.07(d)(i).
" <u>Majority-in-Interest</u> "	of the Limited Partners means, as of any date of determination, Limited Partners that are entitled to vote on a matter and have in excess of 50% of the Partnership Percentages of the Limited Partners that are entitled to vote on such matter, excluding from both the numerator and denominator the Interests held by Affiliates of the General Partner.
" <u>Management Fee</u> "	shall have the meaning set forth in Section 4.07(a).
" <u>Negative Basis</u> "	means, with respect to any Partner and as of any time of calculation, the amount by which (x) the amount in its Capital Account(s) (determined in accordance with this Agreement) as of such time, plus an amount equal to any deemed distributions to such Partner for federal income tax purposes pursuant to Section 752(b) of the Internal Revenue Code resulting from its withdrawal, is less than (y) its "adjusted tax basis", for federal income tax purposes, in its Interest in the Partnership as of such time.
" <u>Negative Basis Partner</u> "	means any Partner that withdraws from the Partnership and that has Negative Basis as of the effective date of such withdrawal (determined prior to any allocations made pursuant to Section 5.13).
" <u>Net Asset Value</u> "	means the excess of the value of the Partnership's or each Class' assets over the value of its liabilities as determined in accordance with this Agreement.
" <u>Net Capital Appreciation</u> "	for each Class means, with respect to any Accounting Period, the excess, if any, of its Ending Value over its Beginning Value and, with respect to any Fiscal Year of the Partnership or other period used to determine the Incentive Allocation, shall mean the aggregate Net Capital Appreciation for such period, less the aggregate Net Capital Depreciation for such period.

" <u>Net Capital Depreciation</u> "	for each Class means, with respect to any Accounting Period, the excess, if any, of its Beginning Value over its Ending Value.
" <u>Nonaffiliated Limited Partners</u> "	means Limited Partners that are not Affiliates of the General Partner.
" <u>Non-Voting Interests</u> "	means Interests, the holder of which is not entitled to vote, consent or withhold consent with respect to any Partnership matter, except as otherwise expressly provided in this Agreement.
" <u>Original Agreement</u> "	means the Limited Partnership Agreement of the Partnership, dated as of May 7, 2014.
" <u>Other Accounts</u> "	means other accounts to which the General Partner or any of its Affiliates provides investment services.
" <u>Other Agreements</u> "	means side letters or similar separate written agreements, the provisions of which may modify the terms of this Agreement.
" <u>Partners</u> "	means, collectively, the Limited Partners and the General Partner, including any Persons hereafter admitted as Partners in accordance with this Agreement and excluding any Persons who cease to be Partners in accordance with this Agreement.
" <u>Partnership</u> "	means ITE Rail Fund L.P., a Delaware limited partnership.
" <u>Partnership Counsel</u> "	means any firm or firms as the General Partner may, in its sole discretion, select, at the expense of the Partnership, for the purpose of providing legal services to the Partnership.
" <u>Partnership Percentage</u> "	shall have the meaning set forth in Section 5.06.
" <u>Pass-Thru Partner</u> "	shall have the meaning set forth in Section 9.03.
" <u>Person</u> "	means a natural person, partnership, limited liability company, corporation, unincorporated association, joint venture, trust, state or any other entity or any governmental agency or political subdivision thereof.
" <u>Positive Basis</u> "	means, with respect to any Partner and as of any time of calculation, the amount by which (x) the amount in its Capital Account(s) (determined in accordance with this Agreement) as of such time, plus an amount equal to any deemed distributions to such Partner for federal income tax

	purposes pursuant to Section 752(b) of the Internal Revenue Code resulting from its withdrawal, exceeds (y) its "adjusted tax basis", for federal income tax purposes, in its Interest in the Partnership as of such time.
<u>"Positive Basis Partner"</u>	means any Partner that withdraws from the Partnership and that has Positive Basis as of the effective date of its withdrawal (determined prior to any allocations made pursuant to Section 5.13).
<u>"Post Tax Amount"</u>	means, with respect to each Incentive Allocation, the amount of such Incentive Allocation less the Tax Amount with respect to such Incentive Allocation.
<u>"Presumed Tax Liability"</u>	means an amount equal to the product of (i) the amount of U.S. federal, state and local taxable income allocable for such Fiscal Year that is attributable to the Incentive Allocation and (ii) the Presumed Tax Rate for such Fiscal Year.
<u>"Presumed Tax Rate"</u>	means the effective combined U.S. federal (including Medicare), state and local income tax rate applicable to a natural person residing in New York, New York, taxable at the highest marginal U.S. federal, state and local income tax rates (taking into account the character of such income, including pursuant to Section 1061 of the Code, and after giving effect to the U.S. federal income tax deduction (if any) for such state and local income taxes) and, in the case of a tax imposed on an entity, the highest rate of such tax for an entity doing business in New York, New York.
<u>"Principals"</u>	<div style="background-color: black; height: 20px; width: 100%;"></div>
<u>"Prior Year Vesting Account"</u>	shall have the meaning set forth in Section 5.07(g).
<u>"Proceedings"</u>	means claims, demands, actions, suits or proceedings (civil, criminal, administrative or investigative, which includes formal and informal inquiries and "sweep" examinations in connection with the Partnership's investment activity), actual or threatened.
<u>"Prohibited Investment"</u>	shall have the meaning set forth in Section 5.16(a).
<u>"Registered Fund Limited Partner"</u>	means a Limited Partner that is an investment fund registered as an investment company under the Company Act.

<u>"Remaining Commitment"</u>	means, with respect to each Partner, its Capital Commitment reduced (i) by amounts contributed to the Partnership (or the applicable Alternative Investment Vehicle) in respect of capital calls and (ii) in connection with withdrawals in accordance with Section 6.02 and increased by the amount of any unused Capital Contributions that are returned to such Partner in accordance with Section 5.04(b).
<u>"Reserve Amount"</u>	shall have the meaning set forth in Section 6.02(c).
<u>"Reserve Amount Limit"</u>	shall have the meaning set forth in Section 6.02(g).
<u>"Reserves"</u>	means cash reserves or holdbacks for (a) Investments (including appropriate reserves for the purposes of hedging any Investments); (b) collateral or to reduce leverage; tax withholdings; Partnership expenses and Management Fees; and (c) liabilities or contingencies (whether already incurred, accrued for or anticipated), including general reserves or holdbacks for unspecified contingencies; in each case, even if such cash reserves or holdbacks are not recorded as liabilities in accordance with GAAP.
<u>"Second A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"Second Prior Year Vesting Account"</u>	shall have the meaning set forth in Section 5.07(g).
<u>"Seventh A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"Sixth A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"Special Withdrawal Date"</u>	shall have the meaning set forth in Section 6.02(h).
<u>"Subsequent Year Account"</u>	shall have the meaning set forth in Section 5.07(g).
<u>"Subscription Agreement"</u>	means the subscription agreement (including the investor questionnaire attached to such Subscription Agreement as completed by each Limited Partner prior to the Partnership's acceptance of such Limited Partner's subscription) between each Limited Partner and the Partnership pursuant to which such Limited Partner has subscribed for and purchased Interests.
<u>"Substitute Limited Partner"</u>	means a Transferee of an Interest who is admitted to all of the rights of a Limited Partner with respect to the Interest transferred or assigned to it pursuant to Section 7.01.
<u>"Target Ratio"</u>	shall have the meaning set forth in Section 3.03(b).

<u>"Tax Amount"</u>	means, with respect to each Incentive Allocation, an amount sufficient to enable the Partners to discharge any tax liabilities (including estimated tax liabilities) arising as a result of such Incentive Allocation, as determined by the General Partner in its reasonable discretion.
<u>"Third A&amp;R Agreement"</u>	shall have the meaning set forth in the Recitals.
<u>"Transfer"</u>	means any transaction by which a Partner may directly, indirectly or synthetically transfer, pledge, assign, hypothecate, sell, convey, exchange, reference under a derivatives contract or any other arrangement or otherwise dispose of or encumber all or any portion of its Interest to any other beneficial owner or other Persons.
<u>"Transferee"</u>	means any Person to which an Interest is transferred in accordance with Section 7.01.
<u>"Transferor"</u>	means any Person that makes a Transfer of its Interest in accordance with Section 7.01.
<u>"Valuation Policy"</u>	means the Investment Manager's valuation policy and procedures, as may be amended from time to time.
<u>"Vesting Account"</u>	shall have the meaning set forth in Section 5.07(g).
<u>"Withdrawal Date"</u>	shall have the meaning set forth in Section 6.02(a).

Section 1.02 Interpretation and Construction.

(a) In this Agreement, unless a clear contrary intention appears:

(i) common nouns and pronouns and any variation thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the Person, Persons or other reference in the context requires;

(ii) where specific language is used to clarify by example a general statement contained in this Agreement, such specific language shall not be deemed to modify, limit or restrict in any manner the construction of the general statement to which it relates;

(iii) "any" shall mean "one or more";

(iv) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and

(v) all references to "funds", "dollars" or "payments" shall mean United States dollars.

(b) The language used in this Agreement has been chosen by the parties to express their mutual intent, and no rule of construction or interpretation requiring this Agreement to be construed or interpreted against any party shall apply.

(c) Unless otherwise specified in this Agreement, all accounting terms used in this Agreement shall be interpreted and all accounting determinations hereunder shall be made in accordance with GAAP.

Section 1.03 Discretion; Good Faith. Whenever in this Agreement the General Partner is permitted or required to make a decision (i) in its "discretion" or under a grant of similar authority or latitude, the General Partner shall be entitled to consider such interests and factors as it desires, including its own interests, or (ii) in its "good faith" or under another express standard, the General Partner shall act under such express standard, shall not be subject to any other or different standard imposed by applicable law and may exercise its discretion differently with respect to different Limited Partners, provided that, in making any such decision described in clauses (i) and (ii) above, the General Partner shall act consistent with its fiduciary duties to the Limited Partners. For the avoidance of doubt, whenever in this Agreement the General Partner is permitted or required to make a decision, it shall not put its own interests (or the interests of its Affiliates) ahead of the interests of the Partnership or the Limited Partners as a whole.

## ARTICLE II

### General Provisions

Section 2.01 Formation of the Partnership. The Partnership was formed as a limited partnership under the Act, by the filing of the Certificate of Limited Partnership of the Partnership with the Office of the Secretary of State of the State of Delaware on May 7, 2014. Such action is hereby ratified and confirmed in all respects.

Section 2.02 Partnership Name and Address. The name of the Partnership is "ITE Rail Fund L.P." The principal office of the Partnership is located at c/o ITE Rail GP L.L.C., 200 Park Avenue South, Suite 1511, New York, NY 10003, or at such other location as the General Partner in the future may designate. The General Partner shall promptly notify the Limited Partners of any change in the Partnership's address.

Section 2.03 Registered Agent and Registered Office. The registered agent for the Partnership is National Corporate Research, Ltd. The address of the registered office of the Partnership in the State of Delaware is c/o National Corporate Research, Ltd., 615 South DuPont Highway, Dover, Delaware 19901.

Section 2.04 Fiscal Year. The fiscal year of the Partnership (the "Fiscal Year") shall end on December 31 of each year unless another date is required under the Internal Revenue Code for federal income tax purposes.

Section 2.05 Purposes of the Partnership.

(a) The Partnership is organized for the purposes of investing in Investments and engaging in all activities and transactions as the General Partner may deem necessary or advisable in connection therewith, including to do such acts as are necessary or advisable in connection with the maintenance and administration of the Partnership.

(b) The General Partner will provide the Limited Partners with written notice of any material changes to the Partnership's investment program as described in the Confidential Private Placement Memorandum of the Partnership, as the same may be updated or modified from time to time.

ARTICLE III

The Partners

Section 3.01 General Partner.

(a) The general partner of the Partnership is ITE Rail GP L.L.C., a Delaware limited liability company.

(b) The General Partner has delegated certain powers and functions to the Investment Manager pursuant to an investment management agreement. Accordingly, the Investment Manager is permitted to manage the Partnership and exercise rights and discretion of the Partnership as a delegate of the General Partner as set forth in the investment management agreement and herein.

Section 3.02 Liability of the Partners.

(a) Except as otherwise expressly provided in the Act, the debts, obligations and liabilities of the Partnership, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Partnership, and a Limited Partner shall not be obligated personally for any such debt, obligation or liability of the Partnership solely by reason of being a Limited Partner; provided, however, that a Limited Partner shall be required to contribute to the Partnership any amounts required under the Act or pursuant to Section 6.03(e)(ii).

(b) Except as otherwise provided in the Act, the General Partner shall have unlimited liability for the repayment and discharge of all debts, obligations and liabilities of the Partnership. Neither the General Partner nor any of its Affiliates (other than the Partnership) shall be liable for the return of the Capital Contributions of any Limited Partner, and each Limited Partner hereby waives any and all claims that it may have against the General Partner or any Affiliate thereof (other than the Partnership) in this regard.

(c) The Partnership shall not make any investments in any jurisdictions outside the United States without obtaining the advice of reputable counsel or a reputable

accounting firm that making such investment should not affect the limited liability of Limited Partners.

(d) The General Partner shall not, without the written consent of a Limited Partner, amend this Agreement in a manner that is intended to expose the Limited Partner to greater personal liability than is currently provided for under this Agreement.

### Section 3.03 Classes of Partners.

(a) The Partnership, in the General Partner's sole discretion, may establish additional Classes in the future having different terms than those of the Interests described in this Agreement, including different Management Fee, Incentive Allocation, information rights and withdrawal rights. New Classes may be established by the General Partner without providing prior notice to, or receiving consent from, existing Limited Partners. The terms of such Classes shall be determined by the General Partner in its sole discretion. A Limited Partner may not convert its Interest from one Class to another without the General Partner's consent, which may be withheld in its sole discretion.

(b) The [REDACTED] for the Partnership [REDACTED], but may be adjusted to take into account the [REDACTED], so that [REDACTED]. The General Partner may change the [REDACTED]. The General Partner shall seek to [REDACTED].

## ARTICLE IV

### Management of the Partnership

Section 4.01 General. The management of the Partnership shall be vested exclusively in the General Partner. The General Partner shall have the authority, on behalf and in the name of the Partnership, to take any action or make any decisions on behalf of the Partnership hereunder, to carry out any and all of the purposes of the Partnership set forth in Section 2.05, and to perform all acts and enter into and perform all contracts and other undertakings that it may deem necessary or advisable or incidental thereto, including to:

(a) provide research and analysis and direct the formulation of investment policies and strategies for the Partnership;

(b) acquire a long position or a short position with respect to any Investment and make purchases or sales increasing, decreasing or liquidating such position or changing from a long position to a short position or from a short position to a long position, without any limitation as to the frequency of the fluctuation in such positions or as to the frequency of the changes in the nature of such positions;

(c) purchase Investments and hold them for investment;

(d) enter into contracts for or in connection with investments in Investments;

(e) possess, transfer, mortgage, pledge or otherwise deal in, and exercise all rights, powers, privileges and other incidents of ownership or possession with respect to, Investments and other property and funds held or owned by the Partnership;

(f) lend, either with or without security, any Investments, funds or other properties of the Partnership and, from time to time, without limit as to the amount, borrow or raise funds and secure the payment of obligations of the Partnership by mortgage upon, or pledge or hypothecation of, or guarantee of, all or any part of the property of the Partnership;

(g) open, maintain and close accounts, including margin and custodial accounts, with brokers and dealers, which power shall include the authority to issue all instructions and authorizations to brokers and dealers regarding the Investments and/or money therein;

(h) pay, or authorize the payment and reimbursement of, brokerage commissions that may be in excess of the lowest rates available that are paid to brokers who execute transactions for the account of the Partnership and who (i) supply, or pay for (or rebate a portion of the Partnership's brokerage commissions to the Partnership for payment of) the cost of, brokerage, research or execution services utilized by the Partnership or the Other Accounts and/or (ii) pay for (or rebate a portion of the Partnership's brokerage commissions for the payment of) obligations of the Partnership (as provided in Section 4.07) or the Partnership's share of such obligations; provided that the selection of a broker shall be made on the basis of best execution, taking into consideration various factors, including commission rates, reliability, financial responsibility, strength of the broker and the ability of the broker to efficiently execute transactions, the broker's facilities, and the broker's provision or payment of the costs of brokerage and research services that are of benefit to the Partnership, the Investment Manager or Other Accounts;

(i) open, maintain and close accounts, including custodial accounts, with banks, including banks located outside the United States, and wire funds, draw checks, or make other orders for the payment of monies;

(j) combine purchase or sale orders on behalf of the Partnership with orders for Other Accounts and allocate the Investments or other assets so purchased or sold, on an average-price basis or by any other method of fair allocation, among such accounts;

(k) enter into arrangements with brokers to open "average price" accounts wherein orders placed during a trading day are placed on behalf of the Partnership and Other Accounts and are allocated among such accounts using an average price;

(l) organize one or more partnerships, limited liability companies, trusts, corporations or other entities to hold record title for the Partnership (whether alone or together with the Other Accounts), including Controlled Affiliates, to hold Investments or funds of the Partnership;

(m) transfer assets and/or liabilities between the Partnership and Alternative Investment Vehicles (whether by way of assignment, participation, distribution and contribution in kind or otherwise);

(n) retain the Investment Manager or third party service providers and to cause the Partnership to compensate the Investment Manager or such third party service providers for certain management, administrative, operational, maintenance and other services; provided, however, management, control and conduct of the activities of the Partnership and the Investments shall remain the responsibility of the General Partner;

(o) retain the Administrator and to cause the Partnership to compensate the Administrator for administrative services;

(p) cause the Partnership to engage in agency, cross and principal transactions with Affiliates of the General Partner to the extent permitted by applicable laws;

(q) enter into Other Agreements with Limited Partners containing such terms and conditions as determined by the General Partner;

(r) engage personnel, whether part-time or full-time, and attorneys, independent accountants, consultants, investment bankers, other agents or such other Persons as the General Partner may deem necessary or advisable;

(s) authorize any partner, member, employee or other agent of the General Partner or its Affiliates or other agent of the Partnership to act for and on behalf of the Partnership in all matters incidental to the foregoing;

(t) make or revoke any tax election or filing with respect to the Partnership or with respect to any entity through which the Partnership's investment program is to be effectuated; and

(u) do any and all acts on behalf of the Partnership or its Investments as it may deem necessary or advisable in connection with the maintenance and administration of the Partnership or its Investments, and exercise all rights of the Partnership, with respect to its interest in any Person, including the voting of Investments, participation in arrangements with creditors, the institution and settlement or compromise of Proceedings and other like or similar matters.

As the Partnership's activities may be conducted through Controlled Affiliates or Alternative Investment Vehicles, references to the term "Partnership" as used in this Section 4.01 should be understood to mean the Partnership, a Controlled Affiliate or an Alternative Investment Vehicle as the context permits.

The Partnership and the General Partner are authorized to, and the General Partner may cause the Partnership to, enter into credit facilities and incur indebtedness with lenders secured by (i) the Remaining Commitments and the proceeds of Capital Contributions, (ii) the rights of the Partnership and the General Partner to (A) make Capital Calls and issue Capital Call

notices, receive all or any portion of the proceeds of Capital Contributions and enforce the obligations of the Partners to make Capital Contributions, and (B) exercise and enforce every right, power, remedy, authority, option and privilege and take all steps, actions, suits or proceedings necessary to make Capital Calls and to receive proceeds of Capital Contributions and any other rights to call for additional Capital Contributions as contemplated by this Agreement and each Subscription Agreement, including, without limitation, the right to make and enforce Capital Calls in accordance with Section 5.04 hereof, and (iii) all depository and other accounts to which the proceeds of Capital Contributions may be paid from time to time (such assets, collectively, the "Commitment Credit Facility Collateral", and such credit facilities and indebtedness, collectively, "Commitment Credit Facilities") to facilitate the Partnership making Investments and paying costs, fees and expenses of the Partnership, and for other purposes of the Partnership as the General Partner may direct. Each Limited Partner agrees to deliver, upon the request of General Partner such documents, certificates and instruments as the General Partner or such lender may reasonably require in order to facilitate such Commitment Credit Facility.

In connection with any Commitment Credit Facility, the Partners hereby expressly understand and agree that all or any borrowings may be secured by the Commitment Credit Facility Collateral. The Partnership and the General Partner are authorized to, and the General Partner may cause the Partnership to, pledge, assign and grant rights, powers of attorney and security interests in favor of lenders to secure obligations under Commitment Credit Facilities, including, without limitation, the foregoing assets and rights. Each Partner hereby specifically consents to the foregoing, and agrees to recognize the rights and interests of any lender, regardless of its Class, with respect thereto (and agrees that such lender may enforce such rights and interests against such Partner) in connection with any borrowing made by the Partnership pursuant to any Commitment Credit Facility.

Section 4.02 No Participation in Management by Limited Partners. Except as authorized by the General Partner, the Limited Partners, in their capacities as such, shall not take part in the management or control of the Partnership, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership.

Section 4.03 Reliance by Third Parties. Persons dealing with the Partnership are entitled to rely conclusively upon the certificate of the General Partner, to the effect that it is then acting as the General Partner, and upon the authority of the General Partner as set forth in this Agreement.

Section 4.04 Other Activities of the General Partner.

(a) The General Partner and its Affiliates shall devote so much of their time to the affairs of the Partnership as in the judgment of the General Partner the conduct of its business shall reasonably require, and neither the General Partner nor its Affiliates shall be obligated to do or perform any act or thing in connection with the business of the Partnership not expressly set forth in this Agreement. Nothing contained in this Section 4.04 shall be deemed to preclude the General Partner or its Affiliates from exercising investment responsibility, from engaging directly or indirectly in any other business or from directly or indirectly purchasing, selling, holding or otherwise dealing with any Investments for the account of any such other business, for their own accounts, for any of

their family members or for Other Accounts. No Limited Partner shall, by reason of being a Partner of the Partnership, have any right to participate in any manner in any profits or income earned, derived by or accruing to the General Partner or any Affiliate from the conduct of any business other than the business of the Partnership (to the extent provided in this Agreement) or from any transaction in Investments effected by the General Partner or such Affiliate for any account other than that of the Partnership. The General Partner shall seek to allocate Investments among the Partnership and the Other Accounts in a fair and equitable manner.

(b) Notwithstanding the foregoing, during the term of the Partnership,

[REDACTED]

#### Section 4.05 Exculpation.

(a) No Indemnified Party shall be liable to any Partner or the Partnership for any costs, losses, claims, damages, liabilities, expenses (including reasonable legal and other professional fees and disbursements), judgments, fines or settlements (collectively, "Indemnified Losses") arising out of, related to or in connection with any act or omission of such Indemnified Party taken, or omitted to be taken, in connection with the Partnership or this Agreement, except for any Indemnified Losses arising out of, related to or in connection with any act or omission that is Judicially Determined to be primarily attributable to the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Party or that are primarily attributable to actions that constitute a Cause Event. In addition, no Indemnified Party shall be liable to any Partner or the Partnership for any Indemnified Losses arising out of, related to or in connection with any act or omission taken, or omitted to be taken, by any broker or agent of the Partnership if such broker or agent was selected, engaged or retained and monitored in a commercially reasonable manner by such Indemnified Party directly or on behalf of the Partnership in accordance with the standard of care set forth above. Any Indemnified Party may consult in good faith with counsel, accountants, investment bankers, financial advisers, appraisers and other specialized, reputable, professional consultants in respect of affairs of the Partnership and be fully protected and justified in any action or inaction that is taken in good faith in accordance with the advice or opinion of such Persons; provided that such Persons shall have been selected in accordance with the standard of care set forth above.

(b) Notwithstanding any of the foregoing to the contrary, the provisions of this Section 4.05 shall not be construed so as to provide for the exculpation of any Indemnified Party for any liability (including liability under federal securities laws which, under certain circumstances, impose liability even on Persons that act in good faith), to the extent (but only to the extent) that such liability may not be waived, modified or limited under applicable law, but shall be construed so as to effectuate the provisions of this Section 4.05 to the fullest extent permitted by law.

#### Section 4.06 Indemnification.

(a) To the fullest extent permitted by law, the Partnership shall indemnify and hold harmless each Indemnified Party from and against any and all Indemnified Losses suffered or sustained by such Indemnified Party by reason of any act, omission or alleged act or omission arising out of, related to or in connection with the Partnership or this Agreement, or any and all Proceedings in which an Indemnified Party may be involved, as a party or otherwise, arising out of, related to or in connection with such Indemnified Party's service to or on behalf of, or management of the affairs or assets of, the Partnership, or which relate to the Partnership, except for any Indemnified Losses that are Judicially Determined to be primarily attributable to the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Party or that are primarily attributable to actions that constitute a Cause Event. The Partnership shall also indemnify and hold harmless each Indemnified Party from and against any and all Indemnified Losses suffered or sustained by such Indemnified Party by reason of any acts, omissions or alleged acts or omissions of any broker or agent of the Partnership; provided that such broker or agent was selected, engaged or retained by such Indemnified Party directly or on behalf of the Partnership in accordance with the standard of care set forth above. The termination of a Proceeding by settlement or upon a plea of *nolo contendere*, or its equivalent, shall not, of itself, create a presumption that such Indemnified Party's acts, omissions or alleged acts or omissions were primarily attributable to the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Party or that were actions that constitute a Cause Event. Expenses (including legal and other professional fees and disbursements) incurred in any Proceeding may, with the consent of the General Partner, be paid by the Partnership in advance of the final disposition of such Proceeding upon receipt of an undertaking by or on behalf of such Indemnified Party to repay such amount if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified by the Partnership as authorized hereunder. Notwithstanding the foregoing, an Indemnified Party shall not receive advancement of any such expenses in connection with a proceeding initiated by a Majority-in-Interest, unless and until there is a Judicial Determination that does not conclude that such Indemnified Party violated the standard of care set forth above. In addition, no indemnification shall be provided to an Indemnified Party under this Section 4.06 for claims, losses, liabilities, actions, damages and expenses attributable to disputes among the General Partner, the Investment Manager and any of their respective Affiliates, partners, members, officers or employees.

(b) Notwithstanding any of the foregoing to the contrary, the provisions of this Section 4.06 shall not be construed so as to provide for the indemnification of any Indemnified Party for any liability (including liability under federal securities laws which, under certain circumstances, impose liability even on Persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 4.06 to the fullest extent permitted by law.

(c) Each Indemnified Party entitled to seek indemnification hereunder shall first use commercially reasonable efforts to seek indemnification from other available sources, if any, prior to obtaining indemnification hereunder; provided that any such Indemnified Party may seek and obtain indemnification hereunder if (a) at any time such Indemnified Party reasonably believes that (i) it is not commercially reasonable to obtain

indemnification from another source or (ii) such Indemnified Party will not receive timely indemnification on terms reasonably acceptable to such Indemnified Party from such other sources or (b) if such indemnification is to pay the expenses incurred by such Indemnified Party in advance of the final disposition in accordance with this Section 4.06; provided, further, that recovery under any other indemnity or any insurance policy shall not be a condition to indemnification of any such Indemnified Party under this Section 4.06 or to the receipt of any indemnification payment from the Partnership by any such Indemnified Party. It is agreed and understood that the foregoing obligations to seek indemnification from other sources shall only reduce the Partnership's obligation of indemnification hereunder to the extent indemnification is received by such Indemnified Party. To the extent any amounts are paid or advanced by the Partnership to such Indemnified Party pursuant to this Section 4.06, the Partnership shall be subrogated to the rights of such Indemnified Party to the extent of any other recoveries for indemnification by such Indemnified Party from any insurance company or under any other indemnity.

Section 4.07 Management Fee; Payment of Certain Costs and Expenses.

(a) By virtue of investing its assets [REDACTED] in one or more [REDACTED] or [REDACTED], the Partnership shall [REDACTED] in respect of each [REDACTED] in accordance with the terms set forth herein. The fee payable to [REDACTED] for its [REDACTED] shall equal in the aggregate (i) with respect to [REDACTED] or each fiscal quarter and (ii) with respect to [REDACTED], (A) on each date such [REDACTED] and (B) [REDACTED] or each fiscal quarter [REDACTED]. The Management Fee shall be calculated and paid [REDACTED]; provided that, other than the portion described in clause [REDACTED], the Management Fee shall [REDACTED]. For the avoidance of doubt, the Management Fee [REDACTED]

(b) The Investment Manager may elect to have the Management Fee [REDACTED], for so long as [REDACTED]

(c) Payment of the Management Fee shall be [REDACTED] or as soon as reasonably practicable thereafter, but in no event [REDACTED] in which the Management Fee was earned. The General Partner expects to [REDACTED] The General Partner may [REDACTED]

(d) The Management Fee shall [REDACTED] In the event of a [REDACTED], the Investment Manager shall [REDACTED] In the sole discretion of the General Partner, the Management Fee may [REDACTED] including, without limitation, [REDACTED]

(e) In consideration for the Management Fee, the Investment Manager will [REDACTED] The Investment Manager shall [REDACTED] Any use of [REDACTED] will fall within [REDACTED]

(f) The Investment Manager does not [REDACTED] However, the Investment Manager shall [REDACTED]

(g) The Partnership shall [REDACTED], including, without limitation, [REDACTED] whether or not [REDACTED] including, without limitation, [REDACTED]

[REDACTED] expenses;  
[REDACTED] (which are [REDACTED]  
[REDACTED] whether or not such [REDACTED]  
[REDACTED] fees (including, without [REDACTED]  
limitation, expenses of [REDACTED] and other [REDACTED]  
[REDACTED] ) relating to [REDACTED] ;  
[REDACTED]  
[REDACTED] including, without limitation, [REDACTED]  
[REDACTED] costs); [REDACTED] expenses (including, [REDACTED]  
without limitation, [REDACTED] ; [REDACTED]  
[REDACTED] expenses (including, without limitation, the [REDACTED]  
[REDACTED] expenses; costs related to [REDACTED]  
[REDACTED]  
[REDACTED] costs of [REDACTED]  
[REDACTED] ; [REDACTED] expenses (including expenses related to [REDACTED]  
[REDACTED]  
[REDACTED] expenses; expenses [REDACTED]  
incurred in connection with [REDACTED]  
[REDACTED] and other similar expenses related [REDACTED]  
(other than any fees payable to [REDACTED] expenses; and [REDACTED]  
[REDACTED] expenses (including fees and expenses [REDACTED]  
[REDACTED] ). Except as otherwise provided [REDACTED]  
[REDACTED] , as the same may be updated or modified from [REDACTED]  
time to time, such expenses, other than [REDACTED]  
[REDACTED]  
[REDACTED] . To the extent that expenses to be borne by [REDACTED] are paid by [REDACTED]  
[REDACTED] for such [REDACTED]  
expenses.

(h) If any of the expenses listed in Section [REDACTED] are incurred for the [REDACTED]  
[REDACTED] , such expenses shall be [REDACTED]

[REDACTED] in such other manner as [REDACTED]  
[REDACTED] .

(i) Notwithstanding anything to the contrary in Section [REDACTED] of the [REDACTED]  
Agreement, the Investment Manager has [REDACTED]  
[REDACTED]  
The Investment Manager may [REDACTED] from the [REDACTED]  
[REDACTED]

[REDACTED] Following the [REDACTED], the Partnership shall [REDACTED] for all such expenses paid by the [REDACTED], and such expenses shall be [REDACTED], notwithstanding that the [REDACTED] expenses may [REDACTED]

Section 4.08 Principal Transactions and Other Related Party Transactions. Each [REDACTED] hereby authorizes the [REDACTED] to [REDACTED] in accordance with Section [REDACTED]. Each [REDACTED] also hereby authorizes the [REDACTED], on behalf of [REDACTED], to [REDACTED] the purpose of which is to [REDACTED]. Each [REDACTED] acknowledges that such [REDACTED] may [REDACTED]. In no event shall any [REDACTED] unless it complies with applicable law. The Person(s) [REDACTED] may [REDACTED]

Section 4.09 Assignment of Investment Advisory Contract. Without the consent of a Majority-in-Interest of the Nonaffiliated Limited Partners, the General Partner may not enter into any transaction, with respect to this Agreement or any investment advisory contract between the Partnership and the Investment Manager, that would constitute an "assignment" as such term is defined under the Advisers Act.

Section 4.10 Alternative Investment Structures.

(a) If the General Partner determines that for legal, tax, regulatory or other reasons it is in the best interests of one or more Limited Partners (or their ultimate owners) for all or a portion of the Partners (or their ultimate owners) to participate in an Investment(s) through an alternative investment structure or structures, then the General Partner may require such Partners (or their ultimate owners) to be admitted to, and to make Capital Contributions in respect of such Investment(s) to, such alternative investment structure(s) (an "Alternative Investment Vehicle") that will invest together with, or in lieu of, the Partnership; provided that such Investment(s) shall in no material way expand the liabilities or obligations of such Limited Partners (or their ultimate owners) that might otherwise exist under this Agreement or otherwise jeopardize their limited liability under this Agreement. Any Investment made through an Alternative Investment Vehicle together with the Partnership shall, subject to applicable legal, tax or regulatory constraints, be (i) made at substantially the same time and on effectively the same terms and conditions as the Partnership and (ii) sold or otherwise disposed of only on the same terms and conditions in all material respects, and at substantially the same time, as the Partnership's sale or

disposition of such Investment. As the context requires, references in this Agreement to Partners to be admitted or admitted to any Alternative Investment Vehicle should be understood to refer to such Partners or such Partners' ultimate owners, as applicable. To the extent Investments are made through Alternative Investment Vehicles, references herein to Investments made by any Alternative Investment Vehicles should be understood to refer to Investments made by the Partnership, as applicable. Where the context requires, references to "Limited Partner" in this Section 4.10 shall be read to mean its ultimate owners.

(b) Subject to Section 5.16, if the General Partner, in its sole discretion, determines that some or all of a Limited Partner's interests in an Investment held through the Partnership should be held through an Alternative Investment Vehicle (or with respect to an Investment held through an Alternative Investment Vehicle, and vice versa) after the consummation thereof, the General Partner may, in its sole discretion, cause the Partnership to transfer all or the relevant portion of the Investment to an Alternative Investment Vehicle (and vice versa), which may be effected by the distribution of a Limited Partner's interest in an Investment to such Limited Partner through the Partnership, followed by a contribution by such Limited Partner of the Investment to the Alternative Investment Vehicle (and vice versa). For the avoidance of doubt, any Incentive Allocation or Clawback Allocation attributable to the transferred Investment (or portion thereof) shall also be transferred to the Alternative Investment Vehicle (and vice versa). The General Partner may, where it deems appropriate, structure an Alternative Investment Vehicle to (i) include one or more partnerships, corporations, or other entities (including entities taxable as corporations) investing in an Alternative Investment Vehicle through which certain Limited Partners may participate, and (ii) hold more than one Investment, and where applicable, may admit a separate corporation as a limited partner or other similar member (as applicable) thereof corresponding to one or more underlying Investments. Transfers of assets from the Partnership to an Alternative Investment Vehicle on behalf of one or more Limited Partners will result in a proportional increase in such Limited Partner's interests or shares in such Alternative Investment Vehicle with respect to such assets and a proportional decrease in such Limited Partner's Interests in the Partnership with respect to such assets. Similarly, transfer of assets from an Alternative Investment Vehicle to the Partnership on behalf of one or more Limited Partners will result in a proportional increase in such Limited Partner's Interests in the Partnership with respect to such assets and a proportional decrease in such Limited Partner's interests or shares in such Alternative Investment Vehicle with respect to such assets. To the extent an Investment is held on a parallel basis with an Alternative Investment Vehicle and Partnership, in order to rectify disproportionate initial allocations of Investments between the Partnership and such Alternative Investment Vehicle due to additional closings and additional Capital Commitments from new and existing Limited Partners, the General Partner may, to the extent practical, reflect on the books and records of the Partnership and such Alternative Investment Vehicle, the transfer of a portion of the holdings of the Partnership and such Alternative Investment Vehicle based on the Capital Commitments of the Limited Partners participating in such Investments through the Partnership and such Alternative Investment Vehicle.

(c) In the circumstances described in this Section 4.10, each Partner admitted to an Alternative Investment Vehicle may be required to make Capital Contributions directly to such Alternative Investment Vehicle to the same extent, for the same purposes and on the same terms and conditions as Partners are required to make Capital Contributions to the Partnership, and such Capital Contributions shall reduce the Remaining Commitment of such Partner to the same extent as if Capital Contributions were made to the Partnership with respect thereto. By making a Capital Commitment, each Partner shall be deemed to have made a Capital Commitment to any Alternative Investment Vehicle through which such Partner is admitted in accordance with this Section 4.10.

(d) To the maximum extent practicable, each Partner will have the same economic interest in all Investments made pursuant to this Section 4.10 as such Partner would have had if such Investment(s) had been made by the Partnership, and the provisions of this Agreement regarding distributions and allocations will be applied as if such Investment(s) had been made by the Partnership, and the other terms of the organizational documents of any Alternative Investment Vehicle will to the extent reasonably practicable be substantially similar in all material respects to those of the Partnership; provided, however, that notwithstanding anything to the contrary herein, in circumstances in which an Alternative Investment Vehicle is utilized on behalf of some but not all of the Limited Partners, all costs, expenses and taxes attributable to the organization and operation of, and the ownership of the Investment(s) by, such Alternative Investment Vehicle shall be allocated to the Partners investing through such entity and the comparable costs and expenses of the Partnership attributable to the portion of the Investment not made through the Alternative Investment Vehicle shall be allocated to the Partners not investing through the Alternative Investment Vehicle. For the avoidance of doubt, the General Partner covenants that the use of an Alternative Investment Vehicle shall not have the effect of causing Limited Partners to bear compensation greater than the amounts that would be payable or allocable to the General Partner, the Investment Manager and their respective Affiliates if such Alternative Investment Vehicle were not utilized.

(e) A Limited Partner may be admitted to an Alternative Investment Vehicle without execution of its organizational documents when such Person's admission is reflected on the books and records of the Alternative Investment Vehicle. If requested by the General Partner, each Partner shall take such actions and execute such documents as the General Partner determines is needed to accomplish the foregoing purposes of this Section 4.10. The General Partner shall provide to each Limited Partner the constituent documents of any Alternative Investment Vehicle through which such Limited Partner is required to invest pursuant to this Section 4.10 as soon as reasonably practicable and in any event no later than the initial closing of the Investment by such Alternative Investment Vehicle. The General Partner covenants that the provisions in the governing documents of any Alternative Investment Vehicle will contain terms, conditions and Limited Partner protections substantially the same in all material respects to those of the Partnership and will be managed by the General Partner or an Affiliate thereof.

Section 4.11 Initial Public Offering.

(a) Subject to Section [REDACTED], each [REDACTED] agrees that the [REDACTED] may, but is not obligated to, [REDACTED]

[REDACTED] at any time [REDACTED]. If such a [REDACTED] occurs, the [REDACTED] shall [REDACTED]

However, there is no [REDACTED]

(b) The Partnership shall [REDACTED]

(c) The [REDACTED] may cause all [REDACTED] to [REDACTED]

[REDACTED] If the [REDACTED] receives [REDACTED] the [REDACTED] may [REDACTED] and may [REDACTED] This [REDACTED] shall [REDACTED] not [REDACTED] and the [REDACTED] may [REDACTED]

ARTICLE V

Capital Commitments and Capital Contributions

Section 5.01 Closings; Commitment Period.

(a) The Partnership's minimum initial and additional Capital Commitment amount for Interests is \$1,000,000, although the General Partner may accept Capital Commitments of a lesser amount in its sole discretion. The Capital Commitments made at each closing shall have their own commitment period (a "Commitment Period") that shall end at the end of the second full calendar year following the calendar year in which such closing occurred; provided that, the Commitment Period with respect to a Capital Commitment may be extended with the written consent of the Limited Partner that made such Capital Commitment. Each Capital Commitment shall be outstanding, and may be called down, during its Commitment Period, and after the end of such Commitment Period, the Partners shall be released from any further obligation with respect to such

Capital Commitment, except that after its Commitment Period, a Capital Commitment may be called down and the applicable Partners shall make Capital Contributions on account thereof, to the extent necessary to (a) fund an obligation that the Partnership or its subsidiaries has committed to prior to the end of the Commitment Period, including a commitment to make an Investment or indebtedness incurred by Partnership or its subsidiaries secured by the Capital Commitment, and/or (b) repay the outstanding principal amount, accrued and unpaid interest, fees and/or expenses or any other obligations or liabilities outstanding under any Commitment Credit Facility.

(b) Subject to Section 5.01(a), the General Partner has discretion to hold additional closings and additional Capital Commitments from new and existing Limited Partners at any time.

Section 5.02 Capital Commitments. Each Limited Partner agrees to make Capital Contributions to the Partnership or an Alternative Investment Vehicle, as applicable, from time to time in an aggregate amount up to the amount of its Capital Commitment in accordance with this Agreement. Such obligation to contribute capital to the Partnership or an Alternative Investment Vehicle, as applicable, shall be irrevocable, unconditional and not subject to any defense, counterclaim or offset of any kind. The General Partner may reduce a Limited Partner's Capital Commitment at any time if: (i) the Limited Partner has consented to such reduction or (ii) such reduction is made pro rata among all Partners. Notwithstanding clause (i) or clause (ii) above, the General Partner may reduce a Limited Partner's Capital Commitment at any time if the General Partner determines, in its reasonable discretion, that such reduction is appropriate to seek to avoid adverse legal, tax or regulatory consequences or as a result of a default of such Limited Partner.

Section 5.03 Capital Accounts.

(a) A Capital Account shall be established on the books of the Partnership for each Partner for each Class of Interests held by a Partner. The Capital Account of each Class of Interests held by a Partner shall be in an amount equal to such Partner's Initial Capital Contribution for each Class, adjusted as hereinafter provided. At the beginning of each Accounting Period, each Capital Account shall be (i) increased by the amount of any Capital Contributions to the applicable Class made by such Partner as of the first day of such Accounting Period and (ii) decreased by the amount of any withdrawals made by such Partner relating to the immediately preceding Withdrawal Date pursuant to Section 6.02 or any distributions made to such Partner with respect to such Class pursuant to Section 6.03. At the end of each Accounting Period, each Capital Account shall be increased or decreased by the amount credited or debited such Capital Account pursuant to Sections 5.07 and 5.08. At the end of each Accounting Period, each Capital Account of each Limited Partner shall be decreased by the amount of the Management Fee amortized or paid in respect of such Capital Account for that Accounting Period in accordance with Section 4.07.

(b) In accordance with Treasury Regulations Section 1.1061-3(c)(3)(ii)(B), the Partnership shall calculate separate allocations attributable to the General Partner's right to receive the Incentive Allocation (including commensurate allocations in respect of any unrealized Incentive Allocation), any other allocations that are not

commensurate with capital contributed to the Partnership (including commensurate allocations in respect of such allocations to the extent unrealized) and any allocations that are commensurate with capital contributed (including, for this purpose, reinvested API Gain, as defined in the Treasury Regulations) to the Partnership (in each case, within the meaning of Treasury Regulations Section 1.1061-3(c)(3) and as reasonably determined by the General Partner), and will consistently reflect each such allocation in its books and records. This Section 5.03(b) is intended to comply with the identification requirement in Treasury Regulations Section 1.1061-3(c)(3)(ii)(B) and shall be interpreted consistently therewith.

Section 5.04 Capital Contributions; Drawdowns. The Capital Contributions of each Partner, the amount of which is determined pursuant to the terms below, shall be paid subject to the following terms and conditions:

(a) The General Partner may call for Capital Contributions from time to time (as determined by the General Partner in its sole discretion) pro rata with respect to each Class based on the Remaining Commitments in such Class (each, a "Capital Call"), subject in each case, to adjustment (if deemed appropriate by the General Partner) for exclusions pursuant to Section 5.16(a). The General Partner shall provide each Partner with written notice at least five (5) Business Days prior to the date on which a Capital Call is due.

(b) Each Partner will make such Capital Contributions equal to the amount called from such Partner. In no event will a Limited Partner be required to make a Capital Contribution in respect of its Capital Commitment in excess of its Remaining Commitment. Each Partner shall pay to the Partnership or an Alternative Investment Vehicle, as applicable, the Capital Contribution of such Partner in cash or other immediately available funds denominated in U.S. dollars by the date specified in the notice of drawdown. Any amounts contributed by the Partners to the Partnership or the Alternative Investment Vehicle, as applicable, as Capital Contributions and not invested or otherwise employed for Partnership purposes (including payment of Partnership expenses) may be returned by the Partnership or an Alternative Investment Vehicle, as applicable, to the Partners who have contributed such amounts pro rata in proportion to the amounts so contributed by the Partners and if returned, shall increase the Remaining Commitments of such Partners, subject in each case, to adjustment (if deemed appropriate by the General Partner) for exclusions pursuant to Section 5.16(a). The General Partner may issue Capital Calls, and the Partners shall make Capital Contributions on account thereof, for purposes of repaying indebtedness, obligations and liabilities under Commitment Credit Facilities (including, without limitation, any principal, interest, fees and expenses), notwithstanding the allocations of the Capital Commitment of each Partner to any Class or the relation to such Class to the Investment acquired or funded using the proceeds of Commitment Credit Facilities. Each Partner acknowledges and agrees that its obligation to make Capital Contributions as set forth in the preceding sentence is absolute and unconditional, and waives any defense, counterclaim, setoff, offset or reduction of any kind or nature with respect thereto. Such acknowledgement and agreement is made for the benefit of the Partnership, any Alternative Investment Vehicle and any lender under a Commitment

Credit Facility, but shall not limit any Limited Partner from asserting any claim against any person for its breach of this Agreement.

#### Section 5.05 Event of Default.

(a) Subject to Section 5.05(c), upon the failure of a Limited Partner to contribute any portion of any Capital Contribution or other amount when due (an "Event of Default"), the General Partner may provide written notice of the default to such Limited Partner (the "Default Notice"). If the defaulting Limited Partner has not cured the default within five (5) Business Days after the receipt of such Default Notice, such Limited Partner shall be a "Defaulting Partner" and the General Partner may, in its sole discretion, apply one or more of the following remedies, including, without limitation: (i) charging the Defaulting Partner interest on all overdue amounts commencing on the date such Capital Contribution was due at the lesser of an annual rate of the rate of interest most recently published by The Wall Street Journal as the "prime rate" at large U.S. money center banks plus 8% per annum (determined as of the date of the Default Notice) and the maximum rate permitted by applicable law, (ii) reducing the Defaulting Partner's Partnership Percentage (and Capital Account) and causing the Defaulting Partner to forfeit all or any portion of future distributions made by the Partnership, which will result in the redistribution of the forfeited amount pro rata among the non-defaulting Limited Partners and the General Partner based on their respective Partnership Percentages, (iii) causing the Defaulting Partner to be excluded from participating in future Investments, and/or (iv) causing a forced transfer or sale of the Defaulting Partner's interest in the Partnership to the other Partners or third parties (including Affiliates of the General Partner) for a price (which may be zero with the only obligation to fund the Defaulting Partner's Remaining Commitment) to be determined by the General Partner, in its sole discretion, with any monies owed from the Defaulting Partner to the Partnership to be offset against any proceeds payable to the Defaulting Partner upon such transfer or sale. The General Partner, at its sole discretion, may apply more than one remedy to a Defaulting Partner, and may apply different remedies to different Defaulting Partners. The General Partner may apply the same remedies to a Defaulting Partner's interest or shares in any Alternative Investment Vehicle that it applies to such Defaulting Partner's Interest in the Partnership. The Defaulting Partner will continue to share in the expenses and losses of the Partnership and remain obligated to make Capital Contributions to the Partnership, as required by the General Partner, up to the full amount of such Limited Partner's Remaining Commitment, notwithstanding the exercise of any of the foregoing remedies unless the General Partner elects to reduce or terminate a Defaulting Partner's Remaining Commitment. In the event that the General Partner elects to reduce or terminate a Defaulting Partner's Remaining Commitment, the General Partner may require such Defaulting Partner to remain obligated to make Capital Contributions with respect to Partnership expenses, including Management Fees. Defaulting Partners will have no rights with respect to the Partnership (e.g., voting, consent or otherwise), other than with respect to any rights to receive distributions in accordance with this Agreement that may exist after giving effect to the remedies exercised by the General Partner.

(b) In addition to its other rights, the General Partner will have the right to take any or all of the following actions in order to cover shortfalls arising from the default

of a Limited Partner: (i) require all non-defaulting Partners with Remaining Commitments, upon at least ten (10) Business Days' prior written notice, to make additional Capital Contributions in an aggregate amount equal to the shortfall created by such default (but not to exceed each such investor's Remaining Commitment and with no Capital Contributions required to pay for Management Fees attributable to the Defaulting Partner); (ii) offer all non-defaulting Partners an opportunity to fund such shortfall outside of their Capital Commitments; or (iii) obtain a loan from any non-defaulting Partner, the Investment Manager, the General Partner or a third party.

(c) The remedies set forth in this Section 5.05 shall not be exclusive of any other remedy that the Partnership or the Partners may have at law or in equity or under this Agreement, it being agreed that the Limited Partners shall be personally liable for the making of their Capital Contributions. Each of the Limited Partners acknowledges and agrees that it has been admitted to the Partnership in reliance upon its agreements under this Section 5.05 (as well as the other provisions of this Agreement), that the General Partner and the Partnership may have no adequate remedy at law for a breach of this Agreement and that damages resulting from such breach may be impossible to ascertain or estimate as of any date at which a Partner is admitted to the Partnership or as of the date of such breach.

Section 5.06 Partnership Percentages. A "Partnership Percentage" shall be determined for each Capital Account for each Accounting Period by dividing the balance of each such Capital Account by the aggregate Capital Accounts of all Partners as of the beginning of such Accounting Period after taking into account Capital Contributions, withdrawals and distributions. The sum of the Partnership Percentages shall equal 100%.

Section 5.07 Allocation of Net Capital Appreciation or Net Capital Depreciation.

(a) At the end of each Accounting Period, each Capital Account (including the General Partner's Capital Account) shall be adjusted by crediting (in the case of Net Capital Appreciation) or debiting (in the case of Net Capital Depreciation) the Net Capital Appreciation or Net Capital Depreciation for the applicable Class for such Accounting Period and, as the case may be, to the Capital Accounts of all the Partners (including the General Partner's Capital Account) in proportion to their respective Partnership Percentages. If Capital Contributions or distributions are made other than on the first day of a month, then such Capital Contributions or distributions shall be deemed effective as of the first day of the following month.

(b) In the event that (i) the General Partner determines that, based upon tax or regulatory reasons, a Limited Partner should not participate in the Net Capital Appreciation and Net Capital Depreciation, if any, attributable to an Investment, type of investment or any other transaction or (ii) at the time of a Limited Partner's subscription to the Partnership or upon subsequent notice to the General Partner, a Limited Partner indicates that it is reasonably likely that participation in the Net Capital Appreciation and Net Capital Depreciation, if any, attributable to an Investment, type of investment or any other transaction would cause a violation of a law, statute, rule, regulation, order or written internal policy to which the Limited Partner is subject, the General Partner may allocate

such Net Capital Appreciation or Net Capital Depreciation only to the Capital Accounts to which such considerations or reasons do not apply (or may allocate to the Partner to which such considerations or reasons apply, the portion of such Net Capital Appreciation or Net Capital Depreciation attributable to such Partner's limited participation in such Investment, type of investment or other transaction). If any of the considerations or reasons described above in this Section 5.07(b) apply, then a separate memorandum account may be established in which only the Partners having an interest in such Investment, type of investment or transaction have an interest and then Net Capital Appreciation and Net Capital Depreciation for each such memorandum account shall be separately calculated. For the avoidance of doubt, any exclusion pursuant to this Section 5.07(b) shall only have effect on a prospective basis after it is determined that the Limited Partner should not participate in the Net Capital Appreciation and Net Capital Depreciation attributable to such Investment, type of investment or other transaction.

(c) In the event that the Partnership and an Alternative Investment Vehicle participate together in an Investment, any Partner that has been admitted to such Alternative Investment Vehicle (or whose ultimate owner has been admitted to such Alternative Investment vehicle) shall not participate in the Net Capital Appreciation and Net Capital Depreciation, if any, attributable to such Investment. A separate memorandum account shall be established in which only the Partners having an interest in such Investment through the Partnership have an interest and the Net Capital Appreciation and Net Capital Depreciation for such memorandum account shall be separately calculated. For the avoidance of doubt, any exclusion pursuant to this Section 5.07(c) shall only have effect on a prospective basis upon such Partner's admission to such Alternative Investment Vehicle and the Alternative Investment Vehicle's consummation of such Investment.

(d) At the end of each

an amount equal to

(i) first,

(ii) second,

until such

(iii) third,

until the

[REDACTED] and

(iv) thereafter the [REDACTED]

With respect to any [REDACTED] that also has been [REDACTED]  
[REDACTED], the [REDACTED] shall be [REDACTED]  
[REDACTED] and any such [REDACTED]  
[REDACTED] for each [REDACTED]. In the event that a [REDACTED]  
[REDACTED] as applicable, [REDACTED]  
[REDACTED], the [REDACTED] upon which [REDACTED]  
[REDACTED] shall be [REDACTED] by such [REDACTED]  
with such [REDACTED]  
[REDACTED] for the [REDACTED] and [REDACTED]  
[REDACTED] that have [REDACTED]  
[REDACTED]. Accordingly, the [REDACTED]  
[REDACTED] will be [REDACTED]  
[REDACTED] for purposes of [REDACTED]

(e) The [REDACTED] with respect to the [REDACTED] for which an  
[REDACTED] is being determined, is the amount that a [REDACTED]  
would have earned during such period if such [REDACTED]  
[REDACTED]  
[REDACTED] The [REDACTED] will be adjusted for  
[REDACTED] pursuant to Section [REDACTED] and [REDACTED]. The [REDACTED]

(f) In the sole discretion of the General Partner, the Incentive Allocation may be waived, reduced or calculated differently (but not increased in the aggregate) with respect to the Capital Account(s) of any Limited Partner, including, without limitation, a Limited Partner that is a member, partner, Affiliate or employee of the General Partner or the Investment Manager, a member of the immediate family of such a Person or a trust or other entity for the benefit of such a Person.

(g) At the end of a Fiscal Year for which a [REDACTED]  
[REDACTED] attributable to such [REDACTED]

each of which initially shall be [REDACTED] At the end of the Fiscal Year following [REDACTED], the [REDACTED] shall [REDACTED] and the [REDACTED] shall be [REDACTED] shall be established for [REDACTED] Accordingly, there generally may be [REDACTED] in respect of [REDACTED] at any point in time [REDACTED] ). At all times, each [REDACTED] shall be [REDACTED] enerally shall [REDACTED]

(h) The Tax Amount with respect to the Incentive Allocation made from each Limited Partner's Capital Account shall be based on the General Partner's good faith estimate of the Presumed Tax Liability for the period that the Incentive Allocation is being calculated; provided, however, that on or before March 31 of the following Fiscal Year, the General Partner shall determine the final Tax Amount for the entire previous Fiscal Year's Incentive Allocation and may reallocate amounts to and from the Clawback Accounts accordingly.

(i) If, at the end of a Fiscal Year, the Partnership [REDACTED] in the aggregate for such Fiscal Year, and, in either [REDACTED] was made to the [REDACTED], then a [REDACTED] shall be determined as follows: The [REDACTED], with respect to a [REDACTED] calculated with respect to such [REDACTED] The [REDACTED] shall then be [REDACTED] from the [REDACTED], to the extent [REDACTED] of the [REDACTED]. Thereafter, the [REDACTED], shall be [REDACTED] from the [REDACTED] . After such [REDACTED], the [REDACTED] shall be [REDACTED] . The [REDACTED], shall be [REDACTED] and [REDACTED] until the [REDACTED] to the extent a [REDACTED] . Notwithstanding the foregoing, in no event shall [REDACTED]

Each [REDACTED]  
in accordance with this paragraph is referred to herein as [REDACTED].

(j) Loss Recovery Account.

(i) The Partnership shall maintain [REDACTED]  
[REDACTED] for each [REDACTED]. At the end of each Fiscal Year or at  
such other date during a Fiscal Year as of which the [REDACTED]  
[REDACTED]  
[REDACTED] shall be [REDACTED]: (A) first, if there has been, in the  
aggregate, [REDACTED]  
[REDACTED] with respect to [REDACTED]  
[REDACTED] an amount equal to [REDACTED]  
[REDACTED] shall be [REDACTED]  
[REDACTED] to such [REDACTED], and, (B) second,  
if there has been, in the aggregate, [REDACTED]  
[REDACTED] with respect to such [REDACTED]  
[REDACTED] since the immediately preceding date as of which a [REDACTED]  
[REDACTED] an amount equal to [REDACTED]  
[REDACTED] shall be [REDACTED]  
[REDACTED], but not [REDACTED] (for the  
avoidance of doubt, [REDACTED]  
[REDACTED]. Solely for purposes of this  
paragraph, in determining [REDACTED]  
[REDACTED] for any applicable period  
shall be calculated by taking into account (A) [REDACTED] if  
any, [REDACTED], and (B) [REDACTED]  
[REDACTED] if any, [REDACTED].

(ii) In the event that [REDACTED]  
[REDACTED] shall be [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]. Similarly, in the event that a Limited  
Partner [REDACTED]

[REDACTED], then, [REDACTED]  
(if any), the [REDACTED] shall be [REDACTED]  
[REDACTED]. The [REDACTED]  
shall [REDACTED] but shall not [REDACTED]  
[REDACTED]. Additional [REDACTED]  
will not [REDACTED].

(iii) [REDACTED] made pursuant to Section [REDACTED] shall not  
[REDACTED] for purposes of Section [REDACTED] of this  
Agreement. Accordingly, the [REDACTED], if any, in the [REDACTED]  
[REDACTED] shall not [REDACTED]  
[REDACTED] as of the beginning of the [REDACTED].

(k) In the event that the Partnership [REDACTED] other than [REDACTED]  
[REDACTED] is other than [REDACTED], then for purposes of [REDACTED]  
[REDACTED] at such time, [REDACTED]  
[REDACTED] shall be determined [REDACTED]  
[REDACTED] provided, however, that an [REDACTED]  
[REDACTED] or a [REDACTED] shall be made [REDACTED]  
[REDACTED] with respect to [REDACTED]. To [REDACTED]  
the extent that an [REDACTED] or [REDACTED]  
[REDACTED] occurring other than [REDACTED]  
[REDACTED] shall be [REDACTED] or [REDACTED]  
[REDACTED] Unless otherwise agreed by the [REDACTED]  
[REDACTED] shall be [REDACTED] as a [REDACTED]  
[REDACTED] or [REDACTED] shall be [REDACTED] Accordingly, an [REDACTED]  
[REDACTED] shall be [REDACTED] but any [REDACTED]  
[REDACTED] shall be [REDACTED]  
[REDACTED]. For the avoidance of doubt, any [REDACTED]  
[REDACTED] shall not be [REDACTED]  
[REDACTED] or [REDACTED] for the purpose of this clause (k).

(l) For purposes of determining allocations, including calculating the Incentive Allocation, the Hurdle Amount and the balance in a Capital Account's Loss Recovery Account, any Investor-Related Taxes related to a Limited Partner shall be deemed distributed from the Capital Account(s) of such Limited Partner to such Limited Partner and shall not be deemed to be expenses that reduce Net Capital Appreciation, increase Net Capital Depreciation or increase the balance of the Loss Recovery Account.

Section 5.08 Special Allocations.

(a) Generally. Notwithstanding Section 5.07, special allocations of Net Capital Appreciation, Net Capital Depreciation, or specific items of income, gain, loss or deduction as shall be required for any Fiscal Year (or other Accounting Period) shall be made as follows:

(i) Minimum Gain Chargeback. The Partnership shall allocate items of income and gain among the Partners at such times and in such amounts as necessary to satisfy the minimum gain chargeback requirements of Treasury Regulations Sections 1.704-2(f) and 1.704-2(i)(4).

(ii) Qualified Income Offset. The Partnership shall specially allocate items of income and gain when and to the extent required to satisfy the "qualified income offset" requirement within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(d).

(iii) Other Regulatory Adjustments. The Capital Account(s) of a Partner also shall be adjusted appropriately to reflect other adjustments required to be made pursuant to the principles of Section 704(b) of the Internal Revenue Code and Treasury Regulations Section 1.704-1 or 1.704-2.

(b) Adjustment of Allocations. In the event that the General Partner reasonably determines that the allocations otherwise required pursuant to Section 5.07 or Section 5.08(a) would not properly reflect the economic arrangement of the Partners or would otherwise cause any inequitable or onerous result for any Partner, then, notwithstanding any provision in this Agreement to the contrary, the General Partner may adjust the determination and allocation among the Capital Accounts of the Partners of Net Capital Appreciation, Net Capital Depreciation, Capital Account, Partnership Percentage, Incentive Allocation, Clawback Allocation, Management Fee, items of income, deduction, gain, loss, credit or withholding for tax purposes, accounting procedures or such other financial or tax items (including Investor Related Taxes) in the manner as the General Partner reasonably determines to be required or advisable to prevent such result. In furtherance of the foregoing, the General Partner may make such allocations that, amongst other things, result in an allocation of income of the Fund generated from the revaluation of the Fund's assets (as determined under Section 704(b) of the Internal Revenue Code and the Treasury Regulations promulgated thereunder to be allocated to the Partners in an amount equal to and in proportion to the amount of losses previously allocated to the Capital Accounts of such Partners (or their successors) in prior tax year(s) along with any

corollary allocations of items of income and loss necessary to cause the Partners' Capital Accounts to equal the amount of cash the Partners would receive if the Fund were to liquidate at the end of a tax year (after taking into account the minimum gain chargeback in Section 5.08(a)(i)).

Section 5.09 Amendment of Incentive Allocation. The General Partner shall have the right to amend, without the consent of the Limited Partners, Section 5.07 so that the Incentive Allocation therein provided conforms to any applicable requirements of the Securities and Exchange Commission and other regulatory authorities; provided, however, that no such amendment shall increase the Incentive Allocation that otherwise would be made with respect to a Limited Partner.

Section 5.10 Valuation of the Partnership's Portfolio.

(a) The Partnership's portfolio shall be valued in accordance with the Valuation Policy.

(b) All values assigned to Investments and other assets by the General Partner pursuant to this Section 5.10 shall be final and conclusive as to all of the Partners.

(c) The accounts of the Partnership are maintained in U.S. Dollars. The Partnership's portfolio will be valued on each Withdrawal Date, each date a Limited Partner makes a Capital Contribution to the Partnership, each date a Management Fee is paid and each date an Incentive Allocation is made.

(d) The Partnership is entitled to rely, without independent investigation, upon pricing information and valuations furnished to the Partnership by third parties, including pricing services. The Partnership will utilize at least one independent valuation agent annually (or more frequently as deemed necessary by the General Partner) to confirm the valuation of the Partnership's Investments.

Section 5.11 Liabilities. Liabilities shall be determined using GAAP, applied on a consistent basis; provided, however, that the General Partner in its sole discretion may provide Reserves for estimated accrued expenses, liabilities or contingencies, including general Reserves for unspecified contingencies (even if such Reserves are not required by GAAP).

Section 5.12 Goodwill. No value shall be placed on the name or goodwill, if any, of the Partnership, which shall belong exclusively to the General Partner.

Section 5.13 Allocation for Tax Purposes.

(a) For each tax year, items of income, deduction, gain, loss or credit shall be allocated for income tax purposes among the Partners in such manner as to reflect equitably amounts credited or debited to each Partner's Capital Account(s) for the current and prior Fiscal Years (or relevant portions thereof). Allocations under this Section 5.13 shall be made pursuant to the principles of Sections 704(b) and 704(c) of the Internal Revenue Code, and Regulations Sections 1.704-1(b)(2)(iv)(f) and (g), 1.704-1(b)(4)(i) and 1.704-3(e) promulgated thereunder, as applicable, or the successor provisions to such

Sections and Regulations. Items described in this Section 5.13 shall neither be credited nor charged to the Partners' Capital Accounts.

(b) If the Partnership realizes Income for any tax year during or as of the end of which one or more Positive Basis Partners withdraw from the Partnership pursuant to Article VI, the General Partner may elect to allocate such Income as follows: (i) to allocate such Income among such Positive Basis Partners, pro rata in proportion to the respective Positive Basis of each such Positive Basis Partner, until either the full amount of such Income shall have been so allocated or the Positive Basis of each such Positive Basis Partner shall have been eliminated and (ii) to allocate any Income not so allocated to Positive Basis Partners to the other Partners in such manner as shall equitably reflect the amounts allocated to such Partners' Capital Accounts pursuant to Sections 5.07 and 5.08.

(c) If the Partnership realizes Losses for any tax year during or as of the end of which one or more Negative Basis Partners withdraw from the Partnership pursuant to Article VI, the General Partner may elect to allocate such Losses as follows: (i) to allocate such Losses among such Negative Basis Partners, pro rata in proportion to the respective Negative Basis of each such Negative Basis Partner, until either the full amount of such Losses shall have been so allocated or the Negative Basis of each such Negative Basis Partner shall have been eliminated and (ii) to allocate any Losses not so allocated to Negative Basis Partners to the other Partners in such manner as shall equitably reflect the amounts allocated to such Partners' Capital Accounts pursuant to Sections 5.07 and 5.08.

(d) Notwithstanding anything to the contrary in the foregoing in this Section 5.13, if a Partner withdraws all or a portion of its Capital Account during any tax year, the General Partner may specially allocate income to such Partner (including the General Partner) equal to the amount by which such withdrawn amounts exceed its adjusted tax basis, for income tax purposes, in its interest in the Partnership (determined prior to any such allocations).

**Section 5.14 Determination by General Partner of Certain Matters.** All matters concerning the valuation of Investments and other assets and liabilities of the Partnership, the allocation of income, deductions, gains and losses among the Partners, including taxes thereon, and accounting procedures not expressly provided for by the terms of this Agreement shall be determined by the General Partner, whose determination shall be final and conclusive as to all of the Partners absent manifest error.

**Section 5.15 Adjustments to Take Account of Certain Events.** If the Internal Revenue Code or regulations promulgated thereunder require a withholding or other adjustment to a Capital Account of a Partner, or some other event occurs necessitating in the General Partner's judgment an equitable adjustment, the General Partner shall make such adjustments in the determination and allocation among the Partners of Net Capital Appreciation, Net Capital Depreciation, Capital Accounts, Partnership Percentages, Incentive Allocation, Management Fee, items of income, deduction, gain, loss, credit or withholding for tax purposes, accounting procedures or such other financial or tax items (including, but not limited to, any Investor-Related Taxes) as shall equitably take into account such event and applicable provisions of law, and the

determination thereof in the sole discretion of the General Partner shall be final and conclusive as to all of the Partners.

Section 5.16 Excusal.

(a) Notwithstanding anything to the contrary in this Agreement, if at the time of a Limited Partner's subscription to the Partnership or upon subsequent notice to the General Partner (in the case of clause (2) below only), a Limited Partner indicates that it is reasonably likely that participation in an Investment (or category thereof) (1) would cause a material violation of a statute, rule, regulation, order or internal policy to which the Limited Partner is subject or (2) would violate any law applicable to such Limited Partner, including as a result of any change in law or any change in interpretation of existing law or a change in the rules or regulations of any governmental agency, commission or authority to which such Limited Partner is subject (a "Prohibited Investment"), in each case, as determined by the General Partner and the Limited Partner together, or by the Limited Partner if the Limited Partner provides the Partnership with a written opinion of reputable counsel of national standing (which opinion and counsel shall be reasonably satisfactory to the General Partner) that supports such conclusion, the General Partner will excuse such Limited Partner (the "Excused Partner") from participation therein.

(b) No Excused Partner will receive any distributions pursuant to Section 6.03 with respect to a related Prohibited Investment and no Capital Contribution shall be required with respect to such Prohibited Investment.

(c) Notwithstanding anything to the contrary in this Agreement, if a Limited Partner provides the Partnership with a written opinion of reputable counsel of national standing (which opinion and counsel shall be reasonably satisfactory to the General Partner) that it is reasonably likely that such Limited Partner's continuation as a Limited Partner of the Partnership (1) would cause a material violation of a statute, rule or regulation to which the Limited Partner is subject or (2) would violate any law applicable to such Limited Partner, such Limited Partner shall be permitted to withdraw from the Partnership following the General Partner's receipt of such opinion. Distributions in respect of such withdrawals may be made by the General Partner in its sole discretion in cash, other Investments, interests in one or more Liquidating Vehicles, or in a combination thereof and will be distributed in the same manner as described in Section 6.02. Any such Limited Partner shall not be required to pay any withdrawal fees, penalty or other charges, or be subject to any withdrawal gate, suspension, holdback (other than in respect of Reserved Amount), lock-up or other delay in payment.

## ARTICLE VI

### Withdrawals and Distributions of Capital

#### Section 6.01 Withdrawals and Distributions in General.

(a) No Partner shall be entitled to (i) receive distributions from the Partnership, except as provided in Article VI and Section 8.03 or (ii) withdraw any amount from such Partner's Capital Account(s), except as provided in Section 6.02 or upon the consent of, and upon such terms as may be determined by, the General Partner in its sole discretion.

(b) A Partner shall cease to be a Partner (i) as of the effective date of the full withdrawal of such Partner's Capital Account(s), (ii) as of the effective date of the Transfer of all of such Partner's Interests in accordance with Section 7.01, or (iii) in the event of the dissolution of the Partnership, as of the final distribution of the assets of the Partnership. As of the effective date of a withdrawal, solely with respect to the withdrawal proceeds, a withdrawing Partner shall be considered a creditor of the Partnership and shall have no rights or obligations with respect to the Partnership except that such Partner shall (i) have the right to receive, as a creditor, withdrawal proceeds and (ii) continue to be bound by the Sections of this Agreement governing the payment of withdrawal proceeds, including the right of suspension of such payment pursuant to Section 6.07(b).

#### Section 6.02 Withdrawals.

(a) Subject to this Section 6.02 and Sections 6.03(e) and 6.07, each Limited Partner shall [REDACTED], upon at least [REDACTED] prior written notice to the [REDACTED], to request to withdraw [REDACTED] provided, however, that a Limited Partner shall [REDACTED] made in respect of [REDACTED] (i) [REDACTED]; and (ii) [REDACTED] of the date on which such [REDACTED] Such notice shall [REDACTED]; provided, however, that [REDACTED] If a Limited Partner has [REDACTED] for purposes of determining [REDACTED] . If, at any time [REDACTED]

(b) Liquidating Vehicles.

(i) Generally, [REDACTED] General Partner, withdrawals will be [REDACTED] and/or [REDACTED] or a [REDACTED] provided, that the [REDACTED] The General Partner [REDACTED] The General Partner [REDACTED] or [REDACTED] or [REDACTED] . If a [REDACTED] is [REDACTED] for [REDACTED] , would be [REDACTED] that are [REDACTED] , and if [REDACTED] would be [REDACTED]

(ii) The General Partner [REDACTED] o the [REDACTED] provided, that the General Partner [REDACTED] . The General Partner [REDACTED] will not [REDACTED] The of the [REDACTED] , but are [REDACTED] . On the [REDACTED] , the [REDACTED] in the [REDACTED] but shall [REDACTED] until the [REDACTED] and the [REDACTED] ill be [REDACTED]

(iii) The General Partner [REDACTED] to [REDACTED] for an [REDACTED]

for a . However, and  
, including

(iv) The General Partner  
and  
be . The  
or  
of such and, for the  
avoidance of doubt,  
All  
, and  
shall provide

(c) The General Partner may  
(i)  
and (ii)  
The can be as determined by the  
General Partner in its sole discretion. The General Partner shall  
within after the  
in which such , unless the General Partner determines in which  
case, will be the General Partner  
if such date  
occurs.

(d) [Reserved].

(e) General Partner Withdrawals. Subject to the remainder of this Section 6.02(e), the General Partner and each Principal may, [REDACTED] prior written notice to the [REDACTED]

(i) subject to the (ii) and (iii) as reasonably determined by the General Partner

otherwise shall be The General Partner and the Principals

with respect to

and the General Partner shall

provided, that the General Partner will not

provided, further that each Limited Partner (i) shall

described in this Section

6.02(e) (for the avoidance of doubt,

and (ii) shall not be [REDACTED], or be [REDACTED] (other than [REDACTED])

(f) The General Partner may [REDACTED] at its sole discretion, [REDACTED] deems appropriate; provided, however, that [REDACTED], the General Partner will [REDACTED]

(g) Notwithstanding anything to the contrary in this Article VI, the General Partner may [REDACTED] as it reasonably determines at its sole discretion. [REDACTED]. All such [REDACTED]

\_\_\_\_\_ including those \_\_\_\_\_;  
provided that \_\_\_\_\_;

Notwithstanding the foregoing, the

(h) Special Withdrawal Right. The Partnership will [REDACTED]  
(i) in the event that [REDACTED] (A) [REDACTED] (B) [REDACTED]  
[REDACTED] for [REDACTED]  
days or (C) for any [REDACTED]  
(ii) in the event that [REDACTED]  
[REDACTED]  
for [REDACTED] days; or (iii) if a [REDACTED] has occurred [REDACTED]  
. During the [REDACTED] day period following [REDACTED]  
[REDACTED] each [REDACTED]  
[REDACTED] will be [REDACTED] and [REDACTED]  
[REDACTED]  
Each Limited Partner will have the right [REDACTED]  
upon at least [REDACTED] days' prior written notice to the General Partner, to [REDACTED]  
[REDACTED] and the General Partner shall [REDACTED]  
[REDACTED]  
as described in this Section 6.02. For the avoidance of doubt, in the event a Limited  
Partner's [REDACTED], the General Partner shall [REDACTED]  
[REDACTED] shall [REDACTED]  
each be [REDACTED]  
[REDACTED]  
During the [REDACTED], the General Partner shall [REDACTED]  
(A) for an [REDACTED]  
[REDACTED] (B) for an [REDACTED]  
[REDACTED]  
[REDACTED] the General Partner has [REDACTED]  
[REDACTED] and the [REDACTED]  
[REDACTED] or (C) to [REDACTED]  
[REDACTED], or [REDACTED].

Section 6.03 Distributions.

(a) Income Distribution Election.

(i) [REDACTED] from [REDACTED]  
may be [REDACTED] by the General Partner in its sole discretion. However,  
each Limited Partner may [REDACTED], and the General Partner shall [REDACTED]  
[REDACTED] (but is not required to), [REDACTED]  
[REDACTED]

Amount attributable to such Limited Partner (the "Income Distribution"). The General Partner may [REDACTED] as it determines in its sole discretion. A Limited Partner may [REDACTED]

[REDACTED] no later than [REDACTED] An [REDACTED] may be [REDACTED] by providing written notice to the General Partner no later than [REDACTED]

(ii) If the General Partner [REDACTED] within [REDACTED] days [REDACTED], or as soon as reasonably practicable thereafter; provided that the Partnership [REDACTED] unless [REDACTED] s and shall not [REDACTED] if the General Partner determines, in its sole discretion, that [REDACTED]

[REDACTED] Each [REDACTED] shall be [REDACTED]

(b) In-Kind Distributions. Subject to Section 6.02(b), in general, a [REDACTED] may be [REDACTED] as determined by the General Partner in its sole discretion. To the extent [REDACTED]

[REDACTED] the General Partner shall, subject to Section 6.02(b), [REDACTED]

[REDACTED] For the purpose of [REDACTED]

[REDACTED] as determined by the General Partner in accordance with [REDACTED]

(c) Reinvestment. The Partnership may, at the sole discretion of the General Partner, (A) [REDACTED]

[REDACTED] (B)

[REDACTED] or (C) [REDACTED]

[REDACTED] Due to the [REDACTED]

[REDACTED] To the extent that the Partnership [REDACTED]

described in (A) or (B) above, [REDACTED]  
[REDACTED] shall not [REDACTED]  
[REDACTED] in the General Partner's sole discretion, [REDACTED]  
[REDACTED]

(d) The provisions of this Section 6.03 shall [REDACTED]  
[REDACTED] under Article VI and [REDACTED]  
pursuant to Article VIII.

(e) (i) The General Partner may [REDACTED]  
[REDACTED]  
[REDACTED]

(ii) For purposes of this Agreement, [REDACTED]  
[REDACTED] with respect to [REDACTED]  
[REDACTED] shall be deemed [REDACTED]  
[REDACTED] pursuant to this Agreement [REDACTED]. If the [REDACTED]  
[REDACTED], then such [REDACTED]  
[REDACTED] shall [REDACTED]  
[REDACTED] If the Partnership [REDACTED]  
[REDACTED] relating to [REDACTED]  
[REDACTED] that has [REDACTED]  
[REDACTED] f notice thereof from the  
Partnership.

(iii) The General Partner shall [REDACTED]  
[REDACTED] hat may be [REDACTED]. To the extent  
that [REDACTED]  
[REDACTED] the General Partner [REDACTED] the  
Partner shall [REDACTED] as  
such Partner [REDACTED]  
[REDACTED] Each Partner [REDACTED]  
[REDACTED] shall be [REDACTED] and agrees to [REDACTED]

[REDACTED]

(f) The General Partner shall [REDACTED] days' prior written notice to [REDACTED] and shall not [REDACTED] at least [REDACTED] that such [REDACTED]

(g) Notwithstanding anything to the contrary contained in this Agreement, the Partnership, and the General Partner on behalf of the Partnership, shall not [REDACTED] could violate the Act or other applicable law.

Section 6.04 Required Withdrawals. The General Partner may, in its sole discretion, terminate all or any part of the Interest of any Limited Partner at any time upon at least five (5) days' prior written notice, for any reason or no reason, including a determination by the General Partner that such Partner's continued participation in the Partnership may cause the Partnership to be treated as a "publicly traded partnership" taxable as a corporation for federal tax purposes. The Partner receiving such notice shall be treated for all purposes and in all respects as a Partner who has given notice of withdrawal of all or part of its Capital Account(s), as the case may be, under Section 6.02. Distributions in respect of such required withdrawals may be made by the General Partner in its sole discretion in cash, other Investments, interests in one or more Liquidating Vehicles, or in a combination thereof and will be distributed in the same manner as described in Section 6.02(b).

Section 6.05 Death, Disability, etc. of Limited Partners. The death, disability, incapacity, adjudication of incompetency, termination, bankruptcy, insolvency or dissolution of a Limited Partner shall not dissolve the Partnership. The legal representatives of a Limited Partner shall succeed as assignee to the Limited Partner's interest in the Partnership upon the death, disability, incapacity, adjudication of incompetency, termination, bankruptcy, insolvency or dissolution of such Limited Partner, but shall not be admitted as a substitute Partner without the consent of the General Partner, in its sole discretion. Distributions in respect of withdrawal requests by such Limited Partner's legal representatives shall be made on the same terms, and shall be subject to the same conditions as if such Limited Partner had made a withdrawal request for all of its Capital Account(s).

Section 6.06 Effective Date of Withdrawal. Unless otherwise specified in this Agreement, the effective date of a Partner's withdrawal shall mean the day immediately following: (i) the Withdrawal Date in the case of a withdrawal pursuant to Section 6.02(a); (ii) the date determined by the General Partner pursuant to Section 6.07(c) if a suspension of withdrawal rights has been lifted; or (iii) the date determined by the General Partner if such Partner shall be required to withdraw from the Partnership pursuant to Section 6.04 or is permitted to withdraw from the Partnership pursuant to Section 5.16(c).

Section 6.07 Additional Limitations on Withdrawal of Capital Account.

(a) The right of any Partner or its legal representatives to withdraw any amount from its Capital Account(s) and to have distributed to it any such amount (or any portion thereof) pursuant to this Article VI is subject to the provision by the General Partner for all Partnership liabilities in accordance with the Act and for reserves and holdbacks in accordance with Section 5.11. In addition, no withdrawal shall be permitted that would result in a Capital Account having a negative balance.

(b) The General Partner may suspend the determination of the Net Asset Value and the net asset value of each Limited Partner's Capital Account(s), withdrawal rights, in whole or in part (with any partial suspension to be applied *pro rata* across all Limited Partners), and/or the payment of withdrawal proceeds in respect of voluntary withdrawals:

(i) during any period when any market on which the Partnership's Investments are quoted, traded or dealt in is closed, to the extent there is a trading market for such Investments, other than for ordinary holidays and weekends, or during periods in which dealings are restricted or suspended;

(ii) during the existence of any state of affairs as a result of which, in the opinion of the General Partner, disposal of the Partnership's assets, or the determination of the net asset value of a Capital Account, is not reasonably practicable or is reasonably expected to be prejudicial to the non-withdrawing Limited Partners or the Partnership as a whole;

(iii) during the existence of any state of affairs as a result of which disposal of the Partnership's assets is restricted under applicable U.S. or non-U.S. securities laws or regulations;

(iv) during any breakdown in the means of communication normally employed in determining the price or value of the Partnership's assets or liabilities, or of current prices in any market as aforesaid, or when for any other reason the prices or values of any assets or liabilities of the Partnership cannot reasonably be promptly and accurately ascertained;

(v) during any period when the transfer of funds involved in the realization or acquisition of any Investments cannot, in the opinion of the General Partner, be effected at normal rates of exchange; or

(vi) during the period in which the Partnership is winding down its business.

(c) The General Partner shall provide written notice to each Limited Partner of a suspension of the calculation of Net Asset Value, withdrawal rights and/or payment of withdrawal proceeds. Upon the determination by the General Partner that the condition giving rise to a suspension has ceased to exist and no other condition under which

suspension is authorized under Section 6.07(b) exists, such suspension shall be lifted and written notice shall be sent to the Limited Partners regarding the lifting of such suspension and the next date as of which Limited Partners will be permitted to withdraw all or a portion of a Capital Account.

(d) Upon a suspension of withdrawal rights, all pending withdrawal requests shall be automatically revoked, and no requests subsequently received shall be accepted until such time as the General Partner permits Limited Partners to submit withdrawal requests in anticipation of lifting the suspension.

(e) In the event that any suspension has not ended by the one-year anniversary of the date on which the suspension initially took effect, the Management Fees that accrue during the period beginning on the day immediately following the one-year anniversary and ending on date the General Partner declares such suspension to be at an end shall accrue at one-half of the rate set forth in Section 4.07(a). In the event that any suspension has not ended by the two-year anniversary of the date on which the suspension initially took effect, the Management Fees shall cease to accrue during the period beginning on the day immediately following the two-year anniversary and ending on date the General Partner declares such suspension to be at an end.

(f) The General Partner may, by written notice to any Limited Partner, suspend the payment of withdrawal proceeds payable to such Limited Partner if the General Partner reasonably deems it necessary to do so to comply with anti-money laundering laws and regulations applicable to the Partnership, the General Partner, the Investment Manager or any of the Partnership's other service providers.

Section 6.08 Withdrawals by BHC Limited Partners. If at any time, as a result of proposed withdrawals by or distributions to other Partners, or for any other reason, the General Partner expects a BHC Limited Partner's Interest to equal or exceed 25% of the aggregate Interests of all of the Partners, the General Partner shall immediately notify such BHC Limited Partner and permit such BHC Limited Partner to withdraw so much of its capital in the Partnership as shall be necessary to maintain such BHC Limited Partner's total investment in the Partnership at a level below 25% of the aggregate Interests of all of the Partners. Notwithstanding the foregoing, no BHC Limited Partner shall be permitted to withdraw any portion of its interest at any time during which any indebtedness, obligations and/or liabilities under Commitment Credit Facilities (including, without limitation, any principal, interest, fees and expenses) are outstanding, provided that upon such occurrence, General Partner shall immediately issue a Capital Call notice pursuant to Section 5.04 of this Agreement to promptly repay any such indebtedness, obligations and liabilities.

## ARTICLE VII

### Transfers of Interest

Section 7.01 Assignability of Interest. Without the consent of the General Partner, which consent may be given or withheld in its sole discretion, a Partner may not make a Transfer except by operation of law. With the consent of the General Partner, which may be

withheld in its sole discretion, a Limited Partner may make a Transfer (i) in circumstances in which the tax basis of the Interest in the hands of the Transferee is determined, in whole or in part, by reference to its tax basis in the hands of the Transferor, (ii) to members of such Partner's immediate family (brothers, sisters, spouse, parents and children), or (iii) as a distribution from a qualified retirement plan or an individual retirement account. The General Partner may permit other Transfers under such other circumstances and conditions as it, in its sole discretion, deems appropriate; provided, however, that prior to any such other Transfer, the General Partner shall consult with counsel to the Partnership to ensure that such Transfer will not cause the Partnership to be treated as a "publicly traded partnership" taxable as a corporation for federal tax purposes. Notwithstanding anything else herein to the contrary, no Limited Partner shall be permitted to Transfer such Limited Partner's Interest unless it simultaneously Transfers a corresponding portion of its interest or shares in any Alternative Investment Vehicle. Any attempted Transfer not made in accordance with this Section 7.01, to the fullest extent permitted by law, shall be void.

Section 7.02 Substitute Limited Partner. No Transferee of an Interest shall become a Substitute Limited Partner unless all of the following conditions have been satisfied, within such reasonable time period as the General Partner shall determine:

- (a) The Transfer is permitted under Section 7.01;
- (b) The Partnership receives a duplicate original of all documents effecting the Transfer from the Transferor to the Transferee;
- (c) The General Partner consents to the admission of the Transferee as a Substitute Limited Partner, which consent may be granted or withheld in the General Partner's sole discretion; and
- (d) The Transferee has executed an instrument, in form and substance satisfactory to the General Partner, accepting and agreeing to be bound by all terms and conditions of this Agreement.

## ARTICLE VIII

### Duration and Dissolution of the Partnership

Section 8.01 Term. The term of the Partnership began on the date the Certificate of Limited Partnership of the Partnership was filed, and shall continue until cancellation of the Certificate of Limited Partnership of the Partnership in accordance with this Agreement.

### Section 8.02 Dissolution.

- (a) There shall be a dissolution of the Partnership and its affairs shall be wound up upon the first to occur of any of the following events:
  - (i) a determination by the General Partner that the Partnership should be dissolved;

(ii) at any time there are no Limited Partners, unless the business of the Partnership is continued in accordance with the Act;

(iii) any event that results in the General Partner ceasing to be a general partner of the Partnership under the Act; provided that the Partnership shall not be dissolved and required to be wound up in connection with any such event if (A) at the time of the occurrence of such event there is at least one remaining general partner of the Partnership who is hereby authorized to and does carry on the business of the Partnership, or (B) within 90 days after the occurrence of such event, a Majority-in-Interest of the Limited Partners (excluding, for this purpose, any Limited Partners that are Affiliates of the General Partner) agree in writing or vote to continue the business of the Partnership and to the appointment, effective as of the date of such event, if required, of one or more additional general partners of the Partnership; or

(iv) the entry of a decree of judicial dissolution under Section 17-802 of the Act.

(b) Upon a determination to wind up and dissolve the Partnership, withdrawal requests shall be cancelled and distributions in respect of pending withdrawals may not be made.

#### Section 8.03 Winding Up.

(a) Upon dissolution of the Partnership, the General Partner shall, within no more than 30 days after completion of a final audit of the Partnership's financial statements, make distributions out of the Partnership's assets, in the following manner and order:

(i) to creditors, including Partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the Partnership (whether by payment or by establishment of reserves); and

(ii) to the Partners in the proportion of their respective Capital Accounts.

(b) The General Partner, in its sole discretion, or a Majority-in-Interest of Limited Partners if the Partnership no longer has a General Partner, may at any time and from time to time, designate one or more liquidators, including one or more members of the General Partner, who shall have full authority to wind up and liquidate the business of the Partnership and to make final distributions as provided in this Section 8.03. The appointment of any liquidator may be revoked or a successor or additional liquidator or liquidators may be appointed at any time by an instrument in writing signed by the General Partner or a Majority-in-Interest of Limited Partners, as the case may be. Any such liquidator may receive compensation as shall be fixed, from time to time, by the General Partner or a Majority-in-Interest of Limited Partners, as the case may be.

(c) In the event that the Partnership is terminated on a date other than the last day of a Fiscal Year, the date of such termination shall be deemed to be the last day of a Fiscal Year for purposes of adjusting the Capital Accounts of the Partners pursuant to Sections 5.07 and 5.08. For purposes of distributing the assets of the Partnership upon dissolution, the General Partner shall be entitled to a return, on a *pari passu* basis with the Limited Partners, of the amount standing to its credit in its Capital Account.

Section 8.04 Time for Liquidation, etc. A reasonable time period shall be allowed for the orderly winding up and liquidation of the assets of the Partnership and the discharge of liabilities to creditors so as to enable the Partnership to seek to minimize potential losses upon such liquidation. The provisions of this Agreement, including the provisions relating to the payment of the Management Fee and the making of the Incentive Allocation, shall remain in full force and effect during the period of winding up and until the filing of a certificate of cancellation of the Certificate of Limited Partnership of the Partnership with the Secretary of State of the State of Delaware.

## ARTICLE IX

### Tax Returns; Reports to Partners; Books and Records

Section 9.01 Independent Auditors. The financial statements of the Partnership shall be audited by a reputable, independent certified public accountant selected by the General Partner as of the end of each Fiscal Year of the Partnership.

Section 9.02 Filing of Tax Returns. The General Partner or its designated agent shall prepare and file, or cause the accountants of the Partnership to prepare and file, a federal information tax return in compliance with Section 6031 of the Internal Revenue Code, and any required state and local income tax and information returns for each tax year of the Partnership.

Section 9.03 Tax Matters Partner. The General Partner shall be designated the "tax matters partner" (as defined in Section 6231(a)(7) of the Internal Revenue Code, as in effect prior to January 1, 2018) of the Partnership for tax returns of the Partnership filed for taxable years beginning in or before 2017, and the General Partner (or such person as may be designated by the General Partner in its sole discretion) shall be designated, in the manner prescribed by applicable law, as the partnership representative authorized to act on behalf of the Partnership in respect of Partnership audits relating to tax returns filed for taxable years beginning after 2017 (the General Partner and/or such other person, the "Tax Matters Partner"). For taxable years beginning in or before 2017, each person (for purposes of this Section 9.03, called a "Pass-Thru Partner") that holds or controls an Interest as a Partner on behalf of, or for the benefit of, another person or Persons, or which Pass-Thru Partner is beneficially owned (directly or indirectly) by another Person or Persons shall, within 30 days following receipt from the Tax Matters Partner of any notice, demand, request for information or similar document, convey such notice or other document in writing to all holders of beneficial interests in the Partnership holding such interests through such Pass-Thru Partner. In the event the Partnership shall be the subject of an income tax audit by any federal, state or local authority, to the extent the Partnership is treated as an entity for purposes of such audit, including administrative settlement and judicial review, the Tax Matters Partner shall be authorized to act for, and its decision shall be final and binding upon, the

Partnership and each Partner thereof. The General Partner shall have the authority to make, or cause to be made, all relevant decisions and elections, including, with respect to audits relating to tax returns filed for taxable years beginning after 2017, an election under Section 6226 of the Internal Revenue Code, as then in effect, and any similar elections under state or local law. All expenses incurred in connection with any such audit, investigation, settlement or review shall be borne by the Partnership.

Section 9.04 Financial Statements. Within 120 days after the end of each Fiscal Year or as soon as reasonably practicable thereafter, the Partnership shall prepare and mail or otherwise make available to each Partner financial statements of the Partnership, audited by the independent certified public accountant selected by the General Partner. The Partnership also will make available periodic unaudited performance information, no less frequently than quarterly, to the Limited Partners which shall contain performance information of each Class. The Partnerships audited and unaudited financial statements may be combined with the financial statements of the Alternative Investment Vehicles, unless the General Partner determines, in its sole discretion, to deliver separate financial statements.

Section 9.05 Reports to Partners and Former Partners. Within 120 days of the end of each tax year of the Partnership or as soon as reasonably practicable thereafter, the Partnership shall prepare and make available, or cause its accountants to prepare and make available, to each Partner and, to the extent necessary, to each Former Partner (or its legal representatives), a report setting forth in sufficient detail such information as shall enable such Partner or Former Partner (or such Partner's legal representatives) to prepare its federal and state income tax returns in accordance with the laws, rules and regulations then prevailing.

Section 9.06 Partner Tax Basis. Upon request of the General Partner, each Partner agrees to provide to the General Partner information regarding its adjusted tax basis in its Interest along with documentation substantiating such amount.

Section 9.07 Books and Records.

(a) The General Partner shall keep books and records pertaining to the Partnership's affairs showing all of its assets and liabilities, receipts and disbursements, gains and losses, Partners' Capital Accounts and all transactions entered into by the Partnership. Such books and records of the Partnership shall be kept at the Partnership's office or at the office of an agent of the Partnership.

(b) Pursuant to Section 17-305(f) of the Act, except as otherwise expressly provided in this Agreement or any Other Agreement, no Limited Partner shall have any right to obtain any information contained in the books and records of the Partnership, including any information relating to any other Limited Partner or the Partnership's trading activity.

## ARTICLE X

### Confidential Information

Section 10.01 Confidentiality.

(a) In connection with the organization of the Partnership and its ongoing business, the Limited Partners will receive or have access to Confidential Information. Subject to permissions granted under any Other Agreement between a Partner and the General Partner (including a Subscription Agreement), each Limited Partner agrees to keep confidential, and not to make any use of (other than for purposes reasonably related to its Interest or for purposes of filing such Limited Partner's tax returns) or disclose to any Person, any Confidential Information except to its Authorized Representatives on a need to know basis or as otherwise required by any regulatory authority, law or regulation, or by legal process. Notwithstanding anything in this Agreement to the contrary, each Partner (and each employee, representative, or other agent of such Partner) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of (i) the Partnership and (ii) any of its transactions, and all materials of any kind (including opinions or other tax analyses) that are provided to the Partner relating to such tax treatment and tax structure, it being understood that "tax treatment" and "tax structure" do not include the name or the identifying information of (i) the Partnership or (ii) the parties to a transaction. Prior to making any disclosure required by any regulatory authority, law or regulation, or by legal process, each Limited Partner shall use its reasonable best efforts to notify the General Partner of such disclosure. Prior to any disclosure to any Authorized Representative of a Limited Partner, such Limited Partner must advise such Authorized Representative of the obligations set forth in this Section 10.01.

(b) Each Limited Partner agrees that the General Partner has the right to keep confidential from the Limited Partners, for such period of time as the General Partner in its sole discretion deems reasonable, any Confidential Information.

Section 10.02 Equitable and Injunctive Relief. The Partners acknowledge that (a) the provisions of Section 10.01 hereof are intended to preserve the unique relationship among the Partners and (b) the provisions of Section 10.01 are intended to preserve the value and goodwill of the Partnership's business; and that, in the event of a breach or a threatened breach by any Partner of its obligations under Section 10.01, the other Partners and the Partnership will not have an adequate remedy at law. Accordingly, in the event of any such breach or threatened breach by a Partner, any of the other Partners shall be entitled to such equitable and injunctive relief as may be available to restrain such Partner and any Person participating in such breach or threatened breach from the violation of the provisions thereof. Nothing in this Agreement shall be construed as prohibiting a Partner or the Partnership from pursuing any other remedies available at law or in equity for such breach or threatened breach, including the recovery of damages.

## ARTICLE XI

### Miscellaneous

Section 11.01 Entire Agreement. This Agreement, each Subscription Agreement and, with reference to a Limited Partner that has entered into an Other Agreement, such Other Agreement, supersede any and all existing agreements, oral or written, between or among the Partnership, the General Partner and the Limited Partners, with respect to the Partnership.

Section 11.02 Execution of Other Documents. Each of the Partners agrees to execute upon demand such certificates, counterparts, instruments and documents as may from time to time be required to be filed or recorded by law.

Section 11.03 Power of Attorney. Each of the Partners hereby appoints the General Partner as its true and lawful representative and attorney-in-fact, in its name, place and stead to make, execute, sign, acknowledge, swear to and file:

(a) a Certificate of Limited Partnership of the Partnership and any amendments thereto as may be required under the Act;

(b) any duly adopted amendment to this Agreement (*i.e.*, that is adopted in accordance with Section 11.04);

(c) all agreements and instruments necessary and advisable to consummate any Investment, including the admission of any Partners (or their ultimate owners) to an Alternative Investment Vehicle, the execution of the organizational documents with respect to an Alternative Investment Vehicle (and amendments thereto consistent with Section 4.10) and the transfer of assets and/or liabilities between the Partnership and any Alternative Investment Vehicle (either by way of assignment, participation, distribution and contribution in kind or otherwise);

(d) any and all instruments, certificates and other documents that may be deemed necessary or desirable to effect the dissolution and winding-up of the Partnership (including a certificate of cancellation of the Certificate of Limited Partnership); and

(e) any business certificate, fictitious name certificate, amendment thereto or other instrument or document of any kind necessary or desirable to accomplish the business, purpose and objectives of the Partnership, or required by any applicable federal, state or local law.

The power of attorney hereby granted by each of the Limited Partners is coupled with an interest, is irrevocable and shall survive, and shall not be affected by, the subsequent death, disability, incapacity, adjudication of incompetency, termination, bankruptcy, insolvency or dissolution of such Limited Partner; provided, however, that such power of attorney will terminate upon the substitution of another limited partner for all of such Limited Partner's interest in the Partnership or upon the complete withdrawal of such Limited Partner from participation in the Partnership.

Section 11.04 Amendments to Partnership Agreement.

(a) The terms and provisions of this Agreement may be modified or amended at any time and from time to time by the consent of a majority of the Interests of the Limited Partners, and if such amended or modified terms and provisions will only affect Limited Partners of a particular Class, the terms and provisions of this Agreement applicable to such Class may be modified or amended at any time and from time to time by the consent of a majority of the Interests of the Limited Partners of such affected Class,

which, in each case, may be written or passive (*i.e.*, Limited Partners shall be deemed to have consented to such modification or amendment if they fail to object to such modification or amendment within a specific period of time set by the General Partner, which period of time shall be at least 30 days from the date such Limited Partners are notified of such modification or amendment), and the affirmative vote of the General Partner, insofar as is consistent with the laws governing this Agreement. Notwithstanding the foregoing:

(i) without the consent of the Limited Partners, the General Partner may amend this Agreement to: (A) reflect a change in the name of the Partnership; (B) change the provisions relating to the Incentive Allocation as provided in, and subject to the provisions of, Section 5.09; (C) make any change that is necessary or, in the opinion of the General Partner, advisable to qualify the Partnership as a limited partnership or a partnership in which the Limited Partners have limited liability under the laws of any state or non-U.S. jurisdiction, or ensure that the Partnership will not be treated as an association taxable as a corporation or as a publicly traded partnership taxable as a corporation for federal tax purposes; (D) make any change that does not adversely affect the Limited Partners in any material respect; (E) make any change that is necessary or desirable to cure any ambiguity, to correct or supplement any provision in this Agreement that would be inconsistent with any other provision in this Agreement, or to make any other provision with respect to matters or questions arising under this Agreement that will not be inconsistent with the provisions of this Agreement, in each case so long as such change does not adversely affect the Limited Partners in any material respect; (F) correct any printing, stenographic or clerical error or effect changes of an administrative or ministerial nature which do not increase the authority of the General Partner in any material respect or adversely affect the Limited Partners in any material respect; (G) make any change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, statute, ruling or regulation of any federal, state or non-U.S. governmental entity, so long as such change is made in a manner that minimizes any adverse effect on the Limited Partners; (H) prevent the Partnership from in any manner being deemed an "investment company" subject to the provisions of the Company Act; or (I) make any other amendments similar to the foregoing; and

(ii) each Partner must approve of any amendment that would (x) reduce its Capital Account(s) or limit its right of withdrawal; (y) amend the provisions of this Agreement relating to amendments; or (z) increase the rate of the Management Fee and Incentive Allocation applicable to such Partner; provided that Limited Partners that have in excess of two-thirds of a particular Class of Interests will be required to effect any amendment that would restrict the withdrawal rights of all Limited Partners holding Interests of such Class.

(b) A Partner may divide its Interests for purposes of exercising any voting rights under this Agreement.

Section 11.05 Voting. Notwithstanding anything else contained in this Agreement, with respect to any provision of this Agreement requiring the consent or approval of Limited Partners having a specified percentage of Limited Partners, for purposes of calculating the arithmetic fraction represented by such percentage, there shall be excluded from both the numerator and denominator of such fraction the Interests held by the General Partner, the Investment Manager, any Principal or their Affiliates (excluding any interests in feeder vehicles attributable to third-party investors therein, which investors shall be entitled to vote in respect of their indirect interests in the Partnership in accordance with the following sentence). In the event the General Partner seeks the consent or approval of Limited Partners having a specified percentage of Limited Partners, the General Partner shall seek the consent from each Limited Partner that is a feeder vehicle, and such feeder vehicle Limited Partners shall provide their consent in proportion to the consent provided by the third-party investors who hold interests in such feeder vehicle Limited Partners (*i.e.*, based on the Partnership Percentages attributable to the portion of the Partnership indirectly owned by third-party investors in such feeder vehicle Limited Partners providing consent relative to the aggregate Partnership Percentage of the Partnership entitled to vote on such matter).

Section 11.06 Non-Voting Interests of BHC Limited Partners.

(a) The portion of any Interests held for its own account by a BHC Limited Partner whose Interests are determined, at any time, to be in excess of 4.99% (or such greater or lesser percentage as may be permitted or required under Section 4(c)(6) of the BHCA) of the total outstanding aggregate voting Interests of all Limited Partners, excluding any other Interests that are Non-Voting Interests pursuant to this Section 11.06, shall be deemed to be Non-Voting Interests to the extent of such excess above 4.99% (whether or not subsequently transferred, in whole or in part, to any other Person); provided that such Non-Voting Interests shall be permitted to vote (i) on any proposal to dissolve or continue the business of the Partnership, and (ii) on matters with respect to which voting rights are not considered to be "voting securities" under 12 C.F.R. § 225.2(q)(2), including such matters which may "significantly and adversely" affect a BHC Limited Partner (such as amendments to this Agreement or modifications of the terms of its Interest). To the extent permitted by the BHCA, and except as otherwise provided in this Section 11.06 and Section 11.07, Non-Voting Interests shall not be counted as Interests held by any Limited Partner for purposes of determining whether any vote or consent required by this Agreement has been approved or given by the requisite percentage of the Limited Partners.

(b) A BHC Limited Partner shall be permitted to vote on the removal of the General Partner and the selection of any successor General Partner only to the extent of its voting Interests, and each BHC Limited Partner irrevocably waives its right to vote its Non-Voting Interest on the selection of a successor General Partner under the Act, which waiver shall be binding upon such BHC Limited Partner or any Person that succeeds to its Interest.

(c) Except as provided in this Section 11.06, an Interest held by a Limited Partner as a Non-Voting Interest shall be identical in all regards to all other Interests held by Limited Partners.

Section 11.07 Non-Voting Interests of Registered Fund Limited Partners.

(a) An Interest owned, controlled or held with power to vote by a Registered Fund Limited Partner, by an affiliated person (as such term is defined under the Company Act) of a Registered Fund Limited Partner or by an affiliated person of such a Person, shall be a Non-Voting Interest; provided, however, that such Non-Voting Interest shall be permitted to vote on matters as to which the exercise of voting rights would not cause the Non-Voting Interest to be deemed a "voting security" as defined under Section 2(a)(42) of the Company Act.

(b) Except as provided in this Section 11.07, an Interest held by a Registered Fund Limited Partner as a Non-Voting Interest shall be identical in all regards to all other Interests held by Limited Partners.

Section 11.08 Choice of Law. Notwithstanding the place where this Agreement may be executed by any of the parties hereto, the parties expressly agree that all of the terms and provisions hereof shall be governed by and construed under the laws of the State of Delaware applicable to contracts made and to be entirely performed in such state and, without limitation thereof, that the Act as now adopted or as may be hereafter amended shall govern all partnership aspects of this Agreement.

Section 11.09 Severability. If any provision of this Agreement is invalid or unenforceable under any applicable law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such applicable law. Any provision hereof which may be held invalid or unenforceable under any applicable law shall not affect the validity or enforceability of any other provisions hereof, and to this extent the provisions hereof shall be severable.

Section 11.10 Dispute Resolution.

(a) The parties agree to submit all controversies arising among them in connection with the Partnership or its businesses or concerning any transaction, dispute or the construction, performance or breach of this, or any other agreement, whether entered into prior, on or subsequent to the date set forth above to arbitration in accordance with the provisions set forth below and understand that: (i) arbitration is final and binding on the parties; (ii) the parties are waiving their rights to seek remedies in court, including the right to a jury trial; and (iii) pre-arbitration discovery generally is more limited than and different from court proceedings.

(b) Controversies shall be determined by arbitration before, and only before, an arbitration panel convened by JAMS. The parties may also select any national securities exchange's arbitration forum upon which a party is legally required to arbitrate the controversy. Such arbitration shall be governed by the rules of the organization convening the panel.

(c) Arbitrations conducted pursuant to this provision will be before a panel of one arbitrator. The arbitrator's award will not include factual findings or legal reasoning and every aspect of the arbitration, including the award, shall be treated as Confidential Information. Judgment on any award of any such arbitration may be entered in the Supreme Court of the State of New York or in any other court having jurisdiction of the party or parties against whom such award is rendered. Each party agrees that the determination of the arbitrator shall be binding and conclusive upon them.

(d) No party shall bring a putative or certified class action to arbitration, nor seek to enforce any pre-dispute arbitration agreement against any party who has initiated in court a putative class action or who is a member of a putative class who has not opted out of the class with respect to any claims encompassed by the putative class action unless and until: (i) the class certification is denied; (ii) the class is decertified; or (iii) the party is excluded from the class by court.

(e) The forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this Agreement except to the extent stated in this Agreement.

Section 11.11 Counterparts. Counterparts may be executed through the use of separate signature pages (or the Subscription Agreement) or in any number of counterparts with the same effect as if the parties executing such counterparts had all executed one counterpart. Each party understands and agrees that any portable document format (PDF) file, facsimile or other reproduction of its signature on any counterpart shall be equal to and enforceable as its original signature and that any such reproduction shall be a counterpart hereof that is fully enforceable in any court or arbitral panel of competent jurisdiction.

Section 11.12 Successors and Assigns. This Agreement shall inure to the benefit of each Partner and the executors, administrators, estates, heirs, legal successors and representatives of such Partner.

Section 11.13 No Waiver. The failure of a party to insist upon strict adherence to any term or provision of this Agreement on any occasion shall not be considered a waiver thereof or deprive that party of the right thereafter to insist upon strict adherence to that term or provision or any other term or provision of this Agreement.

Section 11.14 Notices. Each notice relating to this Agreement shall be in writing and delivered in person, by registered or certified mail, by Federal Express or similar overnight courier service, by electronic mail (e-mail) or by facsimile. All notices to the Partnership shall be addressed to its principal office and place of business (if delivered personally or by post), to [REDACTED] (if sent by e-mail) for the attention of [REDACTED] (if sent by facsimile). All notices addressed to a Partner shall be addressed to such Partner at the address set forth on the books and records of the Partnership. Any Partner may designate a new address by notice to that effect given to the Partnership. Unless otherwise specifically provided in this Agreement, a notice shall be deemed to have been effectively given when delivered personally, if delivered on a Business Day; the next Business Day after personal delivery if delivered personally on a day that is not a Business Day; four Business Days after being deposited in the United States mail, postage

prepaid, return receipt requested, if mailed; on the next Business Day after being deposited for next day delivery with Federal Express or similar overnight courier; when sent, if e-mailed on a Business Day; the next Business Day following the day on which the e-mail is sent if e-mailed on a day that is not a Business Day; when receipt is acknowledged, if facsimiled on a Business Day; and the next Business Day following the day on which receipt is acknowledged if facsimiled on a day that is not a Business Day.

Section 11.15 Tax Elections. The General Partner may, in its sole discretion, cause the Partnership to make or revoke any tax election that the General Partner deems appropriate, including an election pursuant to Section 754 of the Internal Revenue Code.

Section 11.16 No Third-Party Rights. Except for the provisions of Sections 4.05 and 4.06, the provisions of this Agreement, including the provisions of Sections 3.02 and 6.02, are not intended to be for the benefit of any creditor or other Person (other than the Partners in their capacities as such) to which any debts, liabilities or obligations are owed by (or who otherwise have a claim against or dealings with) the Partnership or any Partner, and, to the fullest extent permitted by law, no such creditor or other Person shall obtain any rights under any of such provisions (whether as a third-party beneficiary or otherwise) or shall by reason of any such provisions have a right to make any claim in respect to any debt, liability or obligation (or otherwise) including any debt, liability or obligation against the Partnership or any Partner. Notwithstanding the foregoing, or anything to the contrary set forth in this Agreement, any lender under a Commitment Credit Facility may rely upon this Agreement and enforce the provisions hereof and under each Subscription Agreement against the Partnership, the General Partner and any Limited Partner.

Section 11.17 Headings. The table of contents, 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. References to "Article" or "Section" in this Agreement shall be deemed to refer to the indicated Article or Section of this Agreement, unless the context clearly indicates otherwise.

Section 11.18 Counsel to the Partnership. Partnership Counsel also may serve as counsel to the General Partner and the Investment Manager. The General Partner may execute on behalf of the Partnership any consent to the representation of the Partnership that Partnership Counsel may request pursuant to the applicable rules of professional conduct in any jurisdiction. Partnership Counsel is not representing any Limited Partner with respect to its becoming a Limited Partner, or with respect to any action taken by the Partnership, whether or not Partnership Counsel has represented such Limited Partner with respect to other matters.

Section 11.19 Waiver of Partition. Except as may otherwise be required by law in connection with the winding-up, liquidation and dissolution of the Partnership, each Partner hereby irrevocably waives any and all rights that it may have to maintain an action for partition of any of the Partnership's property.

Section 11.20 Waiver of Jury Trial. EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW IN ANY PROCEEDING ARISING OUT OF THE

TERMS AND CONDITIONS OF THIS AGREEMENT. THIS WAIVER APPLIES TO ANY PROCEEDING, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH PARTY ACKNOWLEDGES THAT IT HAS RECEIVED THE ADVICE OF COMPETENT COUNSEL.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the date first set forth above.

GENERAL PARTNER:

ITE Rail GP L.L.C.

[REDACTED]

Name: [REDACTED]

Title: Managing Member

LIMITED PARTNERS:

Each Person that shall sign a Partnership Agreement Signature Page in the form attached in the Subscription Agreement (which signature page constitutes a counterpart signature page to this Agreement) and that shall be accepted by the General Partner to the Partnership as a Limited Partner.

**ITE Rail Fund L.P.**  
c/o ITE Rail GP L.L.C.  
200 Park Avenue South, Suite 1511  
New York, NY 10003

December 30, 2024

Kentucky Retirement Systems  
Kentucky Retirement Systems Insurance Trust Fund  
1260 Louisville Road  
Frankfort, KY 40601

RE: Investment in ITE Rail Fund L.P.

Ladies and Gentlemen:

This letter agreement (the “Letter Agreement”), effective upon the acceptance of the Subscription Agreement (as defined below) by the General Partner (as defined below) (the “Effective Date”), is entered into by and among Kentucky Retirement Systems and Kentucky Retirement Systems Insurance Trust Fund (collectively, the “Investor”), ITE Rail Fund L.P., a Delaware limited partnership (the “Partnership”), ITE Rail GP L.L.C., a Delaware limited liability company (the “General Partner”), and ITE Management L.P., a Delaware limited partnership (the “Investment Manager”), in connection with the investment by the Investor in the Partnership pursuant to: (i) the Eighth Amended and Restated Limited Partnership Agreement of the Partnership, dated as of March 20, 2024, as may be further amended or restated from time to time (the “Partnership Agreement”); (ii) Confidential Private Placement Memorandum of the Partnership, as amended or supplemented from time to time (the “Memorandum”); and (iii) the Subscription Agreement (and exhibits, questionnaires and schedules thereto) of the Partnership (the “Subscription Agreement” and, together with the Memorandum and the Partnership Agreement, the “Fund Documents”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Fund Documents.

1. Management Fee and Incentive Allocation. The Management Fee rate applicable to the Investor’s interest in the Partnership shall equal [REDACTED] with respect to the Beginning Value of each Capital Account of the Investor (before taking into account the estimated accrued Incentive Allocation, if any that are accrued as of the applicable calculation date or have been paid during the applicable calculation period) for each fiscal quarter. The Incentive Allocation rate applicable to the Investor’s Interest in the Partnership shall equal [REDACTED]. Except as expressly stated herein, the Management Fee and Incentive Allocation applicable to the Investor’s interest in the Partnership shall be calculated in accordance with the Partnership Agreement.

2. Most Favored Nation. The [REDACTED]  
[REDACTED] agree that [REDACTED], [REDACTED] agrees, after  
the date hereof, [REDACTED]  
[REDACTED] the [REDACTED]

will (a)  
(b) and  
with ; provided  
thereof; provided, further,  
that, at or  
with,  
or ; provided, further, that  
and/or . For purposes hereof,  
that is not

### 3. Public Records.

(a) The Investor hereby represents, warrants and covenants to the General Partner and the Partnership that it is a public agency of the Commonwealth of Kentucky subject to (i) Kentucky's public record law (the "Open Records Act"), Kentucky Revised Statutes sections 61.870 to 61.884, which provide generally that all records relating to a public agency's business are open to public inspection and copying unless exempted under the Open Records Act, (ii) Kentucky Revised Statutes sections 61.645(19)(i) and 78.782(18)(i) (the "Fee Disclosure Laws"), which require the disclosure of certain fees paid by the Investor and (iii) Kentucky Revised Statutes sections 61.645(19)(l), 61.645(20) as well as 78.782(18)(l) (the "Document Disclosure Laws" and collectively with the Open Records Act and the Fee Disclosure Law, the "Public Disclosure Laws"), which provide generally that all contracts or offering documents for services, goods, or property purchased or utilized by the Investor shall be posted on Investor's website and made available to the public unless exempted under the Document Disclosure Laws. Based solely on the foregoing representations, notwithstanding any provision in the Partnership Agreement to the contrary, the General Partner hereby agrees that (i) the Investor must treat all information received from the General Partner or the Partnership as open to public inspection under the Public Disclosure Laws, unless such information falls within an exemption under the Public Disclosure Laws, and (ii) subject to paragraph 3(d), the Investor will not be deemed to be in violation of any provision of the Partnership Agreement relating to confidentiality if the Investor discloses or makes available to the public (e.g., via Investor's website) any information regarding the Partnership to the extent required pursuant to or under the Public Disclosure Laws, including the Fund-Level Information in paragraph 3(b).

(b) The General Partner acknowledges that the Investor considers certain fund level information public under the Public Disclosure Laws and that the Investor has concluded that it is obligated to disclose such information upon request (e.g., via Investor's website). Notwithstanding any provision in the Partnership Agreement to the contrary, the General Partner agrees that the

Investor will disclose the following information without notice to the General Partner or the Partnership, solely to the extent such information is required to be disclosed pursuant to the Public Disclosure Laws, in each case, as of a specified date: (i) the name of the Partnership; (ii) the vintage year of the Partnership; (iii) the date in which the Investor's initial investment was made in the Partnership; (iv) the amount of the Investor's Commitment; (v) the amount of the Investor's unfunded Commitment; (vi) the aggregate amount of Capital Contributions made by the Investor; (vii) the aggregate amount of distributions received by the Investor from the Partnership; (viii) the estimated current value of the Investor's interest in the Partnership; (ix) the estimated internal rate of return of the Investor's investment in the Partnership, as calculated by the Investor solely using the information in clauses (vi)-(viii) and clauses (x)-(xi); (x) the total annual amount of Capital Contributions made by the Investor used to fund fees and commissions (including the Management Fees), and (xi) Carried Interest paid to the General Partner and its Affiliates with respect to the Investor's interests (the "Fund-Level Information").

(c) Notwithstanding anything to the contrary in Section 10.01 of the Partnership Agreement, the General Partner agrees that the Investor will disclose redacted versions of the Partnership Agreement, the Subscription Agreement and this Side Letter in the forms previously provided to the General Partner by the Investor, in each case solely to the extent required by the Document Disclosure Law (as defined in the Partnership Agreement). To the extent the Investor is required by applicable law to disclose information under the Document Disclosure Law that has not previously been approved by the General Partner, the Investor shall (i) notify the General Partner as soon as reasonably practicable prior to any such additional disclosures, (ii) deliver to the General Partner any proposed additional disclosures and (iii) provide the General Partner the opportunity to contest such additional disclosures and seek confidential treatment of such information as set forth in Section 10.01 of the Partnership Agreement.

(d) The Investor hereby represents, warrants and covenants to the General Partner and the Partnership that it is prohibited by law from preventing required disclosure under the Public Disclosure Laws. Based on the foregoing representation, the General Partner agrees that it shall not require the Investor to oppose or otherwise prevent required disclosure under the Public Disclosure Laws.

(e) In the event the General Partner elects pursuant to Section 10.01 of the Partnership Agreement to keep confidential from the Investor information otherwise disclosed to the Limited Partners generally, the General Partner shall notify the Investor of such election, after which the Investor and the General Partner shall work together in good faith to seek an alternate method and format for the Investor or its representatives to receive such information to the extent reasonably necessary to fulfill their fiduciary duties while still protecting the confidentiality interests of the General Partner, the Partnership and its Investments.

(f) The General Partner and the Partnership acknowledge and agree that pursuant to the Public Disclosure Laws, the Investor will publicly disclose the information set forth in this Paragraph 3 without further notice to the General Partner. Except as expressly set forth in this Paragraph 3, the provisions of Section 10.01 of the Partnership Agreement shall continue to apply in full to the Investor, including with respect to the General Partner notification provisions contained therein in connection with any disclosure of non-"Fund-Level Information." The

Investor acknowledges and agrees that any information that is publicly disclosed by the Investor under this Paragraph 3, may also be disclosed by the General Partner to any Person.

4. ILPA Reporting. The Investor hereby represents to the General Partner and the Partnership that the Investor is an instrumentality of the Commonwealth of Kentucky and, based on the Kentucky Revised Statutes Sections 61.645(19)(i) and 78.782(18)(i), the Investor requires certain additional reporting with respect to its fund investments in order to comply with such Kentucky statutes. Based solely on the foregoing representations, the General Partner shall provide to the Investor as promptly as practicable after the end of each fiscal quarter a completed version of the Institutional Limited Partners Association's Fee Reporting Template, using the then current version of the Reporting Template or in such amended form as the Investor may thereafter provide to the General Partner; provided that the General Partner may (a) leave certain sections of the Fee Reporting Template incomplete to the extent it deems such sections to be inapplicable and (b) elect to omit specific trade secrets or other commercially sensitive confidential information requested by the Fee Reporting Template in accordance with the Partnership Agreement.

5. Conflicts Interest Statement. The Investor represents that it is a public agency of the Commonwealth of Kentucky subject to various laws, regulations and policies which require the Investor to obtain this provision in connection with its private fund investments. The General Partner has provided the Investor with the Conflict of Interest Statement attached hereto as Exhibit B and will promptly notify the Investor if it becomes aware of a violation of such Exhibit.

6. Statement of Disclosure and Placement Agent. The Investor represents that it is a public agency of the Commonwealth of Kentucky subject to various laws, regulations and policies which require the Investor to obtain this provision in connection with its private fund investments. The Investor shall not be directly or indirectly obligated to bear, or be burdened by, the expense of any Placement Fees, and no such Placement Fees shall be paid with respect to any Investor's investment in the Partnership. The General Partner acknowledges and agrees it will promptly notify the Investor in writing if any of the responses set forth in the Statement of Disclosure and Placement Agents attached hereto as Exhibit C ceases to be accurate.

7. Annual Certification. The Investor hereby represents that the Investor is an instrumentality of the Commonwealth of Kentucky and pursuant to the laws and regulations of the Commonwealth of Kentucky, the Investor requires certain certifications with respect to its fund investments. Based solely on the foregoing representation, [REDACTED]

8. LPAC Membership. The General Partner agrees that, so long as the Investor is a Limited Partner in the Partnership and is not a Defaulting Partner, and provided that the Investor's aggregate commitment is not less than [REDACTED], the General Partner shall appoint, pursuant to Section 4.08 of the Partnership Agreement, one individual designated by the Investor (a "Designee") to serve as a voting member of the Advisory Committee. Should the Designee be unable to attend a meeting of the Advisory Committee, the Investor or such Designee may grant

in writing to a person designated by the Investor the Designee's proxy to vote on any matter upon which action is taken at the meeting.

9. Reporting Requirements. The General Partner shall use commercially reasonable efforts to furnish the Investor, to the extent reasonably available, with such additional information (other than identifying information with respect to other investors or information the General Partner deems, in its sole discretion, to be confidential) as the Investor may reasonably request in writing from time to time upon reasonable written notice as is necessary to (i) comply with the Investor's reporting requirements under all applicable laws, statutes, rules, regulations, ordinances and policies, (ii) complete the Investor's U.S. tax or information returns, if applicable, and (iii) comply with any disclosure requirements of any governmental body, regulatory agency, official or authority having jurisdiction over the Investor.

10. Indemnification. The General Partner acknowledges that the Investor has advised it that indemnification obligations under the Investor's Subscription Agreement and the Partnership Agreement that may be attributed to the Investor are not expressly authorized by the laws of the Commonwealth of Kentucky. As a result thereof, the Investor shall not be obligated to make any payment constituting such indemnification to the extent not authorized under such laws. Representations, warranties or covenants made by the Investor in the Partnership Agreement or the Investor's Subscription Agreement respecting limited partner interests in the Partnership shall be deemed to be modified so as to be consistent with the provisions of the preceding sentence. Nothing contained herein, however, shall relieve the Investor of any obligation it may have under the Partnership Agreement to contribute capital in respect of its Capital Commitment under the terms and conditions of the Partnership Agreement or to make other payments to the Partnership as required by the Partnership Agreement.

11. Indemnification Claims. The General Partner shall provide the Investor with notice of aggregate claims for Partnership indemnification in excess of \$5 million made during any fiscal quarter with respect to the same Proceeding (which notice shall be delivered within 45 days of the end of the relevant fiscal quarter).

12. Reservation of Immunities. The General Partner, the Investment Manager and the Partnership acknowledge that Investor reserves all immunities, defenses, rights or actions arising out of its sovereign and governmental status or under the Eleventh Amendment to the U.S. Constitution or the Constitution of the State of Kentucky, except to the extent expressly waived by statute. No waiver of any such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of its entry into this Letter Agreement or any other Fund Documents, by any express or implied provision thereof or by any actions or omissions to act by Investor or any representative or agent of Investor, whether taken pursuant to this Letter Agreement or any other Fund Documents or prior to the Investor's execution thereof. Notwithstanding the foregoing, nothing contained herein shall be deemed to constitute a waiver by the Partnership or the General Partner of the Investor's obligations to make Capital Contributions and other payments to the Partnership as set forth in the Partnership Agreement and the Subscription Agreement, nor shall it reduce or modify the rights of the General Partner and the Partnership to seek to enforce such obligations or other rights or actions which the Partnership or the General Partner may have against the Investor under the Partnership Agreement, the Subscription Agreement, this Letter Agreement or applicable law.

13. Tax Assistance. The Investor represents to the General Partner that it is a tax-exempt entity under U.S. federal, state and local laws and is unlikely to be subject to any tax withholding requirements of the U.S. federal, state or local laws. Based solely on the foregoing, the General Partner agrees that before withholding and paying over to any U.S. taxing authority any amount purportedly representing a tax liability of the Investor pursuant to the provisions of the Partnership Agreement, the General Partner shall use commercially reasonable efforts to (i) provide the Investor with written notice of the claim of any U.S. taxing authority that such withholding and payment is required by law and (ii) to the extent possible, provide the Investor with the opportunity to contest such claim during any period (with Investor bearing its costs to the extent permitted by applicable law); provided, that such contest does not subject the Partnership, the General Partner or the Investment Manager, in the General Partner's reasonable discretion, to any potential liability to such taxing authority for any such claimed withholding and payment and would not otherwise, in the General Partner's reasonable discretion, result in materially adverse consequences to the Partnership, the General Partner or the Investment Manager. If any such withholding is made by the General Partner, the General Partner shall use commercially reasonable efforts to (i) advise the Investor, to the best of its actual knowledge, of the procedures for obtaining any available refund of any such taxes, (ii) file any forms or applications necessary to obtain any available refund of such taxes, to the extent that the General Partner or the Partnership is required to make such filing under applicable law in order for such refund to be obtained, and (iii) provide the Investor with such other information or documentation as is reasonably available to the General Partner and is relevant to the Investor's application for a refund of such taxes and otherwise use its reasonable efforts to assist the Investor in completing and submitting such application; provided, that any such assistance shall be at the expense of the Investor. For purposes of clarification, any assessment, penalties, interest or reasonable costs incurred by the Partnership or the General Partner as a result of the General Partner's failure to withhold any United States federal taxes pursuant to the requirements in this Paragraph 13 shall be allocated to the Investor, or paid by the Investor to the Partnership or the General Partner, as applicable.

14. Foreign Tax and Filing Requirements. The General Partner agrees that it will use commercially reasonable efforts not to make any investments in a non-U.S. jurisdiction if such investment would, solely as a result of the Investor's investment in the Partnership, (i) cause any income of the Investor that is not derived from the Partnership to be subject to net income taxation in such non-U.S. jurisdiction (other than tax withheld at the source), or (ii) require the Investor to file any net income tax return in such non-U.S. jurisdiction (other than any form or declaration required to establish a right to the benefit of an applicable tax treaty or an exemption from or reduced rate of withholding or similar taxes, or in connection with an application for a refund of withholding or similar taxes) with respect to any income that is not derived from the Partnership (collectively, "Tax Requirements"). If, despite such efforts, the General Partner becomes aware of the fact that the Investor would become subject to Tax Requirements, the General Partner will (i) as soon as practicable notify the Investor; (ii) use commercially reasonable efforts to provide the Investor with any information in its possession (other than identifying information with respect to other investors or information the General Partner deems, in its sole discretion, to be confidential) and any tax form reasonably necessary to enable the Investor to prepare any Tax Requirements; and (iii) provide commercially reasonable assistance to the Investor in order to comply with the Tax Requirements, in each case at the Investor's expense.

15. FATCA Compliance. In the event amounts are withheld from payments made to the Partnership or any Alternative Investment Vehicle under the Foreign Account Tax Compliance Act (FATCA) as a result of the action or inaction of another Limited Partner, the General Partner or the general partner of such Alternative Investment Vehicle shall use commercially reasonable efforts to allocate such withheld taxes to such other Limited Partner.

16. Bipartisan Budget Act of 2015. The Investor represents to the General Partner that it is a tax-exempt entity (as defined in Section 168(h)(2) of the Code) that is not subject to any tax withholding requirements of U.S. federal, state or local laws. The Investor agrees that it will provide the General Partner an executed IRS Form W-9 indicating that it is not subject to withholding and further agrees to provide a new IRS Form W-9 confirming its status with respect to the information provided on its original IRS Form W-9 if such information changes or promptly upon the General Partner's request if an updated IRS Form W-9 or its equivalent is required to be held on file in order for the Partnership to continue to recognize the withholding exemption. Based solely on the foregoing and notwithstanding anything to the contrary in the Partnership Agreement, the General Partner shall use commercially reasonable efforts to cause any liability for taxes, penalties, additions to tax or interest imposed on the Partnership under Sections 6225 and 6232 of the Code to be minimized (including by reducing such amount to zero) under Section 6225(c)(3) of the Code or otherwise as a result of the Investor's status as a "tax-exempt entity" within the meaning of Section 168(h)(2) of the Code, to the extent Treasury Regulations or future similar published guidance contain specific procedures for reducing such amounts as a result of such status of the Investor (including the provision by the Investor of IRS Form 990 or other applicable form certifying to such status).

17. Conflicts of Interest.

(a) None of (i) the General Partner, (ii) any placement agent, solicitor, broker-dealer or other agent engaged by the General Partner or (iii) any Affiliate of the General Partner, has a commercial, investment, or business or other similar relationship with a Covered Person (as defined below), or has engaged in any financial or other transaction with a Covered Person. "Covered Person" means: (i) any Enumerated Person (as defined below), (ii) any immediate family member of an Enumerated Person (*i.e.*, a spouse, parent, child or sibling), and (iii) any Affiliate of any of the foregoing. "Enumerated Person" means (i) any member of the Investor's Board of Trustees and (ii) any person which is a trustee, staff member, or employee of the Investor.

(b) Neither the General Partner nor any Affiliate or agent of the General Partner, has offered, promised, or provided, directly or indirectly, anything of substantial economic value to any Covered Person in connection with Investor's investment. Items of substantial economic value include (by way of example, but not by way of limitation) any economic opportunity, future employment, gift, loan, gratuity, campaign contribution, finder's fee, placement fee, discount, trip, favor, or service.

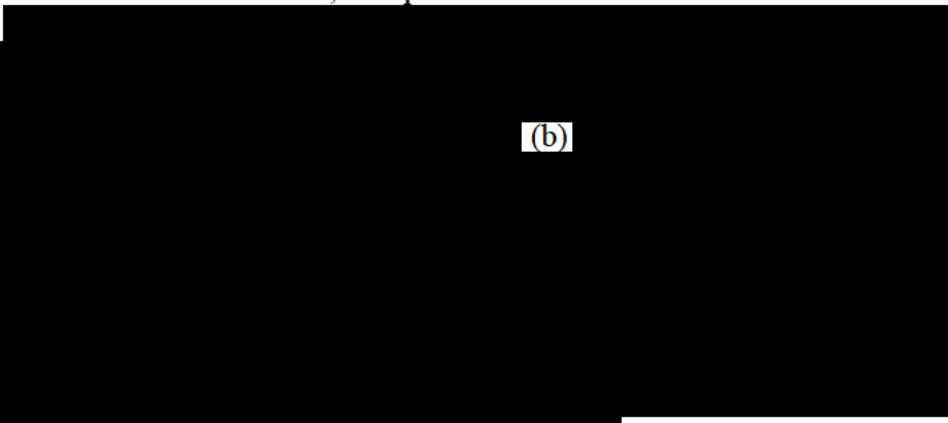
(c) Neither the General Partner, nor any Affiliate of the General Partner, has been convicted of bribery or attempting to bribe an officer or employee of the Commonwealth of Kentucky, nor have any of them made an admission of guilt of such conduct.

(d) The General Partner and its Affiliates have not, and the General Partner covenants that they will not, accept anything of substantial economic value (as described in greater detail in clause (c)), from parties in which the Partnership makes investments (including from parties associated with sponsors of Partnership investments).

(e) The term “in connection with Investor’s investment,” as used in this Paragraph, includes (i) obtaining an introduction to the Investor or any of the Investor’s officers or employees, and (ii) obtaining a favorable recommendation with respect to the Investor’s investment. The term “agent,” as used in this Paragraph, includes anyone who is acting at the behest of any of the persons identified above.

(f) The General Partner agrees to provide Investor notice within five Business Days if it becomes aware that any of the provisions in this paragraph are not true and accurate, either on the date on which made or on any subsequent date.

18. Fiduciary Duties. The Investment Manager confirms that it is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), and agrees that it is a fiduciary who shall carry out its fiduciary duties with respect to the Partnership in accordance with the fiduciary standards applicable to investment advisers registered with the Securities and Exchange Commission (“SEC”) under the Advisers Act. The General Partner also acknowledges and agrees that it owes fiduciary duties to the Partnership and the Limited Partners as a whole.

19. Litigation Representations Each of the Partnership and the General Partner represents and warrants as of the date hereof that, except as otherwise disclosed to the Investor or its representatives, (a) 

(b)

20. Power of Attorney. By way of clarification, the powers of attorney granted by the Investor to the General Partner pursuant to the Partnership Agreement and/or the Investor’s Subscription Agreement (the “Powers of Attorney”) are intended to be ministerial in scope and limited solely to those specific items permitted under the applicable grant of authority and not for any commercial or tax related matters. Accordingly, the Powers of Attorney do not constitute a general grant of power to independently exercise discretionary judgment on the Investor’s behalf. The Investor does not authorize the Powers of Attorney to be exercised, and the General Partner agrees that the Powers of Attorney shall not be used, (i) in any manner contrary to the Investor’s rights under the Partnership Agreement and/or the Subscription Agreement or (ii) reduce the

Investor's rights under this letter agreement, the Partnership Agreement or the Subscription Agreement. No exercise of the Powers of Attorney by the General Partner which causes the Investor to violate any federal, state or local or foreign law or policies to which the Investor is subject is authorized by the Investor and no such exercise shall be deemed valid. The General Partner shall provide the Investor with a copy of any material agreement, instrument or document that is signed by the General Partner in the name of the Investor pursuant to the Powers of Attorney. The General Partner acknowledges that any Power of Attorney is revocable upon the bankruptcy, insolvency, conviction of a felony or removal of the General Partner.

21. Website Information. In the event the Investor is required to agree to any to agree to any website user agreement (each, a "Website Agreement") as a condition to gaining access to any website, data room or other electronic access platform on which documents or reports are made available to the Investor or that accompanies any documents or reports delivered to the Investor by the General Partner or its affiliates in connection with the Investor's investment in the Partnership or its associated relationship with the General Partner and its affiliates, including without limitation any "clickwrap" or "clickthrough" agreement, the parties agree that the terms of the Partnership Agreement or this Letter Agreement (as applicable) shall control with respect to the Investor.

22. Notice of Material Events related to Auditors. The General Partner agrees to provide the Investor with written notice in the event of any resignation or replacement of the Partnership's auditor.

23. Opinion of Counsel. The General Partner hereby agrees that in connection with any opinion of counsel to be rendered on behalf of the Investor, the opinion of the general counsel of the Investor, as well as other outside legal counsel, shall be deemed to be acceptable to the General Partner for all purposes of the Partnership Agreement.

24. Compliance with Certain U.S. Federal Laws.

(a) The General Partner and the Investment Manager have [REDACTED] designed to seek to ensure that [REDACTED] in such a manner in which the Investor [REDACTED] to be in [REDACTED] as amended, or the [REDACTED] as amended, or the [REDACTED] Each of the [REDACTED] shall use its commercially reasonable efforts to comply with [REDACTED] as such [REDACTED] may be amended from time to time.

(b) Each of the [REDACTED] hereby represents that it is in compliance with all applicable [REDACTED] In addition, [REDACTED] designed to seek to ensure that none of the [REDACTED] (i) [REDACTED]

(ii)

25. Disclosures. The [REDACTED] (together with all supplements thereto), when read in conjunction with the [REDACTED] do not, as of the date hereof, taken as a whole, [REDACTED] except that the description therein of the [REDACTED] does not [REDACTED] and is [REDACTED] and is subject to, [REDACTED] The Investor acknowledges that with respect to [REDACTED] the [REDACTED] section entitled [REDACTED] is accurate as of the date of the [REDACTED]. [REDACTED] will promptly provide Investor with [REDACTED] as well as any [REDACTED].

26. Alternative Investment Structure. The General Partner agrees that the Investor shall not be required to invest in any Alternative Investment Vehicle without the Investor's prior consent unless all similarly situated Limited Partners are being required to do so. If the General Partner requires all similarly situated Limited Partners to invest in an Alternative Investment Vehicle, the General Partner shall provide the Investor prior written notice, as soon as reasonably practicable, prior to the General Partner requiring the Investor to invest in an Alternative Investment Vehicle. Notwithstanding any provision to the contrary in the Partnership Agreement, if the Investor invests in any Alternative Investment Vehicles, each of the General Partner and the Investment Manager agrees that the terms of this Letter Agreement shall apply, mutatis mutandis, with respect to all agreements governing, and the Investor's participation in, such Alternative Investment Vehicles.

27. Prohibition of Political Contributions. The General Partner will comply, and will cause the Investment Manager to comply, with Rule 206(4)-5 under the Advisers Act, and the related record keeping requirements set forth in Advisers Act Rule 204-2.

28. Waiver. The General Partner confirms that, in the absence of a separate express prior written consent, amendment or waiver executed by the Investor, the making of any Capital Contribution by the Investor shall not act as a consent, waiver or amendment of any breach by the General Partner of any of the terms, conditions or disclosures of the Partnership Agreement, the Investment Management Agreement, the Subscription Agreement or this Letter Agreement, irrespective of whether or not the Investor has knowledge of such breach. For the avoidance of doubt, in no way does the foregoing limit any rights or remedies available to the General Partner under equitable principles.

29. Representations and Warranties by General Partner. The General Partner represents and warrants that each of the following statements is true and correct as of the date hereof:

(a) The interests in the Partnership to be acquired by the Investor [REDACTED]

(b) The General Partner has [REDACTED]

(c) Neither the [REDACTED] nor [REDACTED] will result in [REDACTED].

(d) Investment Advisers Act of 1940. In connection with Investor's investment in the Partnership, the [REDACTED] shall ensure compliance with Kentucky Revised Statutes Sections 61.650(1)(d)(2) and 78.790(1)(d)(2) to the extent applicable. For the avoidance of doubt, it is understood that [REDACTED].

30. Credit Facility.

(a) In light of the Investor's status as a government plan, notwithstanding anything to the contrary contained in the Fund Documents, the Investor [REDACTED] however, that the Investor acknowledges [REDACTED].

(b) Notwithstanding anything to the contrary in the Partnership Agreement, the Investor shall not be required to [REDACTED] To the extent the [REDACTED] or the [REDACTED] requires the Investor to [REDACTED] to the [REDACTED] or to any [REDACTED] or any other [REDACTED].

31. Co-Investments.

(a) The General Partner acknowledges the Investor's [REDACTED]  
[REDACTED] In the event the General Partner [REDACTED]  
[REDACTED], the Investor may [REDACTED] to a  
[REDACTED] for the purpose  
of [REDACTED].

(b) The General Partner agrees that it may [REDACTED]  
[REDACTED]  
(i) [REDACTED]  
[REDACTED]  
and (ii) if [REDACTED]  
[REDACTED].

32. Legal Counsel. The Investor represents that it does not have legal authority to waive attorney conflicts of interest in advance. Based solely on the foregoing representation, and notwithstanding any conflict waiver provisions set forth in the Partnership Agreement and the Subscription Agreement, each of the Partnership and the General Partner hereby agrees that the Investor has not, and shall not be deemed to have, waived any future conflicts of interest with respect to Schulte Roth & Zabel LLP.

33. Subscription Agreements.

(a) The General Partner agrees that Section II(B) of the Subscription Agreement is hereby modified to allow the Investor to rely upon this Letter Agreement in connection with the Investor's subscription for an interest in the Partnership in determining to invest in the Partnership.

(b) Notwithstanding the provisions of the Partnership Agreement or the Subscription Agreement to the contrary, the Investor shall not be required to make or be deemed to have made any representations, or to provide any information, as to the identity and nature of its pension plan beneficiaries and such pension plan beneficiaries shall not be deemed "beneficial owners."

34. Data Security. The General Partner agrees that it and the Investment Manager maintain business continuity plans reasonably designed to protect information and conduct its respective business in accordance with applicable law and shall use good faith efforts to develop, implement and maintain such programs in a manner that is consistent with common practice for managers and funds of similar size and scope to the Investment Manager and the Partnership, as applicable. . The General Partner agrees that it will cause the Partnership to maintain commercially reasonable cyber insurance at all times. In the event that the General Partner has actual knowledge of any material and actual network, system and/or data breach incident with respect to its or any contractor's infrastructure that results in (a) unauthorized access to an/or use by third party of the confidential information of the Investor, (b) compromise to the security of the Investor's Capital Contributions or Capital Account value, or (c) interference with the Investment Manager or General Partner's ability to perform its obligations to the Investor, the General Partner agrees to

promptly report such breach incident to the Investor at the same time that all other Limited Partners are notified and, to the extent such breach is with the General Partner's infrastructure, to use commercially reasonable efforts to contain or mitigate such incident.

35. Schedule of Investors. [REDACTED], upon the Investor's reasonable written request, the General Partner shall [REDACTED]. For the avoidance of doubt, the General Partner shall not [REDACTED]

36. Books and Records. The General Partner agrees that the Investor or its designee shall have the right, upon five (5) Business Days' written notice to the General Partner, to examine the books and records of the Partnership during reasonable business hours at such Investor's or such designee's expense, for a minimum of six (6) years following the dissolution of the Partnership and in connection therewith the General Partner shall not dispose of any such books and records during such six (6) year period.

37. Regulatory Expenses. The General Partner and the Investment Manager hereby agree that they will each [REDACTED]. In furtherance of the foregoing, the Investment Manager agrees [REDACTED]

38. In-Kind Distributions. The Investment Manager hereby confirms that the Investor shall not receive a distribution in kind of actual rail cars, or any other distribution in kind other than an interest in a Liquidating Vehicle, without the Investor's prior written consent.

39. Compulsory Withdrawal. The General Partner agrees that all or any portion of the Investor's Interest may not be mandatorily withdrawn without thirty (30) days' prior written notice; provided that the General Partner will not require the Investor to withdraw without first providing the Investor the opportunity to cure the basis for such withdrawal within 10 Business Days after receipt of such notice; and provided, further, that the General Partner may terminate the Investor's interest in accordance with Section 6.04 of the Partnership Agreement if the General Partner determines that for legal, tax, regulatory, investment or other similar reasons it is in the best interests of the Partnership to terminate the Investor's interest in the Partnership immediately.

40. Capital Call Notice. The General Partner shall provide the Investor with a notice of each Capital Contribution at least ten (10) Business Days prior to the date on which such Capital Contribution is due.

41. Notices. The General Partner shall promptly notify the Investor of:

(a) [REDACTED]

(b) [REDACTED]

42. Deemed Consent. Notwithstanding anything to the contrary in the Fund Documents, the General Partner hereby agrees that, in the event that the Investment Manager or the Partnership requests the consent or approval of the Investor for any proposed action, the failure of the Investor to respond shall not be deemed consent to or approval of such proposed action.

43. Binding. This Letter Agreement shall inure to the benefit of the Investor and shall be binding upon the parties hereto, their respective successors, permitted assigns and permitted transferees.

44. Enforceability/Conflicts. The execution, delivery and performance of the Subscription Agreement and this Letter Agreement by the Investment Manager, the General Partner, and the Partnership have been authorized by all necessary action on behalf of the Investment Manager, the General Partner, and the Partnership. Upon execution of this Letter Agreement, the terms of this Letter Agreement will be binding upon, and be in full force and effect against, the Investment Manager, the General Partner, and the Partnership.

45. Closing Documents. Within ninety (90) days of the Partnership's next closing date after the date hereof, the General Partner will provide each of the Investor and its outside counsel, Reinhart Boerner Van Deuren, s.c., an electronic closing binder containing executed copies of (i) the Partnership Agreement, (ii) this Letter Agreement, (iii) the Subscription Agreement and (iv) the Investment Management Agreement of the Partnership. The General Partner hereby agrees to distribute to the Investor copies of all amendments thereto no later than 90 days after the date of their execution.

46. Conflicts. The General Partner agrees that it shall use commercially reasonable efforts to seek the consent of the Advisory Committee with respect to any principal transactions between the Partnership and any of the General Partner, the Investment Manager, any of their Affiliates, and any of the General Partner's or the Investment Manager's partners, members, manager, officers, directors or employees to the extent the value of the investment that is being sold or purchased is not based on an independent third-party valuation or the Investment Manager's valuation policy. The General Partner further agrees, at the Investor's request (which requests may be made no more frequently than on an annual basis), to provide the Investor with notice of any agency or cross transactions of the Partnership, to the extent such transactions were not previously disclosed to the Investor and/or the Limited Partners.

47. Jury Trial/Arbitration. The Investor represents that it does not have legal authority to consent in advance to waive any right to a trial by jury or to submit to arbitration. Based solely on the foregoing representation, notwithstanding anything to the contrary in the Partnership Agreement or the Subscription Agreement, the General Partner acknowledges and agrees that the Investor has not granted, and shall not be deemed to have granted, any waiver of a trial by jury, and the Investor has not agreed, and shall not be deemed to have agreed, to an arbitration.

48. Governing Law; Jurisdiction.

(a) This Letter Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to principles of conflicts of law; provided, that to the extent the terms hereof require interpretation or enforcement of a law, regulation or

public policy of the Commonwealth of Kentucky, this Letter Agreement shall be governed by the laws of the Commonwealth of Kentucky without regard to principles of conflicts of law.

(b) Notwithstanding anything to the contrary in the Partnership Agreement or the Subscription Agreement, as required by laws of the Commonwealth of Kentucky governing the Investor, the General Partner agrees with the Investor that any legal proceeding involving any claim asserted by the Investor against the General Partner or any of its Affiliates arising out of the Partnership Agreement or the Investor's Subscription Agreement may be brought only in and subject to the exclusive jurisdiction of the Franklin County Circuit Court in the Commonwealth of Kentucky, and shall be governed by and construed in accordance with the internal laws of the Commonwealth of Kentucky without regard to the conflicts of laws principles thereof. This Letter Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

49. Term. This Letter Agreement will terminate in its entirety, with respect to the Investor, when Investor ceases to be an investor in the Partnership.

*[Remainder of Page Intentionally Left Blank – Signature Pages Follow]*

IN WITNESS WHEREOF, each party hereto has executed and delivered this Letter Agreement as of the date first written above.

ITE RAIL FUND L.P.

By: ITE Rail GP L.L.C.  
its general partner

By:   
Name:   
Title: Managing Member

ITE RAIL GP L.L.C.

By:   
Name:   
Title: Managing Member

ITE MANAGEMENT L.P.

By:   
Name:   
Title: Managing Member

**Agreed to:**

Kentucky Retirement Systems

By: Anthony Chiu

Name: Anthony Chiu

Title: Deputy CIO

Kentucky Retirement Systems Insurance Trust Fund

By: Anthony Chiu

Name: Anthony Chiu

Title: Deputy CIO

# KENTUCKY RETIREMENT SYSTEMS CONFLICT OF INTEREST STATEMENT

In consideration of the investment by Kentucky Retirement Systems and Kentucky Retirement Systems Insurance Trust Fund (collectively, "KRS") in a vehicle or account ("Account") managed by ITE Management L.P. (the "Manager"), the Manager acknowledges the need to maintain the public's confidence and trust in the integrity of KRS and the Commonwealth of Kentucky. In light of the forgoing, the Manager agrees to:

- Diligently identify, disclose, avoid and manage conflicts of interest that may arise through its relationship with KRS.
- Conduct activities with KRS so as not to advance or protect its own interests or the private interests of others with whom it has a relationship in a way that is detrimental to the interests of KRS.
- Conduct its activities in a manner to best promote the interests of KRS, but subject to the Manager's duty which requires it to treat all of its clients and investors equally (i.e., not advance the interests of one investor ahead of another).
- Upon discovery of an actual or potential conflict of interest involving KRS, disclose such conflict of interest to KRS and work with KRS in good faith to resolve or mitigate such conflict.
- Not engage directly or indirectly in any financial or other transactions with a trustee or employee of KRS that would violate the standards of the Executive Branch Ethics provisions as set forth in KRS Chapter 11A.

Agreed this the 30th day of December, 2024

ITE MANAGEMENT L.P.

For itself and on behalf of the Account

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Managing Member

(Rev. Feb 2018)



## Kentucky Retirement Systems

### Statement of Disclosure and Placement Agents – Manager Questionnaire

1. Did your firm use a placement agent as defined in the KRS “Statement of Disclosure and Placement Agents” policy in an effort to solicit an Investment from KRS Please indicate fund vehicle title if relevant? If yes, please continue to question 2; if no, please proceed to question 10.

**NO**

2. Please disclose the name of the placement agency used, the names of the individuals contracted by the placement agency (either as employees or as sub-agents) in order to solicit an investment from KRS, and the fees paid or payable to the placement agent in connection with a prospective KRS investment.
3. Please represent that any fees paid to placement agents are the sole obligation of the investment manager and not that of KRS or the limited partnership.
4. Please disclose the names of any current or former Kentucky elected or appointed government officials (federal, state, and local government), KRS Board of Trustees members, employees, or consultants of KRS, or any other person, if any, who suggested the retention of the placement agent.
5. Please provide evidence of the regulatory agencies, if any, in any Federal, state or foreign jurisdiction the placement agent or any of its affiliates are registered with, such as the Securities and Exchange Commission (“SEC”), FINRA, or any similar regulatory agency.
6. Please provide a resume for each officer, partner or principal of the Placement Agent detailing the person’s education, professional designations, regulatory licenses and investment and work experience.
7. Please describe the services to be performed by the Placement Agent.
8. Please disclose whether the Placement Agent, or any of its affiliates, is registered as a lobbyist with any and all Kentucky state and local (county) governments.

9. Please disclose any political contributions made by the Placement Agent to any Kentucky official within the prior 2 years.

10. Please disclose the names of any current or former Kentucky elected or appointed government officials (federal, state, and local government) KRS Board of Trustees members, employees, or consultants of KRS that are receiving any fees or compensation from the External Manager and/or placement agent. Please disclose any additional known relationships or conflicts with same.

**NONE**

11. Please disclose any political contributions made by External Manager or principals of the External Manager in the prior 2 years.

**NONE**

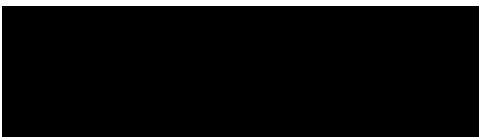
12. Please disclose whether any principals of the firm have been involved in any regulatory proceedings, and if so, details concerning the same.

**NONE**

13. Please provide a statement representing and warranting the accuracy of the information provided to KRS regarding the Statement of Disclosure, and acknowledge that similar language will be included in any final written agreement with a continuing obligation to update any such information within 10 business days of any change in the information.

**ITE Management L.P. (the "Investment Manager") represents and warrants as of the date hereof that the statements provided herein are, to the knowledge of the Investment Manager, true and correct. If, after the date hereof, the Investment Manager becomes aware that any of the statements made herein are not true and accurate, it will promptly notify KRS.**

**ITE MANAGEMENT L.P.**



Date: December 30, 2024



## Kentucky Retirement Systems

### Statement of Disclosure and Placement Agents

Approved May 2011

#### **I. Purpose**

This Policy sets forth the disclosure requirements which must be satisfied prior to any Kentucky Retirement Systems ("KRS") investment if a placement agent is involved. KRS shall require the disclosure of detailed information regarding payments and fees in connection with KRS' investments in or through External Managers (as defined herein), broker/dealers, Placement Agents (as defined herein) and those having or conducting business with KRS. This Policy is intended to apply broadly to all of the types of investment advisors with whom KRS conducts or potentially conducts business with including general partners, managers, investment managers and sponsors of hedge funds, funds of funds, private equity funds, real estate funds, infrastructure funds, as well as investment managers retained pursuant to a contract. KRS requires broad, timely, and annual updated disclosures of relationships, compensation and fees. The goal of this Policy is to bring transparency to placement agent activity in connection with KRS' investments and help ensure that KRS' investment decisions are made solely on the merits of the investment opportunity and in a manner consistent with the responsibilities of the Board of Trustees and individuals who owe a fiduciary duty to KRS.

#### **II. Objectives**

The role and function of Placement Agents are to provide sales and marketing services to investment management firms. Placement Agents exist because, with the exception of the largest firms (i.e., private equity and hedge fund general partnerships), many of these investment managers are not equipped to raise their investment funds independently. Most External Managers do not have the resources internally to access the capital markets. They require services such as crafting presentations, drafting, proofing and distributing private placement memorandums, sorting the potential universe of limited partners and determining how to access those limited partners, arranging meetings with the limited partners, handling follow-up meetings, assisting in the due diligence process including managing on-site due diligence meetings, and the closing process.

External investment managers in both the public and private markets use Placement Agents to assist them raise capital from various sources. Therefore, the Kentucky Retirement Systems' objectives are:

1. To ensure that KRS' investment decisions are consistent with KRS' overall Investment Policy Statements
2. To supplement the due diligence and information available to KRS Board Members, Staff, and Consultants when evaluating an investment opportunity
3. To prevent impropriety, conflicts of interest, and/or the appearance of improprieties and/or conflicts of interest
4. Provide transparency and confidence in KRS investment decision-making and process

#### **III. Application**

This Policy applies to all agreements with External Managers that are entered into after the date this Policy is adopted. This Policy also applies to existing agreements with External Managers if, after the date this Policy is adopted, the term of the agreement is extended, there is any increased commitment of

funds by KRS pursuant to the existing agreement or there is a material amendment to the substantive terms of an existing agreement, including the fees or compensation payable to the External Manager.

#### **IV. Responsibilities:**

##### **A. External Manager's Responsibilities**

Prior to KRS investing with any manager, KRS Staff shall obtain a written representation from the investment manager, in a form acceptable to KRS' Legal Office, stating that the investment manager has not used a placement agent in connection with the KRS investment opportunity, *or* if the manager has used a placement agent, it will disclose the following to KRS:

- The name of the placement agent
- The fee paid or payable to the placement agent
- Representation that the fee is the sole obligation of the investment manager and not that of KRS or the limited partnership
- Current or former Kentucky Officials (federal, state, and local government), KRS Board of Trustees members, KRS employees, or consultants to KRS that are receiving any fees or compensation from the External Manager and/or placement agent
- The names of any current or former Kentucky elected or appointed government officials (federal, state, and local government) KRS Board of Trustees members, employees, or consultants of KRS, or any other person, if any, who suggested the retention of the placement agent
- Evidence of the regulatory agencies, if any, in any Federal, state or foreign jurisdiction the placement agent or any of its affiliates are registered with, such as the Securities and Exchange Commission ("SEC"), FINRA, or any similar regulatory agency
- A resume for each officer, partner or principal of the Placement Agent detailing the person's education, professional designations, regulatory licenses and investment and work experience
- A description of the services to be performed by the Placement Agent
- A statement whether the Placement Agent, or any of its affiliates, is registered as a lobbyist with any and all Kentucky state and local (county) governments
- A statement by the External Manager and/or placement agent representing and warranting the accuracy of the information provided to KRS regarding the Statement of Disclosure in any final written agreement with a continuing obligation to update any such information within 10 business days of any change in the information.

In the event a placement agent is expected to receive remuneration for a KRS investment, KRS Staff will notify the Investment Committee in the memorandum discussing the recommended/approved investment. If a manager breaches the Policy, Staff will notify the Investment Committee as soon as practicable.

##### **B. KRS Staff Responsibilities**

- Providing the public with disclosure by posting a copy of this Policy on KRS' website
- Implementing this Policy for KRS
- Providing regular disclosure updates to the KRS Investment Committee and the Board of Trustees.

All parties responsible for implementing, monitoring and complying with this Policy shall consider the spirit as well as the literal expression of the Policy.

## V. Conflict of Interest

All persons and entities contracting with KRS shall certify that they are legally capable of entering into a binding contract and authorized to do so; that they are not nor shall be in violation of any Kentucky law, statute or regulation pertaining to a conflict of interest including, but not limited to, KRS 121.056; and that they are not nor shall be in violation of any provision of KRS Chapter 11A or any regulation promulgated thereunder, or any law or regulation pertaining to the Kentucky Registry of Election Finance and the reporting requirements thereof.

All persons and entities seeking to or actually contracting with KRS shall disclose all relationships and potential conflicts of interest with any KRS Staff, Committee or Board Member. Subsequent discovery of any undisclosed conflict may be considered a breach of contract and may result in immediate termination of any agreements without penalty or fee to KRS.

## Glossary of Terms

### KRS Vehicle

A partnership, limited liability company, account or other investment vehicle in which KRS is the investor.

### Consultant

Consultant refers to individuals or firms, and includes Key Personnel of Consultant firms, who are contractually retained or have been appointed to KRS to provide investment advice to KRS but who do not exercise investment discretion.

### External Manager

An asset management firm that is seeking to be, or has been, retained by KRS or by a KRS Vehicle to manage a portfolio of assets (including securities) for a fee. The External Manager usually has full discretion to manage KRS assets, consistent with investment management guidelines provided by KRS and fiduciary responsibility.

### Placement Agent

Any person or entity hired, engaged or retained by or acting on behalf of an External Manager or on behalf of another Placement Agent as a finder, solicitor, marketer, consultant, broker or other intermediary to raise money or investments from or to obtain access to KRS, directly or indirectly, including without limitation through a KRS Vehicle.

## Signatories

As Adopted By The Investment Committee

Date: May 3, 2011

Signature: Tommy Elliott

Tommy Elliott

As Adopted By The Board of Trustees

Date: May 19, 2011

Signature: Jennifer Elliott

Jennifer Elliott

# **ITE RAIL FUND L.P.**

## **Subscription Documents**

**(FOR TAXABLE & TAX-EXEMPT U.S. INVESTORS)**

**General Partner:**

**ITE Rail GP L.L.C.  
200 Park Avenue South, Suite 1511  
New York, NY 10003**

## INVESTMENT PROCEDURES

Prospective investors should read the Confidential Private Placement Memorandum for ITE Rail Fund L.P. (the "Fund"), the Limited Partnership Agreement of the Fund currently in effect, as may be amended from time to time, and this booklet prior to subscribing to the Fund.

If you are interested in purchasing an Interest and an AIV Interest, as applicable, (each as defined herein), please complete all applicable pages as indicated below and promptly return this booklet to ITE Rail Fund L.P., care of [REDACTED], the Fund's administrator (the "Administrator"), at [REDACTED] Attention: Investor Services, to reserve an Interest in the Fund:

- ☐ Investor Profile Form (pages 13-18)
- ☐ General Eligibility Representations (pages 19-30)
- ☐ Tax Information (page 23)
- ☐ Subscription Agreement Signature Pages (pages 31-33)
- ☐ Limited Partnership Agreement Signature Page (page 34)

## WIRING INSTRUCTIONS

You must wire the payment of any capital commitments from an account in your name. If you are not wiring your payment from a bank located in an Approved FATF Country\* you must contact [REDACTED] for further instructions prior to wiring your payment, which may result in a delay in your subscription.

Bank Name:	[REDACTED]
Routing Number:	[REDACTED]
Account Name:	ITE Rail Fund L.P.
Account Number:	[REDACTED]
For Reference	Investor's name

## IMPORTANT

1. Please have the wiring bank identify the name of the prospective investor on the wire transfer.
2. We recommend that the wiring bank charge its wiring fees separately so that the amount you have elected to invest may be invested.

Upon approval of the Investor's subscription, the executed signature pages will be countersigned by ITE Rail GP L.L.C. and a copy will be returned to the Investor.

**For additional information, please contact ITE Investor Relations at the General Partner (Telephone No.: [REDACTED]).**

\* As of the date hereof, approved countries that are members of the Financial Action Task Force on Money Laundering (each, an "Approved FATF Country") are: Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States.

## SUBSCRIPTION AGREEMENT

ITE Rail Fund L.P.  
c/o ITE Rail GP L.L.C.  
200 Park Avenue South, Suite 1511  
New York, NY 10003  
Attn.: ITE Investor Relations  
Email: [REDACTED]

### **Re: ITE Rail Fund L.P.—Issuance of Limited Partnership Interests**

The undersigned (the "Investor") wishes to become a limited partner of ITE Rail Fund L.P. (the "Fund"), a Delaware limited partnership, and to purchase a limited partnership interest (an "Interest") in the Fund upon the terms and conditions set forth herein, in the Confidential Private Placement Memorandum of the Fund, as the same may be supplemented, updated or modified from time to time (the "Memorandum"), and in the Limited Partnership Agreement of the Fund in effect as of the date hereof, as the same may be amended from time to time (the "Partnership Agreement"). In addition, the Investor may also become a limited partner of an alternative investment vehicle of the Fund (the "AIV"), and may acquire limited partnership interests (the "AIV Interest") upon the terms and conditions set forth in the applicable Limited Partnership Agreement of the AIV, as the same may be amended, modified, restated or supplemented from time to time (the "AIV Partnership Agreement"). References herein to the Partnership Agreement should be understood to mean the Partnership Agreement and the AIV Partnership Agreement, as the context permits. References herein to the Fund should be understood to mean the Fund and the AIV, as the context permits. Capitalized terms used herein but not defined herein shall have the meanings assigned to them in the Partnership Agreement.

Accordingly, the Investor agrees as follows:

### **I. SUBSCRIPTION FOR AN INTEREST**

- (A) The Investor agrees to become a limited partner of the Fund and the AIV, as applicable, (each, a "Limited Partner") and, in connection therewith, subscribes for and makes a capital commitment (a "Capital Commitment") to the Fund (and the AIV, if applicable) in an amount set forth on page 14, subject to the acceptance by ITE Rail GP L.L.C., the general partner of the Fund (the "General Partner") of the Investor's subscription. The minimum initial subscription is \$1,000,000, subject to the discretion of the General Partner to accept a lower amount.
- (B) The Investor understands and agrees that the Fund reserves the right to reject this subscription for an Interest for any reason or no reason, in whole or in part, and at any time prior to its acceptance. The Investor further understands that the General Partner does not intend to accept a subscription by the Investor for an Interest in the Fund if the Investor is not a "qualified purchaser" under the Investment Company Act of 1940, as amended (the "Company Act"). If the subscription is rejected, any capital contribution made by the Investor to the Fund will be returned promptly to the Investor, without deduction, and this subscription agreement (together with Appendix A hereto, the Investor Profile Form and the General Eligibility Representations, collectively, the "Subscription Agreement") shall have no force or effect. Upon acceptance of this subscription by the Fund, the Investor shall become a Limited Partner.

### **II. REPRESENTATIONS AND COVENANTS OF THE INVESTOR**

- (A) The Investor agrees that it will not resell, reoffer or otherwise transfer the Interest without registration under the Securities Act of 1933, as amended (the "Securities Act"), or an exemption therefrom. Further, the Investor acknowledges that the Partnership Agreement contains significant

restrictions on the transfer of Interests and on the withdrawal of capital from the Fund. The Investor understands and agrees that it must bear the economic risk of its investment for an indefinite period of time (subject to limited rights of withdrawal provided in the Partnership Agreement) because, among other reasons, the Interest subscribed for hereunder has not been and will not be registered under the Securities Act or any U.S. state securities laws or the laws of any other jurisdiction and, therefore, cannot be resold, reoffered or otherwise transferred unless it is so registered or an exemption from registration is available. The Investor acknowledges that the Fund is under no obligation to register the Interest on the Investor's behalf or to assist the Investor in complying with any exemption from registration under the Securities Act or any other law. The Investor acknowledges that the Interest can only be transferred in accordance with the Partnership Agreement. The Investor acknowledges that the General Partner in its sole discretion may cause a compulsory withdrawal of all or any portion of the Investor's Interest in accordance with the Partnership Agreement.

- (B) The Investor represents that it has received, carefully read and understands the Partnership Agreement, this Subscription Agreement and the Memorandum, including the sections of the Memorandum outlining, among other things, the organization and investment objectives and policies of, and the risks and expenses of an investment in, the Fund. The Investor acknowledges and agrees that it has made an independent decision to invest in the Fund and that, in making its decision to subscribe for an Interest, or making a subsequent investment decision with respect to the Fund, the Investor can rely only on information included in the Memorandum and any Additional Information (irrespective of any other information furnished to the Investor). "Additional Information" means any information, other than information included in the Memorandum, concerning the terms and conditions of the Interests or the status of the Fund, communicated in writing to the Investor by the Fund or the Investment Manager and expressly identified as "Additional Information". The Investor acknowledges and agrees that if Additional Information contradicts, modifies, supplements or amends any information included in the Memorandum, the Memorandum will control, unless the Fund or its authorized representative expressly indicates in writing that such Additional Information modifies, supplements or amends the information included in the Memorandum. The Investor is not relying on the Fund, the General Partner, ITE Management L.P. (the "Investment Manager") or [REDACTED] (the "Administrator") or any other person or entity with respect to the legal, tax and other economic considerations involved in this investment other than the Investor's own advisers. The Investor's investment in the Interest is consistent with the investment purposes, objectives and cash flow requirements of the Investor and will not adversely affect the Investor's overall need for diversification and liquidity.

The Investor acknowledges that it is not subscribing pursuant hereto for an Interest as a result of, or pursuant to: (i) any advertisement, article, notice or other communications published in any newspaper, magazine or similar media (including any internet site whose information about the Fund is not password protected) or broadcast over television or radio; or (ii) any seminar or meeting whose attendees, including the Investor, had been invited as a result of, or pursuant to, any of the foregoing.

- (C) The Investor represents that it has not and shall not reproduce, duplicate or deliver the Memorandum, the Partnership Agreement or this Subscription Agreement to any other person, except professional advisers to the Investor or as authorized by the General Partner. Notwithstanding anything to the contrary herein, the Investor (and each employee, representative or other agent of the Investor) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of: (i) the Fund; and (ii) any of the Fund's transactions, and all materials of any kind (including, without limitation, opinions or other tax analyses) that are provided to the Investor relating to such tax treatment and tax structure, it being understood that "tax treatment" and "tax structure" do not include the name or the identifying information of (i) the Fund or (ii) the parties to a transaction.

- (D) The Investor represents that it has such knowledge and experience in financial and business matters that the Investor is capable of evaluating the merits and risks of the Investor's investment in the Fund and is able to bear such risks, and has obtained, in the Investor's judgment, sufficient information from the General Partner to evaluate the merits and risks of such investment. The Investor has evaluated the risks of investing in the Fund, understands there are substantial risks of loss incidental to the purchase of an Interest and has determined that the Interest is a suitable investment for the Investor.
- (E) The Investor has carefully read and understands the sections of the Memorandum outlining the limited provisions for transferability and withdrawal from the Fund and has read the sections of the Memorandum entitled "Summary of Terms – Withdrawals" and " – Limitations on Transferability." The Investor has no need for liquidity in this investment, can afford a complete loss of the investment in the Interest and can afford to hold the investment for an indefinite period of time.\* The Investor acknowledges that distributions, including, without limitation, the proceeds of withdrawals, may be paid in cash or in kind.\*\*
- (F) The Investor represents that it is acquiring the Interest for its own account, for investment purposes only and not with a view toward distributing or reselling the Interest in whole or in part.
- (G) The Investor understands the method of compensation for the General Partner and understands the Incentive Allocation and its risks including that:
- (1) the Incentive Allocation may create an incentive for the General Partner to cause the Fund to make investments that are riskier or more speculative than would be the case in the absence of an incentive allocation; and
  - (2) the General Partner may receive increased compensation since the Incentive Allocation will be calculated on a basis that includes realized and unrealized appreciation.
- (H) The Investor understands that:
- (1) the Interests have not been approved or disapproved by any securities regulatory authority in any jurisdiction including without limitation any securities regulatory authority of any State of the United States or by the Securities and Exchange Commission (the "SEC"), nor has any such authority or commission passed on the accuracy or adequacy of the Memorandum; and
  - (2) the representations, warranties, covenants, undertakings and acknowledgments made by the Investor in this Subscription Agreement will be relied upon by the Fund, the General Partner, the Investment Manager and the Administrator in determining the Investor's suitability as a purchaser of an Interest and the Fund's compliance with federal and state securities laws, and shall survive the Investor's admission as a Limited Partner.
- (I) The Investor represents that it has all requisite power, authority and capacity to acquire and hold the Interest and to execute, deliver and comply with the terms of each of the instruments required to be executed and delivered by the Investor in connection with the Investor's subscription for the Interest, including this Subscription Agreement, and such execution, delivery and compliance does not conflict with, or constitute a default under, any instruments governing the Investor, or violate any law, regulation or order, or any agreement to which the Investor is a party or by which the Investor

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\* Requests for withdrawal of any portion by an Investor of its capital account are subject to the terms set forth in the Partnership Agreement and may be made by completing the "Request For Withdrawal of Limited Partnership Interest" attached hereto as Exhibit B.

\*\* Requests for distributions by an Investor are subject to the terms set forth in the Partnership Agreement and may be made by completing the "Income Distribution Election" attached hereto as Exhibit C.

may be bound. If the Investor is an entity, the person executing and delivering each of such instruments on behalf of the Investor has all requisite power, authority and capacity, and has been duly authorized, to execute and deliver such instruments, and, upon request by the Fund, the General Partner or the Administrator, will furnish to the Fund true and correct copies of any instruments governing the Investor, including all amendments to any such instruments and all authorizations. This Subscription Agreement constitutes a legal, valid and binding obligation of the Investor, enforceable in accordance with its terms.

- (J) The Investor represents that all information that the Investor has provided to the Fund, the General Partner or the Administrator concerning the Investor, the Investor's status, financial position and knowledge and experience of financial, tax and business matters, or, in the case of an investor that is an entity, the knowledge and experience of financial, tax and business matters of the person making the investment decision on behalf of such entity, is correct and complete as of the date set forth herein.
- (K) The Investor understands that the value of a Limited Partner's capital account, withdrawals and distributions therefrom under the Partnership Agreement, and the performance of the Fund, may be based on unaudited and in some cases, estimated, valuations of the Fund's investments and that valuations provided in an Investor's account statement may be an unaudited, estimated value.
- (L) The Investor understands that the Fund will not register as an investment company under the Company Act, nor will it make a public offering of its securities within the United States. The Investor understands that the Fund complies with Section 3(c)(7) of the Company Act, which permits private investment companies (such as the Fund) to sell their interests in the United States without registration as an investment company. If the Investor is an entity, the Investor represents and warrants that: (i) it was not formed for the purpose of investing in the Fund; (ii) it does not invest more than 40% of its total assets in the Fund; (iii) each of its beneficial owners participates in investments made by the Investor *pro rata* in accordance with its interest in the Investor and, accordingly, its beneficial owners cannot opt-in or opt-out of investments made by the Investor; and (iv) its beneficial owners did not and will not contribute additional capital (other than previously committed capital) for the purpose of purchasing the Interests.

If the Investor is an entity that was formed on or before April 30, 1996 and is a company excepted from the definition of an "investment company" under the Company Act pursuant to Section 3(c)(1) or 3(c)(7) thereof (an "Excepted Investment Company"), or is an Excepted Investment Company that is beneficially owned by such an entity, the Investor represents and warrants that it has obtained all requisite consents to be treated as a "qualified purchaser" under the Company Act from its trustees, directors, general partners or direct and indirect beneficial owners, in accordance with Section 2(a)(51)(C) of the Company Act and the rules promulgated thereunder.

- (M) The Investor acknowledges, understands and agrees that the General Partner has authority to allocate transaction costs to obtain research and brokerage services, as set forth in the Memorandum. By signing this Subscription Agreement, the Investor expressly consents to any arrangement pursuant to which the General Partner obtains such products and services.
- (N) The Investor acknowledges, or, if the Investor is acting as agent or nominee for a subscriber (a "Beneficial Owner"), the Investor has advised the Beneficial Owner, that the Fund and/or the Investment Manager may enter into agreements with placement agents providing for either: (i) a payment from the Investor to the particular placement agent; or (ii) a payment from the Fund and/or Investment Manager of a one-time or ongoing fee based upon the amount of the capital contributions or Capital Commitment of any investor introduced to the Fund by the agent.

- (O) The Investor understands that Schulte Roth & Zabel LLP ("SRZ") has been engaged by the General Partner the Investment Manager to represent them and the Fund in connection with the organization of the Fund and this offering of Interests in the Fund. The Investor also understands that no separate counsel has been engaged to independently represent the Limited Partners, including the Investor, in connection with the formation of the Fund, or the offering of the Interests.

The Investor understands that SRZ will represent the Fund on matters for which it is retained to do so by the General Partner. The Investor also understands that other counsel may also be retained where the General Partner determines that to be appropriate.

The Investor understands that, in advising the General Partner and the Investment Manager with respect to the preparation of the Memorandum, SRZ has relied upon information that has been furnished to it by the General Partner, the Investment Manager and their affiliates, and has not independently investigated or verified the accuracy or completeness of the information set forth in the Memorandum. In addition, the Investor understands that SRZ does not monitor the compliance of the General Partner, the Investment Manager or the Fund with the investment guidelines set forth in the Memorandum, the Fund's terms or applicable laws.

The Investor acknowledges that there may be situations in which there is a "conflict" between the interests of the General Partner and/or the Investment Manager and those of the Fund. The Investor understands that, in these situations, the General Partner will determine the appropriate resolution thereof, and may seek advice from SRZ in connection with such determinations. The General Partner, the Investment Manager and the Fund have consented to SRZ's concurrent representation of such parties in such circumstances. The Investor understands that, in general, independent counsel will not be retained to represent the interests of the Fund or the Limited Partners.

- (P) If the Investor is a "charitable remainder trust" within the meaning of Section 664 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), the Investor has advised the General Partner in writing of such fact and the Investor acknowledges that it understands the risks, including specifically the tax risks, if any, associated with its investment in the Fund.

- (Q) The Investor understands and agrees that, although the Fund, the General Partner, the Investment Manager and the Administrator will use their reasonable efforts to keep the information provided in the answers to this Subscription Agreement strictly confidential, any of the Fund, the General Partner, the Investment Manager and the Administrator may present this Subscription Agreement and the information provided in answers to it to such parties (e.g., affiliates, attorneys, auditors, administrators, brokers, regulators and counterparties) as it deems necessary or advisable to facilitate the acceptance of the Investor's Capital Commitments and management of the Fund, including, but not limited to, in connection with anti-money laundering and similar laws, if called upon to establish the availability under any applicable law of an exemption from registration of the Interests, the compliance with applicable law and any relevant exemptions thereto by the Fund, the General Partner, the Investment Manager or their affiliates, or if the contents thereof are relevant to any issue in any action, suit or proceeding to which the Fund, the General Partner, the Investment Manager, the Administrator or their affiliates are a party or by which they are or may be bound or if the information is required to facilitate the Fund's investments. The Fund may also release information about the Investor if directed to do so by the Investor, if compelled to do so by law or in connection with any government or self-regulatory organization request or investigation, or if the General Partner and/or the Investment Manager, in its sole discretion, deems it necessary or advisable to reduce or eliminate withholding or other taxes on the Fund, its partners or the Investment Manager.

- (R) The Investor has carefully read and understands the disclosure set forth in Appendix A hereto with respect to the proposed initial public offering as described therein, and the Investor hereby consents

to the exploration, undertaking and consummation of a Qualifying IPO (as defined in Appendix A), including the incurrence by the Fund of expenses in connection therewith.

### III. ERISA

- (A) If the Investor is a "plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the provisions of Title I of ERISA (an "ERISA Plan"), and/or a "plan" that is subject to the prohibited transaction provisions of Section 4975 of the Internal Revenue Code, or an entity whose assets are treated as "plan assets" under Section 3(42) of ERISA and any regulations promulgated thereunder (each, a "Plan"), the person executing this Subscription Agreement on behalf of the Plan (the "Fiduciary") represents and warrants that:
- (1) such person is a "fiduciary" of such Plan and trust and/or custodial account within the meaning of Section 3(21) of ERISA, and/or Section 4975(e)(3) of the Internal Revenue Code and such person is authorized to execute the Subscription Agreement;
  - (2) unless otherwise indicated in writing to the Fund, the Plan is not a participant-directed defined contribution plan;
  - (3) the Fiduciary has considered a number of factors with respect to the Plan's investment in the Interest and has determined that, in view of such considerations, the purchase of an Interest is consistent with the Fiduciary's responsibilities under ERISA. Such factors include, but are not limited to:
    - (a) the role such investment or investment course of action plays in that portion of the Plan's portfolio that the Fiduciary manages;
    - (b) whether the investment or investment course of action is reasonably designed as part of that portion of the portfolio managed by the Fiduciary to further the purposes of the Plan, taking into account both the risk of loss and the opportunity for gain that could result therefrom;
    - (c) the composition of that portion of the portfolio that the Fiduciary manages with regard to diversification;
    - (d) the liquidity and current rate of return of that portion of the portfolio managed by the Fiduciary relative to the anticipated cash flow requirements of the Plan;
    - (e) the projected return of that portion of the portfolio managed by the Fiduciary relative to the funding objectives of the Plan; and
    - (f) the risks associated with an investment in the Fund and the fact that the Investor has only limited withdrawal rights.
  - (4) the investment in the Fund has been duly authorized under, and conforms in all respects to, the documents governing the Plan and the Fiduciary;
  - (5) the Fiduciary is: (a) responsible for the decision to invest in the Fund; (b) independent of the Investment Manager and the Fund; and (c) qualified to make such investment decision;
  - (6) (a) none of the Investment Manager, any of its employees or affiliates: (i) manages any part of the Investor's investment portfolio on a discretionary basis; (ii) regularly gives investment advice with respect to the assets of the Investor; (iii) has an agreement or understanding,

written or unwritten, with the Investor under which the latter receives information, recommendations or advice concerning investments that are used as a primary basis for the Investor's investment decisions; or (iv) has an agreement or understanding, written or unwritten, with the Investor under which the latter receives individualized investment advice concerning the Investor's assets;

OR

(b) (i) the Fiduciary, who is independent of the Investment Manager, has studied the Memorandum and has made an independent decision to purchase Interests solely on the basis of such Memorandum and without reliance on any other information or statements as to the appropriateness of this investment for the Investor; and (ii) the Investor represents and warrants that neither the Investment Manager nor any of its employees or affiliates: (A) has exercised any investment discretion or control with respect to the Investor's purchase of Interests; (B) has authority, responsibility to give, or has given individualized investment advice with respect to the Investor's purchase of the Interests; or (C) is the employer maintaining or contributing to such Plan.

- (7) The Fiduciary agrees, at the request of the Fund, to furnish the Fund with such information as the Fund may reasonably require to establish that the purchase of the Interests by an ERISA Plan and the transactions to be entered into by the Fund do not violate any provision of ERISA or the Internal Revenue Code, including, without limitation, those provisions relating to "prohibited transactions" by "parties in interest" or "disqualified persons" as defined therein.
- (B) The Fiduciary agrees to notify the General Partner promptly in writing should the Fiduciary become aware of any change in the information set forth in or required to be provided by this Section III.
- (C) If applicable, the Investor has identified its status as a Benefit Plan Investor (as defined below) to the Fund on page 22. If the Investor has identified to the Fund on page 22 that it is not currently a Benefit Plan Investor, but becomes a Benefit Plan Investor, the Investor shall forthwith disclose to the General Partner promptly in writing such fact and also the percentage of the Investor's equity interests held by Benefit Plan Investors. For these purposes, a "Benefit Plan Investor", as defined under Section 3(42) of ERISA and any regulations promulgated thereunder, includes (a) an "employee benefit plan" that is subject to the provisions of Title I of ERISA; (b) a "plan" that is not subject to the provisions of Title I of ERISA, but that is subject to the prohibited transaction provisions of Section 4975 of the Internal Revenue Code, such as individual retirement accounts and certain retirement plans for self-employed individuals; and (c) a pooled investment fund whose assets are treated as "plan assets" under Section 3(42) of ERISA and any regulations promulgated thereunder because "employee benefit plans" or "plans" hold 25% or more of any class of equity interest in such pooled investment fund. The Investor agrees to notify the General Partner promptly in writing if there is any change in the percentage of the Investor's assets that are treated as "plan assets" for the purpose of Section 3(42) of ERISA and any regulations promulgated thereunder as set forth in the General Eligibility Representations section of this Subscription Agreement.
- (D) If the Investor is an insurance company and is investing the assets of its general account (or the assets of a wholly owned subsidiary of its general account) in the Fund, it has identified on page 23 whether the assets underlying the general account constitute "plan assets" within the meaning of Section 401(c) of ERISA. The Investor agrees to promptly notify the General Partner in writing if there is a change in the percentage of the general account's assets that constitute "plan assets" within the meaning of Section 401(c) of ERISA and shall disclose such new percentage ownership.

- (E) The Investor represents and warrants that neither it, nor any beneficial owner of it, has been subject to or experienced a Disqualifying Event\* for purposes of Rule 506(d) promulgated under the Securities Act, and that the Investor shall provide the Fund, the General Partner and the Investment Manager with prompt written notice if it or any of its beneficial owners, is subject to, or experiences, a Disqualifying Event.

#### IV. ANTI-MONEY LAUNDERING

**Before making the following representations and warranties, the Investor should check the website of the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") at <<http://www.treas.gov/offices/enforcement/ofac/>> .**

- (A) The Investor represents and warrants that the amounts contributed by it to the Fund were not and are not directly or indirectly derived from activities that may contravene applicable laws and regulations, including anti-money laundering laws and regulations.

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\* For purposes of Rule 506(d), promulgated under the Securities Act, a "Disqualifying Event" has occurred with respect to the Investor, or any beneficial owner of the Investor, if such person:

- (i) has been convicted, within ten years before the date hereof (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor: (A) in connection with the purchase or sale of any security; (B) involving the making of any false filing with the SEC; or (C) arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities;
- (ii) is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five years before the date hereof, that, as of the date hereof, restrains or enjoins such person from engaging or continuing to engage in any conduct or practice: (A) in connection with the purchase or sale of any security; (B) involving the making of any false filing with the SEC; or (C) arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities;
- (iii) is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission (the "CFTC"); or the National Credit Union Administration that: (A) as of the date hereof, bars the person from: (1) association with an entity regulated by such commission, authority, agency, or officer; (2) engaging in the business of securities, insurance or banking; or (3) engaging in savings association or credit union activities; or (B) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct entered within ten years before the date hereof;
- (iv) is subject to an order of the SEC entered pursuant to Section 15(b) or 15B(c) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") or Section 203(e) or (f) of the Advisers Act that, as of the date hereof: (A) suspends or revokes such person's registration as a broker, dealer, municipal securities dealer or investment adviser; (B) places limitations on the activities, functions or operations of such person; or (C) bars such person from being associated with any entity or from participating in the offering of any penny stock;
- (v) is subject to any order of the SEC entered within five years before the date hereof that, as of the date hereof, orders the person to cease and desist from committing or causing a violation or future violation of: (A) any scienter-based anti-fraud provision of the federal securities laws, including without limitation Section 17(a)(1) of the Securities Act, Section 10(b) of the Exchange Act and 17 CFR 240.10b-5, Section 15(c)(1) of the Exchange Act and Section 206(1) of the Advisers Act, or any other rule or regulation thereunder; or (B) Section 5 of the Securities Act;
- (vi) is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;
- (vii) has filed (as a registrant or issuer), or was or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the SEC that, within five years before the date hereof, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is, as of the date hereof, the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or
- (viii) is subject to a United States Postal Service false representation order entered within five years before the date hereof, or is, as of the date hereof, subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

- (B) United States federal regulations and executive orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals.\* The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <<http://www.treas.gov/offices/enforcement/ofac/>>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists.

The Investor represents and warrants that, to the best of its knowledge, none of the Investor, any person controlling or controlled by the Investor, if the Investor is a privately held entity, any person having a beneficial interest in the Investor, any person for whom the Investor is acting as agent or nominee in connection with this investment: (i) is a country, territory, individual or entity named on an OFAC list or any similar list maintained under applicable law ("Sanctions Lists"); (ii) deals with any third party named on any Sanctions List; or (iv) is a person or entity prohibited under the OFAC Programs or any other similar economic and trade sanctions program.

- (C) The Investor acknowledges the Fund and/or the Administrator may not accept any amounts from a prospective investor if it cannot make the representations and warranties set forth in the preceding paragraphs. If an Limited Partner cannot make these representations and warranties, the Fund may require the withdrawal of all or any portion of such Limited Partner's capital account or take such other actions as may be required by applicable law.
- (D) The Investor agrees to notify the Fund and the Administrator promptly in writing should the Investor become aware of any change in the information set forth in these representations and warranties. The Investor is advised that, by law, the Fund and/or the Administrator may be obligated to "freeze the account" of the Investor, either by prohibiting additional capital commitments from the Investor, declining to distribute proceeds and any withdrawal requests and/or segregating the assets in the account in compliance with governmental regulations, and the Fund and/or the Administrator may also be required to report such action and to disclose the Investor's identity to OFAC or other applicable governmental and regulatory authorities. The Investor further acknowledges that the General Partner may suspend the payment of distribution proceeds payable to the Investor if the General Partner and/or the Administrator reasonably deems it necessary to do so to comply with anti-money laundering laws, counter terrorist or proliferation financing laws and regulations applicable to the Fund, the General Partner, the Investment Manager, the Administrator or any of the Fund's other service providers.
- (E) The Investor represents and warrants that, to the best of its knowledge, none of the Investor, any person controlling or controlled by the Investor, if the Investor is a privately held entity, any person having a beneficial interest in the Investor, or any person for whom the Investor is acting as agent or nominee in connection with this investment, is a senior foreign political figure\*, or any immediate family member\*\* or close associate\*\*\* of a senior foreign political figure. *(If the Investor cannot make*

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\* These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

\* For these purposes, the term "**senior foreign political figure**" means a current or former senior official in the executive, legislative, administrative, military or judicial branches of a non-U.S. government (whether elected or not), a current or former senior official of a major non-U.S. political party, or a current or former senior executive of a non-U.S. government-owned commercial enterprise. In addition, a "**senior foreign political figure**" includes any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure. For purposes of this definition, the term "**senior official**" or "**senior executive**" means an individual with substantial authority over policy, operations, or the use of government-owned resources.

\*\* For these purposes, an "**immediate family member**" of a senior foreign political figure means spouses, parents, siblings, children and a spouse's parents and siblings.

*this representation and warranty, it may be subject to enhanced due diligence and the Fund may decline to accept this subscription.)*

- (F) If the Investor is a non-U.S. banking institution (a "Non-U.S. Bank") or if the Investor receives deposits from, makes payments on behalf of, or handles other financial transactions related to a Non-U.S. Bank, the Investor represents and warrants that: (i) the Non-U.S. Bank has a fixed address, other than solely an electronic address, in a country in which the Non-U.S. Bank is authorized to conduct banking activities; (ii) the Non-U.S. Bank employs one or more individuals on a full-time basis; (iii) the Non-U.S. Bank maintains operating records related to its banking activities; (iv) the Non-U.S. Bank is subject to inspection by the banking authority that licensed the Non-U.S. Bank to conduct banking activities; and (v) the Non-U.S. Bank does not provide banking services to any other Non-U.S. Bank that does not have a physical presence in any country and that is not a regulated affiliate.
- (G) The Investor understands and agrees that any withdrawal proceeds paid to it will be paid to the same account from which the Investor's investment in the Fund was originally remitted or another account in the Investor's name, unless the General Partner, in its sole discretion, agrees otherwise.
- (H) The Investor agrees that, upon the request of the Fund, the General Partner, the Investment Manager or the Administrator, it will provide such information as the Fund, the General Partner, the Investment Manager or the Administrator require to satisfy the requirements, present or future, of the laws and regulations of the United States or any other jurisdiction which applies to the Fund, including anti-money laundering laws and regulations. Such information may include the Investor's anti-money laundering policies and procedures, background and identification documentation relating to its directors, trustees, settlors and beneficial owners, and audited financial statements, if any. The Investor further acknowledges and agrees that the Fund, the General Partner, the Investment Manager or the Administrator will not confirm acceptance of the Investor to the Fund until such time as the Fund or the Administrator has received documentation verifying the Investor's identity, the identity of its beneficial owners and controllers (where applicable), and the source of funds, to its satisfaction.

## V. GENERAL

- (A) The Investor agrees to indemnify the Fund, the General Partner, the Investment Manager, the Administrator, each of their affiliates, and each other person, if any, who controls, is controlled by, or is under common control with, any of the foregoing, within the meaning of Section 15 of the Securities Act (collectively, "Indemnified Parties"), against any and all loss, liability, claim, damage and expense whatsoever (including all expenses reasonably incurred in investigating, preparing or defending against any claim whatsoever) arising out of or based upon: (i) any false representation or warranty made by the Investor, or breach or failure by the Investor to comply with any covenant or agreement made by the Investor, in this Subscription Agreement or in any other document furnished by the Investor to any of the foregoing in connection with this transaction; or (ii) any action for securities law violations instituted by the Investor which is finally resolved by judgment against the Investor. The Investor also agrees to indemnify the Indemnified Parties for any and all costs, fees and expenses (including legal fees and disbursements) in connection with any damages resulting from the Investor's misrepresentation or misstatement contained herein, or the assertion of the Investor's lack of proper authorization from the Beneficial Owner to enter into this Subscription Agreement or perform the obligations hereof.

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\*\*\* For these purposes, a "close associate" of a senior foreign political figure means a person who is widely and publicly known (or is actually known) to be a close associate of a senior foreign political figure.

- (B) The Fund, the General Partner, the Investment Manager and the Administrator shall not be liable for any interception of Account Communications (as defined on page 17).
- (C) If any provision of this Subscription Agreement is invalid or unenforceable under any applicable law, then such provision shall be deemed inoperative to the extent that it may conflict therewith. Any provision hereof which may be held invalid or unenforceable under any applicable law shall not affect the validity or enforceability of any other provisions hereof, and to this extent the provisions hereof shall be severable.
- (D) If any answer provided or background documentation required under this Subscription Agreement is found to be false, forged or misleading, the Investor understands that the General Partner may require the Investor to fully withdraw from the Fund as permitted under the Partnership Agreement.
- (E) Notwithstanding the place where this Subscription Agreement may be executed by any of the parties hereto, the parties expressly agree that all of the terms and provisions hereof shall be construed under the laws of the Delaware applicable to contracts made and to be entirely performed in such state.
- (F) To the fullest extent permitted by law, in the event of any dispute arising out of the terms and conditions of this Subscription Agreement, the parties hereto consent and submit to the non-exclusive jurisdiction of the courts of the Delaware.

## VI. AGENT OR NOMINEE

- (A) If the Investor is acting as agent or nominee for a Beneficial Owner, the Investor understands and acknowledges that the representations, warranties and covenants made herein are made by the Investor: (i) with respect to the Investor; *and* (ii) with respect to the Beneficial Owner. The Investor represents and warrants that it has all requisite power and authority from said Beneficial Owner to execute and perform the obligations under this Subscription Agreement. The Investor agrees to indemnify the Indemnified Parties for any and all costs, fees and expenses (including legal fees and disbursements) in connection with any damages resulting from the Investor's misrepresentation or misstatement contained herein, or the assertion of the Investor's lack of proper authorization from the Beneficial Owner to enter into this Subscription Agreement or perform the obligations hereof. If the Investor is acting as agent or nominee for a Beneficial Owner, the Investor acknowledges that the term "Investor" as used herein shall be deemed, where applicable, to mean both the Investor and the Beneficial Owner.
- (B) If the Investor will enter into a swap, structured note or other derivative instrument, the return from which is based in whole or in part on the return of the Fund (the "Swap"), with a third party (a "Third Party"), the Investor represents and warrants that with respect to a Third Party entering into a Swap: (i) the Third Party is authorized under its constitutional documents (*e.g.*, certificate of incorporation, by-laws, partnership agreement or trust agreement) and applicable law (including U.S. and non-U.S. anti-money laundering laws and regulations) to enter into the Swap and would also be so authorized to invest directly into the Fund; (ii) the Third Party has received and reviewed a copy of the Memorandum, the Partnership Agreement, and this Subscription Agreement; (iii) the Third Party acknowledges that the Fund and its affiliates are not responsible for the legality, suitability or tax consequences of the Swap and that the Investor is not an agent of the Fund; and (iv) the Third Party is an "accredited investor" under Regulation D promulgated under the Securities Act and a "qualified purchaser" under the Company Act. Nothing herein constitutes an agreement or statement by the Fund as to the legality of a Swap or the suitability of a Swap for the Third Party.

**VII. ADDITIONAL INFORMATION AND SUBSEQUENT CHANGES IN THE FOREGOING REPRESENTATIONS**

- (A) The Fund, the General Partner or the Administrator may request from the Investor such additional information as it may deem necessary to evaluate the eligibility of the Investor to acquire an Interest, and may request from time to time such information as it may deem necessary to determine the eligibility of the Investor to hold an Interest or to enable the General Partner to determine the Fund's, the General Partner's, the Investment Manager's or the Administrator's compliance with applicable legal or regulatory requirements or the Fund's tax status, and the Investor agrees to provide such information as may reasonably be requested.
- (B) The Investor agrees to promptly take such action, including providing and periodically updating information (which may include, among other things, the identities of the direct and indirect U.S. beneficial owners of the Interests being subscribed for hereunder and the "controlling person(s)" of the Investor), that the Fund, the General Partner or the Investment Manager, in its sole discretion, reasonably determines is necessary for the Fund to comply with any legal obligation or to reduce or eliminate withholding taxes under Sections 1471-1474 of the Internal Revenue Code or other similar laws. The Investor acknowledges that if it fails to timely take such action, the Investor may be subject to fines or other penalties, including a 30% U.S. withholding tax with respect to its share of any payment attributable to actual and deemed U.S. investments of the Fund, and that the General Partner may take any action in relation to the Investor's Interest or withdrawal proceeds to ensure that such penalties and withholding are economically borne by the Investor. If the Investor is, or the Investor's investment in the Fund is made through, a "foreign financial institution" within the meaning of Section 1471(d)(4) of the Internal Revenue Code, the Investor agrees that such foreign financial institution (including the Investor, if applicable) (i) shall meet the requirements of Section 1471(b)(1) or 1471(b)(2) of the Internal Revenue Code and (ii) shall not delegate any withholding responsibility pursuant to Section 1471(b)(3) of the Internal Revenue Code to the Fund.
- (C) The Investor agrees to notify the General Partner promptly in writing if there is any change with respect to any of the information or representations or warranties made herein and to provide the General Partner with such further information as the General Partner may reasonably require.
- (D) This Subscription Agreement may be executed through the use of separate signature pages or in any number of counterparts. The counterparts shall, for all purposes, constitute one agreement binding on all the parties, notwithstanding that all parties do not execute the same counterpart.
- (E) This Subscription Agreement, and any and all actions or controversies arising out of this Subscription Agreement, including, without limitation, tort claims, shall be governed by, construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the choice of law principles thereof that would result in the application of the substantive law of any jurisdiction other than the State of Delaware.
- (F) Each party acknowledges and agrees that any portable document format (PDF) file, facsimile or other reproduction of its signature on any counterpart shall be equal to and enforceable as its original signature and that any such reproduction shall be a counterpart hereof that is fully enforceable in any court or arbitral panel of competent jurisdiction.
- (G) To the fullest extent permitted by applicable law, this Subscription Agreement may be signed by any party under hand or by way of an electronic signature or by a signature or a representation of a signature affixed by mechanical means and may be reproduced as an electronic record and delivered to the Administrator by facsimile, by electronic mail or by delivery through a web or other electronic portal. The Fund may take such steps as it deems appropriate to determine the reliability of any electronic signature.

# ITE RAIL FUND L.P.

## INVESTOR PROFILE FORM

**ALL INVESTORS MUST COMPLETE THIS FORM.**

Name of Investor (*Please Print or Type*)

Social Security Number/Tax I.D. Number

\$

Amount of Capital Commitment

Income Distribution Election (*Please check one*)\*

☐ Yes

☐ No

Type of Investor—*Please check all that apply:*

☐ Individual

☐ Registered Investment  
Company

☐ Foundation

☐ Partnership

☐ Joint Tenants (with Rights of  
Survivorship)

☐ Endowment

☐ Corporation

☐ Tenants in Common

☐ Employee Benefit Plan

☐ Trust

☐ Individual Retirement Plan

☐ Keogh Plan

☐ Limited Liability Company

☐ Charitable Remainder Trust

☐ Fund of Funds\*\*

☐ Other: (*Please specify*) \_\_\_\_\_

Form PF Investor Type

Under the reporting requirements on Form PF, the Fund must organize its investors by certain specified investor groups set forth in Form PF. Accordingly, please check below the investor type that best describes the Investor. (*If the Investor is acting as agent or nominee for a Beneficial Owner, please check the item that best describes the Beneficial Owner.*)

*Please check one:*

☐ Individual that is a United States person\*\* (or a trust of such a person)

☐ Broker-dealer

☐ Insurance company

☐ Investment company registered with the SEC

☐ Private fund\*\*\*\*

☐ Non-profit

☐ Pension plan (other than a governmental pension plan)

☐ Banking or thrift institution (proprietary)

☐ State or municipal government entity\*\*\*\*\* (other than a governmental pension plan)

\* The Income Distribution Election is more fully described in the Partnership Agreement. Investors can also change its Income Distribution Election by providing the General Partner notice in the "Income Distribution Election" form in Exhibit C.

\*\* For purposes of this item, the term "Fund of Funds" means a fund that invests 10 percent or more of its total assets in other pooled investment vehicles, whether or not they are private funds or registered investment companies.

\*\* For purposes of Form PF, the term "United States person" has the meaning provided in Rule 203(m)-1 under the Advisers Act, which includes any natural person that is resident in the United States.

\*\*\*\* For purposes of Form PF, the term "private fund" means any issuer that would be an investment company as defined in Section 3 of the Company Act but for Section 3(c)(1) or 3(c)(7) of the Company Act.

# ITE RAIL FUND L.P.

## INVESTOR PROFILE FORM

- ☐ State or municipal governmental pension plan  
☐ Other (*please specify*): \_\_\_\_\_

Full Mailing Address (*Exactly as it should appear on labels*):

☐ Mr.    ☐ Mrs.    ☐ Ms.    ☐ Miss    ☐ Dr.    ☐ Other \_\_\_\_\_

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\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

Residence (if an individual) or Principal Place of Business (if an entity) Address (*No P.O. Boxes Please, if any*):

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\_\_\_\_\_  
Telephone number

\_\_\_\_\_  
Fax number

Attention: \_\_\_\_\_

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

\*\*\*\*\* For purposes of Form PF, the term "government entity" means any U.S. state (including any U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or any other possession of the United States) or political subdivision of a state, including:

- (i) any agency, authority or instrumentality of the state or political subdivision;
- (ii) a plan or pool of assets controlled by the state or political subdivision or any agency, authority or instrumentality thereof; and
- (iii) any officer, agent, or employee of the state or political subdivision or any agency, authority or instrumentality thereof, acting in their official capacity.

# ITE RAIL FUND L.P.

## INVESTOR PROFILE FORM

### AUTHORIZATION OF REPRESENTATIVE(S)/AGENT(S):

Set forth below are the names of persons authorized by the Investor to give and receive instructions and information between the Fund and the Investor, together with their respective signatures and e-mail addresses. Such persons are the only persons so authorized until further notice to the Fund.

*(Please attach additional pages if needed)*

Name	Signature	E-mail Address

Address of Authorized Representative/Agent *(No P.O. Boxes Please, if any)*:

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Telephone number

Fax number

Until further written notice to the Fund, funds may be wired to the Investor using the following instructions:

Bank name: \_\_\_\_\_

Bank address: \_\_\_\_\_

ABA or CHIPS number: \_\_\_\_\_

Account name: \_\_\_\_\_

Account number: \_\_\_\_\_

For further credit: \_\_\_\_\_

# ITE RAIL FUND L.P.

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## INVESTOR PROFILE FORM

### CONSENT TO ELECTRONIC DELIVERY OF ACCOUNT COMMUNICATIONS

Initial

The Investor hereby provides its informed consent to the electronic delivery of Account Communications by the Fund, the Investment Manager and/or the Administrator. If the Investor has not initialed this item, Account Communications will be delivered via facsimile or physical delivery (e.g., first class mail, overnight or express courier service or similar delivery method).

#### **Covered Documents**

"Account Communications" means all current and future account statements; the Memorandum, the Partnership Agreement and the Subscription Agreement (including all supplements and amendments thereto); notices (including privacy notices); letters to investors; annual audited financial statements; regulatory communications and other information, documents, data and records regarding the Investor's investment in the Fund.

#### **Medium of Delivery**

The Fund, the Investment Manager and/or the Administrator may deliver Account Communications electronically via e-mail or any secure Internet site. It is the Investor's affirmative obligation to notify the Fund in writing if the e-mail address of the Investor or any authorized representative of the Investor changes. If an Internet site is used for electronic delivery, the Investor will receive an e-mail notification when a new document is posted to the site and the Investor will be required to login with its e-mail address and a unique password. In order to access, view, print and save documents, the Investor must have access to the Internet and software that enables it to view a PDF document.

#### **Duration of Consent**

This consent will be valid until it is revoked. The Investor may revoke or restrict its consent to electronic delivery of Account Communications at any time upon written notice to the Administrator.

#### **Costs and Risks of Electronic Delivery**

The Fund, the Investment Manager and the Administrator will not be liable for any interception of Account Communications. Investors should note that no additional charge for electronic delivery will be assessed, but the Investor may incur charges from its Internet service provider or other Internet access provider. In addition, there are risks, such as systems outages, that are associated with electronic delivery.

# ITE RAIL FUND L.P.

## INVESTOR PROFILE FORM

### ANTI-MONEY LAUNDERING INFORMATION

This Subscription Agreement will not be deemed complete, and the Investor will not be deemed a limited partner of the Fund, regardless of whether it has already wired funds, until all of the required documentation listed below is received by the General Partner. For additional information, please contact ITE Investor Relations at [REDACTED].

#### Payment Information

(a) Name of the Investor: \_\_\_\_\_

(b) Name of the bank from which the Investor's payment to the Fund is being wired (the "Wiring Bank"): \_\_\_\_\_

(c) Is the Wiring Bank located in an Approved FATF Country\*? YES NO

☐☐

If yes, please answer question (d) below.

If no, please provide the additional information described below.

(d) Is the Investor a customer of the Wiring Bank? YES NO

☐☐

If yes, you are not required to provide the additional information described below.

If no, please provide the additional information described below.

**The Investor must wire the payment from an account in its name.**

#### Additional Information

*Note: This section applies only to investors who responded "No" to question (c) or (d) above.*

**The following materials must be provided to the General Partner:**

**For Individuals and Participants in Individual Retirement Accounts, Keogh Plans and Other Self-Directed Defined Contribution Plans**

☐ A government issued form of picture identification (e.g., passport).

☐ Proof of current address (e.g., current utility bill).

\* As of the date hereof, approved countries that are members of the Financial Action Task Force on Money Laundering (each, an "Approved FATF Country") are: Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Mexico, Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States.

# ITE RAIL FUND L.P.

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## INVESTOR PROFILE FORM

### **For Fund of Funds or Entities that Invest on Behalf of Third Parties that are Not Located in the U.S. or Other Approved FATF Country**

- ☐ A certificate of due formation and organization and continued authorization to conduct business in the jurisdiction of its organization (*e.g.*, certificate of good standing).
- ☐ An incumbency certificate attesting to the title of the individual executing this Subscription Agreement on behalf of the Investor (a sample Incumbency Certificate is attached hereto as Exhibit D).
- ☐ A completed copy of Exhibit E certifying that the entity has adequate anti-money laundering policies and procedures in place that are consistent with all applicable anti-money laundering laws and regulations, including the USA PATRIOT Act and OFAC.
- ☐ A letter of reference from a local office of a reputable bank or brokerage firm which is incorporated, or has its principal place of business located, in an Approved FATF Country certifying that the Investor maintains an account at such bank/brokerage firm and containing a statement affirming the Investor's integrity (a sample Letter of Reference is attached hereto as Exhibit F).

### **For All Other Entity Investors**

- ☐ A certificate of due formation and organization and continued authorization to conduct business in the jurisdiction of its organization (*e.g.*, certificate of good standing).
- ☐ An incumbency certificate attesting to the title of the individual executing this Subscription Agreement on behalf of the Investor (a sample Incumbency Certificate is attached hereto as Exhibit D).
- ☐ A letter of reference from a local office of a reputable bank or brokerage firm which is incorporated, or has its principal place of business located, in an Approved FATF Country certifying that the Investor maintains an account at such bank/brokerage firm for a length of time and containing a statement affirming the Investor's integrity (a sample Letter of Reference is attached hereto as Exhibit F).
- ☐ If the Investor is a privately-held entity, a completed copy of Exhibit G listing the name of each person who directly, or indirectly through intermediaries, is the beneficial owner of 25% or more of any voting or non-voting class of equity interests of the Investor.
- ☐ If the Investor is a trust, a completed copy of Exhibit H listing the current beneficiaries of the trust that have, directly or indirectly, 25% or more of any interest in the trust, the settlor of the trust and the trustees.

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

PLEASE COMPLETE ALL APPROPRIATE ITEMS.

### I. GENERAL INVESTOR INFORMATION

(A) The Investor hereby represents and warrants that:

*(Please initial one and complete blanks)*

1. If the Investor is an employee benefit plan, an endowment, a foundation, a  
*Initial* corporation, a partnership, a limited liability company, a trust or other legal  
entity, it:  
is organized under the laws of: \_\_\_\_\_  
has its principal place of business in: \_\_\_\_\_  
and was formed as of: \_\_\_\_\_
2. If the Investor is an individual or beneficial ownership of the Investor is held  
*Initial* by an individual (for example, through an Individual Retirement Account,  
Keogh Plan or other self-directed defined contribution plan), such individual  
is of legal age and is a resident of:  
\_\_\_\_\_

(B) Was the Investor referred to the Fund by a placement agent? Yes ☐ No ☐

If yes, please provide name of placement agent: \_\_\_\_\_

(C) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) *(please initial one)* a government entity.\*

(D) If the Investor is acting as agent or nominee for a beneficial owner that is a government entity,  
please provide the name of the government entity:  
\_\_\_\_\_

(E) If the Investor is an entity substantially owned by a government entity (e.g., a single investor  
vehicle) and the investment decisions of such entity are made or directed by such government  
entity, please provide the name of the government entity:  
\_\_\_\_\_

\* For these purposes, the term "government entity" means any U.S. state (including any U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or any other possession of the United States) or political subdivision of a state, including:

- (i) any agency, authority, or instrumentality of the state or political subdivision;
- (ii) a pool of assets sponsored or established by the state or political subdivision or any agency, authority or instrumentality thereof, including, but not limited to a "defined benefit plan", as defined in section 414(j) of the Internal Revenue Code, or a state general fund;
- (iii) a plan or program of a government entity; and
- (iv) officers, agents, or employees of the state or political subdivision or any agency, authority or instrumentality thereof, acting in their official capacity. (Note that any such officers, agents, or employees will not be considered a government entity if they are making an investment in the Fund not in their official capacity.)

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

Please note that, if the Investor enters the name of a government entity in this Item I(E), the Fund will treat the Investor as if it were the government entity for purposes of Rule 206(4)-5 (the "Pay to Play Rule") promulgated under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

If the Investor is (i) a government entity, (ii) acting as agent or nominee for a beneficial owner that is a government entity, or (iii) an entity described in Item I(E), the Investor hereby certifies that:

Initial other than the Pay to Play Rule, no "pay to play" or other similar compliance obligations would be imposed on the Fund, the General Partner, the Investment Manager or their affiliates in connection with the Investor's subscription.

*If the Investor cannot make such certification, indicate in the space below all other "pay to play" laws, rules or guidelines, or lobbyist disclosure laws or rules, the Fund, the General Partner, the Investment Manager or their affiliates, employees or third-party placement agents would be subject to in connection with the Investor's subscription:*

(F) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) registered as an investment company under the Company Act (a "Registered Fund").

(G) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) an affiliated person\* of a Registered Fund. If the Investor is an affiliated person of a Registered Fund, please provide the name of the Registered Fund: \_\_\_\_\_.

\* For purposes of this item, the term "affiliated person" of another person means:

- (i) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person;
- (ii) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person;
- (iii) any person directly or indirectly controlling, controlled by, or under common control with, such other person;
- (iv) any officer, director, partner, copartner, or employee of such other person;
- (v) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and
- (vi) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof.

For this purpose, "control" means the power to exercise a controlling influence over the management or policies of a company, whether by stock ownership, contract or otherwise, unless such power is solely the result of an official position with such company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company is presumed to control the company. Entities that may be deemed to be under "common control" are those that (a) are directly or indirectly controlled by the same person or (b) have substantially the same officers and directors or managers or the same investment adviser.

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

- (H) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (please initial one) (i) a "bank holding company" (as defined in Section 2(a) of the U.S. Bank Holding Company Act of 1956, as amended (the "BHCA")), (ii) an entity that is subject to the BHCA pursuant to the U.S. International Banking Act of 1978, as amended, or (iii) an "affiliate" (as defined in Section 2(k) of the BHCA) of either of the foregoing. *The Fund may request information regarding the bank holding company status of the Investor or any affiliate of the Investor.*
- (I) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) a "banking entity" (as defined in Regulation VV of the Board of Governors of the U.S. Federal Reserve System (the "Volcker Rule")).
- (J) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) a "covered fund" (as defined in the Volcker Rule).

If the Investor is a "covered fund", please complete each of the following:

1. The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) a "covered fund" (i) for which a "banking entity" serves as "sponsor", investment manager, investment adviser, commodity trading advisor, or (ii) that was otherwise "organized and offered" by a "banking entity" (each as defined in the Volcker Rule).
2. The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) "controlled" (as defined in the Volcker Rule) by a second "covered fund" described in clause (i) or (ii) of Item (J)(1) above.

## II. ERISA INFORMATION

- (A) The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (***please initial one***) a "Benefit Plan Investor" as defined in Section III of this Subscription Agreement.
- (B) If the Investor is a pooled investment fund, the Investor certifies to either 1 or 2 below:

***(Please initial one)***

- \_\_\_\_\_  
*Initial*
1. Less than 25% of the value of each class of equity interests in the Investor (excluding from this computation interests held by (i) any individual or entity (other than a Benefit Plan Investor) having discretionary authority or control over the assets of the Investor, (ii) any individual or entity (other than a Benefit Plan Investor) who provides investment advice for a fee (direct or indirect) with respect to the assets of the Investor and (iii) any affiliate of such individuals or entities (other than a Benefit Plan Investor)) is held by Benefit Plan Investors.

## ITE RAIL FUND L.P.

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### GENERAL ELIGIBILITY REPRESENTATIONS

\_\_\_\_\_  
*Initial*

2. Twenty-five percent or more of the value of any class of equity interests in the Investor (excluding from this computation interests held by (i) any individual or entity (other than a Benefit Plan Investor) having discretionary authority or control over the assets of the Investor, (ii) any individual or entity (other than a Benefit Plan Investor) who provides investment advice for a fee (direct or indirect) with respect to the assets of the Investor and (iii) any affiliate of such individuals or entities (other than a Benefit Plan Investor)) is held by Benefit Plan Investors;

and

\_\_\_\_\_% of the equity interest in the Investor is held by Benefit Plan Investors.

(C) If the Investor is an insurance company, the Investor certifies to either 1 or 2 below:

*(Please initial one)*

\_\_\_\_\_  
*Initial*

1. The Investor is an insurance company investing the assets of its general account (or the assets of a wholly owned subsidiary of its general account) in the Fund but none of the underlying assets of the Investor's general account constitutes "plan assets" within the meaning of Section 401(c) of ERISA.

\_\_\_\_\_  
*Initial*

2. The Investor is an insurance company investing the assets of its general account (or the assets of a wholly owned subsidiary of its general account) in the Fund and a portion of the underlying assets of the Investor's general account constitutes "plan assets" within the meaning of Section 401(c) of ERISA; and

\_\_\_\_\_% of its general account assets constitute "plan assets" within the meaning of Section 401(c) of ERISA.

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

### III. TAX INFORMATION

(A) If the Investor is exempt from U.S. Federal income tax, please indicate the basis for the exemption:

\_\_\_\_\_

**(B) Disregarded Entity Information:**

1. The Investor \_\_\_\_\_ (is) \_\_\_\_\_ (is not) (*please initial one*) either a grantor trust or a disregarded entity for U.S. federal tax purposes\*, such as a single-member LLC formed under the laws of a U.S. state that did not elect to be classified as an association taxable as a corporation for U.S. federal tax purposes (each such grantor trust or disregarded entity, a "**Disregarded Entity**").
2. If the Investor is a Disregarded Entity, please provide the Taxpayer Identification Number (the "**TIN**") of the Investor (not the TIN of any grantor or other owner) or enter "none" if the Investor does not have a TIN: \_\_\_\_\_.

**(C) Canadian Tax Information and Forms**

\_\_\_\_\_  
*Initial* Under penalties of perjury, I declare that \_\_\_\_\_ (*Insert Percentage*) of the beneficial owners of \_\_\_\_\_ (*Insert Name of Investor (Please Print or Type)*) are US tax residents for purposes of claiming the applicable tax treaty between the United States and Canada.

For All Investors: Please also complete the applicable Canadian Tax Form listed below:

- ☐ Form NR301: Declaration of Eligibility for Benefits Under A Tax Treaty for A Non-Resident Taxpayer (*available at* <https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/nr301.html>).
- ☐ Form NR302: Declaration of Eligibility for Benefits Under A Tax Treaty for A Partnership with Non-Resident Partners (*available at* <https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/nr302.html>).
- ☐ Form NR303: Declaration of Eligibility for Benefits Under A Tax Treaty for A Hybrid Entity (*available at* <https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/nr303.html>).

**(D) Form W-9**

For All Investors: Please download, complete and include as part of this Subscription Agreement Form W-9: Request for Taxpayer Identification Number and Certification (*available at* <https://www.irs.gov/pub/irs-pdf/fw9.pdf>).

*This Subscription Agreement will not be deemed complete until a completed Form W-9 is received by the Administrator.*

\* A "disregarded entity" is a tax entity classification. The Investor should consult its tax advisors before answering this Item.

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

### IV. ACCREDITED INVESTOR STATUS

The Investor certifies that the Investor is an "accredited investor" as defined in Regulation D promulgated under the Securities Act because:

*(Please initial as appropriate)*

#### (A) Individuals

- |                         |   |
|-------------------------|---|
| _____<br><i>Initial</i> | 1. The Investor has an individual net worth*, or joint net worth with his or her spouse or spousal equivalent**, in excess of \$1,000,000;  |
| _____<br><i>Initial</i> | 2. The Investor had individual income*** (exclusive of any income attributable to his or her spouse or spousal equivalent) of more than \$200,000 in each of the past two years, or joint income with his or her spouse or spousal equivalent of more than \$300,000 in each of those years, and reasonably expects to reach the same income level in the current year; |
| _____<br><i>Initial</i> | 3. The Investor holds in good standing one or more of the following professional certifications or designations or credentials: General Securities Representative license (Series 7), Private Securities Offerings Representative license (Series 82), or Investment Adviser Representative license (Series 65); or   |
| _____<br><i>Initial</i> | 4. The Investor wishes to be treated as a knowledgeable employee**** of the Fund. <i>The Fund will not accept the Investor's subscription for the Interest until it has determined the basis on which the Investor would be treated as a knowledgeable employee.</i>  |

#### (B) Family Offices and Family Clients

\* For purposes of this Subscription Agreement, the term "**net worth**" means the excess of total assets at fair market value, including home furnishings and automobiles, over total liabilities; *provided that*, (i) the Investor's primary residence shall not be included as an asset, (ii) indebtedness that is secured by the Investor's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of the Interests, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of sale of the Interests exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability), and (iii) indebtedness that is secured by the Investor's primary residence in excess of the estimated fair market value of the primary residence at the time of the sale of the Interests shall be included as a liability.

For the purposes of calculating joint net worth: joint net worth can be the aggregate net worth of the Investor and his or her spouse or spousal equivalent; assets need not be held jointly to be included in the calculation. In addition, reliance on this joint net worth item does not require that the Interest be purchased jointly.

\*\* For purposes of this Subscription Agreement, the term "**spousal equivalent**" means a cohabitant occupying a relationship generally equivalent to that of a spouse.

\*\*\* For purposes of this Subscription Agreement, the term "**individual income**" means adjusted gross income, as reported for federal income tax purposes, less any income attributable to a spouse or to property owned by a spouse, increased by the following amounts (but not including any amounts attributable to a spouse or to property owned by a spouse): (i) the amount of any tax-exempt interest income under Section 103 of the Internal Revenue Code, received; (ii) the amount of losses claimed as a limited partner in a limited partnership as reported on Schedule E of Form 1040; (iii) any deduction claimed for depletion under Section 611 *et seq.* of the Internal Revenue Code; (iv) amounts contributed to an Individual Retirement Account (as defined in the Internal Revenue Code) or Keogh retirement plan; (v) alimony paid; and (vi) any elective contributions to a cash or deferred arrangement under Section 401(k) of the Internal Revenue Code.

\*\*\*\* For purposes of this Subscription Agreement, the term "**knowledgeable employee**" shall have the meaning assigned to such term in Rule 3c-5(a)(4) under the Company Act.

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

\_\_\_\_\_  
Initial

1. The Investor is a family office\* (i) with assets under management in excess of \$5,000,000; (ii) that was not formed for the specific purpose of acquiring the Interest offered; and (iii) whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the Investor's investment in the Fund; or

\_\_\_\_\_  
Initial

2. The Investor is a family client\*\* of a family office meeting the requirements in Section IV(B)(1) immediately above and whose prospective investment in the Fund is directed by such family office.

### (C) Corporations, Foundations, Endowments, Partnerships, Limited Liability Companies or Other Entities

\_\_\_\_\_  
Initial

1. The Investor has total assets in excess of \$5,000,000 and was not formed for the specific purpose of acquiring the Interests offered;

\_\_\_\_\_  
Initial

2. Each of the Investor's equity owners is an accredited investor as described in this Section IV.\*\*\* The General Partner may request information regarding the basis on which such equity owners are accredited investors; or

\_\_\_\_\_  
Initial

3. The Investor is an entity, of a type not listed in Section **Error! Reference source not found.**, IV(F), IV(G)(1), IV(H), IV(I), IV(J), IV(K), or IV(L) or Items 1 or 2 of this Section **Error! Reference source not found.**, not formed for the specific purpose of acquiring the Interest offered, owning investments\*\*\*\* in excess of \$5,000,000.

### (D) Employee Benefit Plans

\_\_\_\_\_  
Initial

1. The Investor is an employee benefit plan within the meaning of ERISA, and the decision to invest in the Fund was 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. The name of such plan fiduciary is: \_\_\_\_\_.

\_\_\_\_\_  
Initial

2. The Investor is an employee benefit plan within the meaning of ERISA and has total assets in excess of \$5,000,000; or

\* For purposes of this section, the term "family office" shall have the meaning assigned to such term in Rule 202(a)(11)(G)-1 under the Advisers Act, which generally includes a company that: (i) has no clients other than family clients; (ii) is wholly owned by family clients and is exclusively controlled (directly or indirectly) by one or more family members and/or family entities; and (iii) does not hold itself out to the public as an investment adviser.

\*\* For purposes of this section, the term "family client" shall have the meaning assigned to such term in Rule 202(a)(11)(G)-1 under the Advisers Act.

\*\*\* It is permissible to look through various forms of equity ownership to natural persons in determining the accredited investor status of entities under this Item. If those natural persons are themselves accredited investors, and if all other equity owners of the entity seeking accredited investor status are accredited investors, then this Item may be available.

\*\*\*\* For these purposes, the term "investments" shall have the meaning assigned to such term in Rule 2a51-1 under the Company Act, [as described in Section V(A).

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

Initial 3. The Investor is 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, and has total assets in excess of \$5,000,000.

### (E) Individual Retirement Accounts, Keogh Plans and Other Self-Directed Defined Contribution Plans

Initial 1. The Investor is an individual retirement account, Keogh Plan or other self-directed defined contribution plan in which a participant may exercise control over the investment of assets credited to his or her account and the investing participant is an accredited investor because such participant (i) has an individual net worth, or joint net worth with his or her spouse or spousal equivalent, in excess of \$1,000,000; (ii) had individual income of more than \$200,000 in each of the past two years, or joint income with his or her spouse or spousal equivalent of more than \$300,000 in each of those years, and reasonably expects to reach the same income level in the current year; or (iii) holds in good standing one or more of the following professional certifications or designations or credentials: General Securities Representative license (Series 7), Private Securities Offerings Representative license (Series 82), or Investment Adviser Representative license (Series 65). *The General Partner may request information regarding the basis on which such participant is an accredited investor; or*

Initial 2. The Investor is an individual retirement account, Keogh Plan or other self-directed defined contribution plan in which a participant may exercise control over the investment of assets credited to his or her account and the investing participant wishes to be treated as a knowledgeable employee of the Fund. *The Fund will not accept the Investor's subscription for the Interest until it has determined the basis on which the investing participant would be treated as a knowledgeable employee.*

### (F) Section 501(c)(3) Organizations

Initial The Investor is an organization described in Section 501(c)(3) of the Internal Revenue Code, was not formed for the specific purpose of acquiring the Interests offered and has total assets in excess of \$5,000,000.

### (G) Trusts

Initial 1. The Investor has total assets in excess of \$5,000,000, was not formed for the specific purpose of acquiring the Interests offered and its purchase is directed by a sophisticated person. *As used in the foregoing sentence, a "sophisticated person" is one who has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment;*

Initial 2. The trustee or a co-trustee of the Investor is: (a) a bank as defined in Section 3(a)(2) of the Securities Act, a savings and loan association, or other institution as defined in Section 3(a)(5)(A) of the Securities Act; (b) acting in a fiduciary capacity; and (c) subscribing for the purchase of the Interests on behalf of the Investor or directing the Investor to purchase the Interests;

# ITE RAIL FUND L.P.

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## GENERAL ELIGIBILITY REPRESENTATIONS

\_\_\_\_\_  
*Initial*

3. The Investor is a revocable trust that may be amended or revoked at any time by the grantors thereof and all of the grantors are accredited investors as described herein. *The General Partner, in its sole discretion, may request information regarding the basis on which such grantors are accredited investor; or*

\_\_\_\_\_  
*Initial*

4. The Investor is an irrevocable trust with the following characteristics and the grantor (and sole person considered an equity owner) of such trust is an accredited investor as described herein: (i) the trust is a grantor trust for U.S. federal tax purposes; (ii) the grantor was the sole funding source of the trust; (iii) the grantor is taxed on all income of the trust during at least the first 15 years following the funding of the trust and would be taxed on any sale of trust assets during that period; (iv) during at least the first 15 years following the funding of the trust, all of the assets of the trust are includable in the grantor's estate for U.S. federal estate tax purposes; (v) the grantor is a co-trustee of the trust and has total investment discretion on behalf of the trust at the time the decision to invest in the Fund was made; (vi) the terms of the trust provide that the entire amount of the grantor's contribution to the trust plus a fixed rate of return on the contribution will be paid to the grantor (or his or her estate) before any payments may be made to the beneficiaries of the trust; (vii) the trust was established by the grantor for family estate planning purposes to facilitate the distribution of his or her estate; (viii) in order to effectuate the estate planning goals, the trust is irrevocable; and (ix) creditors of the grantor are able to reach the grantor's interest in the trust at all times.

### **(H) Banks, Savings and Loans and Similar Institutions**

\_\_\_\_\_  
*Initial*

The Investor is 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 acting in its individual capacity.

### **(I) Broker-Dealers**

\_\_\_\_\_  
*Initial*

The Investor is a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

### **(J) Investment Advisers**

\_\_\_\_\_  
*Initial*

The Investor is an investment adviser registered pursuant to Section 203 of the Advisers Act or registered pursuant to the laws of a state or is an investment adviser relying on the exemption from registering with the SEC under Section 203(l) or (m) of the Advisers Act.

### **(K) Insurance Companies**

\_\_\_\_\_  
*Initial*

The Investor is an insurance company as defined in Section 2(13) of the Securities Act.

## ITE RAIL FUND L.P.

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### GENERAL ELIGIBILITY REPRESENTATIONS

#### (L) Investment Companies

- \_\_\_\_\_  
*Initial*
1. The Investor is an investment company registered under the Company Act or a business development company as defined in section 2(a)(48) of the Company Act;
  - \_\_\_\_\_  
*Initial*
  2. The Investor is a small business investment company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the U.S. Small Business Investment Act of 1958;
  - \_\_\_\_\_  
*Initial*
  3. The Investor is a rural business investment company as defined in section 384A of the U.S. Consolidated Farm and Rural Development Act; or
  - \_\_\_\_\_  
*Initial*
  4. The Investor is a private business development company as defined in Section 202(a)(22) of the Advisers Act.

If the Investor cannot certify to any of Items (A)–(L) above, the Investor certifies that the Investor is not required to be an "accredited investor" as defined in Regulation D promulgated under the Securities Act because:

#### (M) Donees

- \_\_\_\_\_  
*Initial*
1. The Investor is a donee of the Interest, subscribing for the Interest in connection with a gift or bequest or pursuant to an agreement relating to a legal separation or divorce and not in connection with any offer or sale of the Interest.

The name of the donor of the Interest is: \_\_\_\_\_.

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

### V. QUALIFIED PURCHASER STATUS

The Investor hereby certifies that the Investor is a "qualified purchaser" under the Company Act because:

**(A) Individuals, Individual Retirement Accounts, Keogh Plans and other Self-Directed Defined Contribution Plans**

Initial

The Investor or, if the Investor is an Individual Retirement Account, Keogh Plan or other Self-Directed Defined Contribution Plan in which a participant may exercise control over the investment of assets credited to his or her account, the investing participant, is a qualified purchaser because he/she (alone, or together with his/her spouse, if investing jointly) owns not less than \$5,000,000 in investments.\*

**(B) "Family" Corporations, Foundations, Endowments, Section 501(c)(3) Organizations, Trusts or Other "Family" Entities**

Initial

The Investor: (i) was not formed for the specific purpose of investing in the Fund; (ii) owns not less than \$5,000,000 in investments; and (iii) is owned directly or indirectly by or for: (a) two or more natural persons who are related as siblings or spouse (including former spouses), or direct lineal descendants by birth or adoption; (b) spouses of such persons; (c) the estates of such persons; or (d) foundations, Section 501(c)(3) organizations or trusts established by or for the benefit of such persons.

\* For these purposes, the term "investments" shall have the meaning assigned to such term in Rule 2a51-1 under the Company Act, which generally includes: (i) securities (as defined in the Securities Act), except for securities of issuers controlled by the Investor ("Control Securities"), unless (A) the issuer of the Control Securities is itself a registered or private investment company or is exempted from the definition of investment company by Rule 3a-6 or Rule 3a-7 under the Company Act, (B) the Control Securities represent securities of an issuer that files reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, (C) the issuer of the Control Securities has a class of securities listed on a designated offshore securities market under Regulation S under the Securities Act, or (D) the issuer of the Control Securities is a private company with shareholders' equity not less than \$50 million determined in accordance with generally accepted accounting principles, as reflected in the company's most recent financial statements (provided such financial statements were issued within 16 months of the date of Investor's purchase of an Interest); (ii) futures contracts or options thereon held for investment purposes; (iii) physical commodities held for investment purposes; (iv) swaps and other similar financial contracts entered into for investment purposes; (v) real estate held for investment purposes; and (vi) cash and cash equivalents held for investment purposes.

*Note: In determining whether the \$5 million or \$25 million thresholds are met, investments can be valued at cost or fair market value as of a recent date. If investments have been acquired with indebtedness, the amount of the indebtedness must be deducted in determining whether the threshold has been met.*

# ITE RAIL FUND L.P.

## GENERAL ELIGIBILITY REPRESENTATIONS

### (C) Trusts or Section 501(c)(3) Corporations (Other Than Trusts or Section 501(c)(3) Corporations That Qualify under Sections (B) or (D) hereof)

\_\_\_\_\_  
*Initial*

The Investor: (i) was not formed for the specific purpose of investing in the Fund; and (ii) each trustee (or other authorized person) that is authorized and required to make decisions with respect to this investment is a person described in Sections (A), (B) or (D), at the time the decision to purchase Interests is made, and each settlor or other person who has contributed assets to the Investor is a person described in Sections (A), (B) or (D) at any time such person contributed assets to the Investor.

### (D) Other Entities

\_\_\_\_\_  
*Initial*

The Investor: (i) was not formed for the specific purpose of investing in the Fund; and (ii) is an entity, acting for its own account or the accounts of other qualified purchasers, which in the aggregate owns and invests on a discretionary basis, not less than \$25,000,000 in investments (as defined above).

### (E) Entities That Do Not Qualify under (B)-(D)

\_\_\_\_\_  
*Initial*

The Investor is a qualified purchaser because each beneficial owner of the Investor's securities is a qualified purchaser as described in this Section V. *Note: This certification does not apply to beneficiaries of an irrevocable trust. The General Partner may request information regarding the basis on which such beneficial owners are qualified purchasers.*

If the Investor cannot certify to any of Items **Error! Reference source not found.–Error! Reference source not found.** above, the Investor certifies that the Investor is not required to be a “qualified purchaser” under the Company Act because:

### (F) Non-Qualified Purchasers

\_\_\_\_\_  
*Initial*

1. The Investor wishes to be treated as a knowledgeable employee of the Fund. *The Fund will not accept the Investor's subscription for the Interest until it has determined the basis on which the Investor would be treated as a knowledgeable employee;*

\_\_\_\_\_  
*Initial*

2. The Investor is a company owned exclusively by knowledgeable employees. *The Fund will not accept the Investor's subscription for the Interest until it has determined the basis on which each beneficial owner of the Investor would be treated as a knowledgeable employee;* or

\_\_\_\_\_  
*Initial*

3. The Investor is a donee of the Interest, subscribing for the Interest in connection with a gift or bequest or pursuant to an agreement relating to a legal separation or divorce and not in connection with any offer or sale of the Interest.

The name of the donor of the Interest is: \_\_\_\_\_.

# ITE RAIL FUND L.P.

## SUBSCRIPTION AGREEMENT SIGNATURE PAGES

### ALL INVESTORS MUST COMPLETE THIS SECTION.

The undersigned:

1. represents and warrants that the undersigned has carefully read and is familiar with this Subscription Agreement and the Memorandum;
2. represents and warrants that the information contained herein is complete and accurate and may be relied upon; and
3. agrees that the execution of this signature page constitutes the execution and receipt of this Subscription Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Subscription Agreement this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

#### INDIVIDUALS

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Additional Investor Signature

\_\_\_\_\_  
Print Name

#### ENTITIES

\_\_\_\_\_  
Print Name of Entity

By: \_\_\_\_\_  
Authorized Signatory\*

\_\_\_\_\_  
Print Name and Title

#### *Name of Trustees or Other Fiduciaries Exercising Investment Discretion with Respect to Benefit Plan or Trust*

*Signature*

*Printed Name*

*Title*

_____	_____	_____
_____	_____	_____
_____	_____	_____

\* If the Investor is an Individual Retirement Account or other self-directed defined contribution plan, or if the authorized signatory of the Investor is a directed trustee, then the individual who established the Individual Retirement Account, the investing participant in the self-directed defined contribution plan or the person who directed the Investor's investment in the Fund, as the case may be, must execute the representations and warranties on the following page.

# ITE RAIL FUND L.P.

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## SUBSCRIPTION AGREEMENT SIGNATURE PAGES

### *Additional Representations with Respect to Investment from an Individual Retirement Account or Self-Directed Defined Contribution Plan or by a Directed Trustee*

If the Investor is an Individual Retirement Account or other self-directed defined contribution plan or the person executing this Subscription Agreement is a directed trustee, then the individual who established the Individual Retirement Account, the investing participant in the self-directed defined contribution plan or the person who directed the Investor's investment in the Fund, as the case may be, hereby represents and warrants that:

1. he or she has directed the custodian or trustee of the Investor to execute this Subscription Agreement in the appropriate place;
2. he or she has exclusive authority with respect to the decision to invest in the Fund;
3. he or she has reviewed and directed the representations and warranties made by the Investor in this Subscription Agreement; and
4. the representations and warranties made by the Investor in this Subscription Agreement are accurate and may be relied upon.

---

Signature

---

Print Name

Name and Address of Custodian/Trustee  
and Contact Individual:

---

---

---

Account or other Reference Number:

---

Custodian's Tax I.D. Number:

---

**ITE RAIL FUND L.P.**

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**SUBSCRIPTION AGREEMENT SIGNATURE PAGES**

***Agreement of Custodian of Individual Retirement Account***

The undersigned, being the custodian of the above named Individual Retirement Account, hereby accepts and agrees to this subscription.

By: \_\_\_\_\_  
Signature of Authorized Signatory

\_\_\_\_\_  
Print Name and Title

-----  
**FOR COMPLETION BY ITE**

**To be completed by ITE Rail Fund L.P.**

\_\_\_\_\_  
SUBSCRIPTION ACCEPTED  
AS TO \$ \_\_\_\_\_

**ITE RAIL FUND L.P.**

By: ITE RAIL GP L.L.C.

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

Date: \_\_\_\_\_, 20\_\_\_\_

☐ The Fund has determined that the Investor (or the investing participant or other beneficial owner(s) of the Investor, if applicable) should be treated as a knowledgeable employee.

## ITE RAIL FUND L.P.

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### LIMITED PARTNERSHIP AGREEMENT SIGNATURE PAGE

#### ALL INVESTORS MUST COMPLETE THIS SECTION.

By its signature below, the undersigned hereby agrees that effective as of the date of its admission to ITE Rail Fund L.P. (the "Fund") as a limited partner of the Fund, it shall (i) be bound by each and every term and provision of the Limited Partnership Agreement of the Fund in effect as of the date hereof, as the same may be amended from time to time (the "Partnership Agreement"), and (ii) become and be a party to said Partnership Agreement.

**The Partnership Agreement contains a pre-dispute arbitration clause in Section 11.09.**

#### INDIVIDUALS

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Additional Investor Signature

\_\_\_\_\_  
Print Name

#### ENTITIES

\_\_\_\_\_  
Print Name of Entity

By: \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

**ADDITIONAL CAPITAL COMMITMENT FORM**

ITE Rail Fund L.P.

c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Attn: Investor Services

Fax: [REDACTED]

Email: [REDACTED]

Dear Sir/Madam:

The undersigned hereby wishes to make an additional capital commitment to ITE Rail Fund L.P. (the "Fund"). The amount to be committed (the "Additional Capital Commitment") is \$ \_\_\_\_\_ for Interests.

The undersigned acknowledges and agrees: (i) that the undersigned is making the Additional Capital Commitment on the terms and conditions contained in the subscription agreement, dated \_\_\_\_\_, 20\_\_\_\_, previously executed by the undersigned and accepted by the General Partner, as the same may be updated or modified from time to time (the "Subscription Agreement"); (ii) that the representations, warranties and covenants of the undersigned contained in the Subscription Agreement are true and correct in all material respects as of the date set forth below; (iii) that the information provided on the Investor Profile Form in the Subscription Agreement is correct as of the date set forth below; and (iv) that the background information provided to the General Partner is true and correct in all material respects as of the date set forth below.

**THE UNDERSIGNED AGREES TO NOTIFY THE GENERAL PARTNER  
PROMPTLY IN WRITING SHOULD THERE BE ANY CHANGE  
IN ANY OF THE FOREGOING INFORMATION.**

Dated: \_\_\_\_\_, 20\_\_\_\_

**INDIVIDUALS**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Additional Investor Signature

\_\_\_\_\_  
Print Name

**ENTITIES**

\_\_\_\_\_  
Print Name of Entity

By: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Print Name and Title

**FOR COMPLETION BY ITE**

**To be completed by ITE Rail Fund L.P.**  
**ADDITIONAL CAPITAL COMMITMENT ACCEPTED**  
**AS TO \$ \_\_\_\_\_**

**ITE RAIL FUND L.P.**

By: ITE Rail GP L.L.C.

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

Date: \_\_\_\_\_, 20\_\_\_\_

**REQUEST FOR WITHDRAWAL OF LIMITED PARTNERSHIP INTEREST**

Dated: \_\_\_\_\_, 20\_\_

ITE Rail Fund L.P.  
c/o ITE Rail GP L.L.C.  
200 Park Avenue South, Suite 1511  
New York, NY 10003  
Attn.: ITE Investor Relations  
Email: [REDACTED]

Dear Sir/Madam:

The undersigned limited partner (the "Limited Partner") of ITE Rail Fund L.P. (the "Fund") hereby requests that the Fund withdraw from the Limited Partner's Interests capital account(s) in the Fund (the "Capital Account(s)") and pay the following amount to the Limited Partner as directed below:

*(check one)*

\_\_\_\_\_ the entire balance of the Limited Partner's Capital Account(s)

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

on the next available withdrawal date (the "Withdrawal Date") following receipt of this letter.\*

**Note: Withdrawal proceeds shall be paid to the same account from which the Limited Partner's investment in the Fund was originally remitted, unless ITE Rail GP L.L.C., in its sole discretion, agrees otherwise.**

Very truly yours,

\_\_\_\_\_  
Signature of Limited Partner

\_\_\_\_\_  
Print name

Mailing Address

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

\* This Request for Withdrawal must be received at least 90 days prior to the applicable Withdrawal Date. **Requests for Withdrawal must be unconditional. Notices of withdrawals are irrevocable by the Investor. Requests for Withdrawal are subject to a number of limitations and conditions set forth in the Partnership Agreement.**

## INCOME DISTRIBUTION ELECTION

Dated: \_\_\_\_\_, 20\_\_

ITE Rail Fund L.P.  
c/o ITE Rail GP L.L.C.  
200 Park Avenue South, Suite 1511  
New York, NY 10003  
Attn.: ITE Investor Relations  
Email: [REDACTED]

Dear Sir/Madam:

The undersigned limited partner (the "Limited Partner") of ITE Rail Fund L.P. (the "Fund") hereby requests to ☐ make ☐ revoke (*please check one*) the Income Distribution Election with respect to its capital account(s) in the Fund, in accordance with the terms and conditions set forth in the Partnership Agreement.\*

Very truly yours,

\_\_\_\_\_  
Signature of Limited Partner

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Mailing Address

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

\* This Income Distribution Election must be received no later than September 30<sup>th</sup> in any given Fiscal Year, to go into effect the following Fiscal Year. **Income Distribution Election requests must be unconditional and are subject to a number of limitations and conditions set forth in the Partnership Agreement.**

**FORM OF INCUMBENCY CERTIFICATE**

The undersigned, being the \_\_\_\_\_ of \_\_\_\_\_,  
*Insert Title* *Insert Name of Entity*

a \_\_\_\_\_ organized under the laws of \_\_\_\_\_  
*Insert Type of Entity* *Insert Jurisdiction of Organization*

(the "Company"), does hereby certify on behalf of the Company that the persons named below are directors and/or officers of the Company and that the signature at the right of said name, respectively, is the genuine signature of said person and that the persons listed below are each an authorized signatory for the Company.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name: *Print Name of Signatory #1*  
Title: *Print Title of Signatory #1*

THE UNDERSIGNED, \_\_\_\_\_, a duly authorized \_\_\_\_\_  
*Insert Name of Signatory #2* *Insert Title*

of the Company, does hereby certify that \_\_\_\_\_ is a duly authorized  
*Insert* *Name* *of* *Signatory* *#1*

officer of \_\_\_\_\_ and that the signature set forth above is [his][her] true and  
*Insert* *Name* *of* *Company*

correct signature.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name: *Print Name of Signatory #2*  
Title: *Print Title of Signatory #2*

**AML CERTIFICATION FORM FOR FUND OF FUNDS OR ENTITIES THAT INVEST ON  
BEHALF OF THIRD PARTIES THAT ARE NOT LOCATED IN AN APPROVED FATF  
COUNTRY**

The undersigned, being the \_\_\_\_\_ of \_\_\_\_\_,  
*Insert Title* *Insert Name of Entity*  
a \_\_\_\_\_ organized under the laws of \_\_\_\_\_  
*Insert Type of Entity* *Insert Jurisdiction of Organization*

(the "Company"), does hereby certify on behalf of the Company that it is aware of applicable anti-money laundering laws and regulations, including the requirements of the USA PATRIOT Act of 2001 and the regulations administered by the U.S. Department of Treasury's Office of Foreign Assets Control (collectively, the "anti-money laundering/OFAC laws"). The Company has anti-money laundering policies and procedures in place reasonably designed to verify the identity of its [beneficial holders] [underlying investors] and their sources of funds. Such policies and procedures are properly enforced and are consistent with the anti-money laundering/OFAC laws such that ITE Rail Fund L.P. (the "Fund") may rely on this Certification.

The Company hereby represents and warrants to the Fund that, to the best of its knowledge, the Company's [beneficial holders] [underlying investors] are not individuals, entities or countries that may subject the Fund to criminal or civil violations of any anti-money laundering/OFAC laws. The Company has read the section entitled "Anti-Money Laundering Representations and Covenants of the Investor" in the Fund's Subscription Agreement. The Company has taken all reasonable steps to ensure that its [beneficial holders] [underlying investors] are able to certify to such representations and warranties. The Company agrees to promptly notify the Fund in writing should the Company have any questions relating to any of the investors or become aware of any changes in the representations and warranties set forth in this Certification.

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Name:  
Title:

**FORM LETTER OF REFERENCE**

[LETTERHEAD OF LOCAL OFFICE OF APPROVED FATF COUNTRY MEMBER  
BANKING INSTITUTION OR BROKERAGE FIRM]

Date: \_\_\_\_\_, 20\_\_

ITE Rail Fund L.P.

c/o [REDACTED].

Attn: Investor Services

Fax: [REDACTED]

Email: [REDACTED]

To whom it may concern:

I, \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, do hereby  
*Name Title Name of Institution*

certify that \_\_\_\_\_ has maintained an account at our institution for  
*Name of Investor*

\_\_\_\_\_ years and, during this period, nothing has occurred that would give our institution  
*Insert Period*

cause to be concerned regarding the integrity of \_\_\_\_\_.  
*Name of Investor*

Do not hesitate to contact me at \_\_\_\_\_ if you have any further  
*Insert Telephone No.*  
questions.

Very truly yours,

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

Title:

**BENEFICIAL OWNERSHIP INFORMATION****To Be Completed By Entity Investors That Are Privately Held Entities**

**Instructions:** Please complete and return this Exhibit G and provide the name of every person who is directly, or indirectly through intermediaries, the beneficial owner of 25% or more of any voting or non-voting class of equity interests of the Investor. If the intermediary's shareholders or partners are not individuals, continue up the chain of ownership listing their 25% or more equity interest holders until individuals are listed. If there are no 25% beneficial owners, please write None.

<u>Full Name</u>	If shareholder or partner is an Individual, Insert Name and Address of Principal <u>Employer and Position</u>	Citizenship (for Individuals) or Principal Place of <u>Business (for Entities)</u>

**TRUST OWNERSHIP INFORMATION****To Be Completed By Entity Investors That Are Trusts**

**Instructions:** Please complete and return this Exhibit H and provide the name of: (i) every current beneficiary that has, directly or indirectly, an interest of 25% or more in the trust; (ii) every person who contributed assets to the trust (settlers or grantors); and (iii) every trustee. If there are intermediaries that are not individuals, continue up the chain of ownership listing their 25% or more equity interest holders until individuals are listed.

<u>Full Name and Address</u>	Status (Beneficiary/Settlor/ Trustee)	Citizenship (for Individuals) or Principal Place of <u>Business (for Entities)</u>

# PRIVACY NOTICE

## Introduction

Your privacy is very important to us. This notice (this "**Privacy Notice**") is provided by ITE Management L.P. (the "**Investment Manager**"), ITE Rail Fund L.P. (the "**Fund**", and together with the Investment Manager, "**we**" or "**us**"), and sets forth our policies for the collection, use, storage, sharing, disclosure (collectively, "**processing**") and protection of personal data relating to current, prospective and former investors in the Fund, as applicable. Capitalized terms used but not defined herein have the meanings assigned to them in the Confidential Private Placement Memorandum of the Fund, as may be supplemented, updated or modified from time to time (the "**Memorandum**").

References to "you" or an "investor" in this Privacy Notice mean any investor who is an individual, or any individual connected with an investor who is a legal person, as applicable.

## Who to Contact About This Privacy Notice

This Privacy Notice is being provided in accordance with the applicable requirements under the privacy and data protection laws that apply in the jurisdictions where we operate (collectively, the "**Data Protection Laws**"). The Fund and the Investment Manager are considered to be data controllers in respect of any personal information we hold about you for the purposes of certain Data Protection Laws. This means that the Fund and the Investment Manager (alone or jointly, as applicable) determines the purposes and the means of the processing of your personal information.

Please contact us at [REDACTED] or send an email to [REDACTED] with any questions about this Privacy Notice or requests with regards to the personal data we hold.

Please note that the Administrator works under a range of professional and legal obligations that require them to process personal data (e.g., anti-money laundering legislation). In order to meet the requirements of such obligations, they, from time to time, would not be acting on our instructions but instead in accordance with their own respective professional or legal obligations and therefore as data controllers in their own right with respect to such processing. For more specific information or requests in relation to the processing of personal data by the Administrator or any other service provider of the Fund, you may also contact the relevant service provider directly at the address specified in the Directory section of the Memorandum or by visiting their websites.

## The Types of Personal Data We May Hold

The categories of personal data we may collect include names, residential or business addresses, or other contact details, signature, nationality, tax identification or passport number, date of birth, place of birth, photographs, copies of identification documents, bank account details, information about assets or net worth, credit history, information on investment activities, or other personal information, such as certain special categories of personal data (including, where relevant, information on political affiliations, ethnic origin, or criminal convictions), as specified under the applicable Data Protection Laws, that may be contained in the relevant materials, documents, or obtained through background searches.

## How We Collect Personal Data

We may collect personal data about you through: (i) information provided directly to us by you, or another person on your behalf; or (ii) information that we obtain in relation to any transactions between you and us.

We also may receive your personal information from third parties or other sources, such as our affiliates, the Administrator, publicly accessible databases or registers, tax authorities, governmental agencies and supervisory authorities, credit agencies, fraud prevention and detection agencies, or other publicly accessible sources, such as the Internet.

## **How We May Use Personal Information**

We may process your personal data for the purposes of administering the relationship between you and us (including subscription acceptance, communications and reporting), marketing of our products and services, monitoring and analysing our activities, and complying with applicable legal or regulatory requirements (including anti-money laundering, fraud prevention, tax reporting, sanctions compliance, or responding to requests for information from supervisory authorities, or law enforcement agencies).

We will use one of the permitted grounds under the applicable Data Protection Laws to process your personal information. Such grounds include, for example, circumstances where:

- (i) processing is necessary to perform our obligations under the Fund Documents;
- (ii) we are required to comply with a legal or regulatory obligation applicable to us; or
- (iii) we, or a third party on our behalf, have determined that it is necessary for our legitimate interests to collect and use your personal information, such as if we believe that you have a reasonable expectation for us or a third party to collect or use your personal information for such purpose.

## **What Are The Consequences Of Failing To Provide Personal Information**

Where personal data is required to satisfy a statutory obligation (including compliance with applicable anti-money laundering or sanctions requirements) or a contractual requirement, failure to provide such information may result in your subscription in the Fund being rejected or your Interests becoming subject to compulsory redemption or withdrawal, as applicable. Where there is suspicion of unlawful activity, failure to provide personal data may result in the submission of a report to the relevant law enforcement agency or supervisory authority.

## **How We May Share Personal Data**

We may disclose information about you to our affiliates, service providers (including the Administrator) or other third parties to accept your subscription, administer and maintain your account(s), or otherwise perform our contractual obligations. We may also need to share your personal information with regulatory, tax or law enforcement authorities to comply with applicable legal or regulatory requirements, respond to court orders, or in the context of regulatory requests for information, administrative proceedings, or investigations. We will also release information about you if you direct us to do so.

It may also be necessary, under anti-money laundering and similar laws, to disclose information about you to facilitate the establishment of trading relationships for the Fund with trading counterparties.

We may also disclose information about you, or your transactions and experiences with us, to our affiliates or service providers for our everyday business purposes, such as administration of our business, record-keeping, maintaining security of our information technology systems, reporting and monitoring of our activities, investor relations activities, and compliance with applicable legal and regulatory requirements.

## **Retention Periods and Security Measures**

We will not retain personal data for longer than is necessary in relation to the purpose for which it is collected, subject to the applicable Data Protection Laws. Personal data will be retained for the duration of your investment in the Fund and for a minimum of five years after a withdrawal of your investment, or liquidation of the Fund. We may retain personal data for a longer period for the purpose of marketing our products and services or compliance with applicable law. From time to time, we will review the purpose for which personal data has been collected and decide whether to retain it or to delete if it no longer serves any purpose to us.

To protect your personal information from unauthorized access and use, we apply organizational and technical security measures in accordance with applicable Data Protection Laws. These measures include computer safeguards and secured files and buildings.

We will notify you of any material personal data breaches affecting you in accordance with the requirements of applicable Data Protection Laws.

**Additional Information under the U.S. Gramm-Leach-Bliley Act 1999 (Reg S-P) and Fair Credit Reporting Act (Reg S-AM)**

For purposes of U.S. federal law, this Privacy Notice applies to current and former investors who are individuals or Individual Retirement Accounts. We are providing this additional information under U.S. federal law.

We may disclose information about our investors, prospective investors or former investors to affiliates (i.e., financial and non-financial companies related by common ownership or control) or non-affiliates (i.e., financial or non-financial companies not related by common ownership or control) for our everyday business purposes, such as to process your transactions, maintain your account(s) or respond to court orders and legal investigations. Thus, it may be necessary or appropriate, under anti-money laundering and similar laws, to disclose information about the Fund's investors in order to accept subscriptions from them. We will also release information about you if you direct us to do so.

We may disclose information you provide to us to companies that perform marketing services on our behalf, such as any placement agent retained by the Fund. We may share your information with our affiliates for direct marketing purposes, such as offers of products and services to you by us or our affiliates. You may prevent this type of sharing by contacting us at [REDACTED]. If you are a *new* investor, we can begin sharing your information with our affiliates for direct marketing purposes 30 days from the date we sent this Privacy Notice. When you are *no longer* our investor, we may continue to share your information with our affiliates for such purposes.

You may contact us at any time to limit our sharing of your personal information. If you limit sharing for an account you hold jointly with someone else, your choices will apply to everyone on your account. U.S. state laws may give you additional rights to limit sharing.

Rev. August 2021

## **APPENDIX A**

ITE Rail Fund L.P. (the "Fund") is contemplating a potential initial public offering (an "IPO") involving an entity (the "IPO Entity") that will be managed by ITE Management, L.P. (the "Investment Manager") or an affiliate thereof. Capitalized terms used in this letter and not otherwise defined herein shall have the meanings ascribed in the Amended and Restated Limited Partnership Agreement of the Fund in effect as of the date hereof, as the same may be amended from time to time the ("Partnership Agreement").

Given that the IPO Entity could be deemed to be a Controlled Affiliate by virtue of its structure, we, ITE Rail GP L.L.C., as general partner of the Fund (the "General Partner"), are notifying you, as a limited partner in the Fund (collectively, the "Limited Partners"), to the potential terms and subject to the conditions described herein, which we refer to as a "Qualifying IPO".

**You should be aware that our discussions regarding a proposed IPO are preliminary in nature, and we cannot ensure when or if such a Qualifying IPO will actually be accomplished, or what structure the IPO Entity may ultimately take.**

We may determine that it is advisable to execute on a Qualifying IPO for a variety of reasons. In particular, we may determine, in our reasonable judgment, that undertaking such a Qualifying IPO could provide opportunities to:

- enhance the available liquidity of the LP Interests;
- increase the value to the Limited Partners of their limited partnership interests ("LP Interests") in the Fund; and
- offer Limited Partners an opportunity to convert their taxable income from primarily ordinary income to capital gains income.

While the structure of any Qualifying IPO has not yet been determined, we expect that Limited Partners will have the ability to convert their LP Interests into equity interests in the IPO Entity in connection with consummation of the Qualifying IPO. We also anticipate providing Limited Partners with the ability to receive equity interests in the IPO Entity in lieu of cash upon redeeming their LP Interests subsequent to completion of the Qualifying IPO.

We believe that an opportunity exists to explore a Qualifying IPO at the present time. We will only undertake an IPO if it represents a Qualifying IPO. In order for an IPO to be deemed a Qualifying IPO, it must involve the issuance of equity interests in a firm commitment underwritten public offering by an entity managed by the Investment Manager or an affiliate thereof, but excluding the Fund, that meets the following criteria:

- The IPO must raise a minimum of \$50 million in gross proceeds, before underwriting discounts, commissions and expenses;
- The equity interests issued by the IPO Entity shall be approved for listing and admitted for trading on a national securities exchange, including the Nasdaq Stock Market or New York Stock Exchange, or a prominent foreign securities exchange, such as the London Stock Exchange, Toronto Stock Exchange, Euronext or other securities exchange with comparable liquidity, upon completion of the IPO;
- In connection with the IPO, investors in the Fund must be given the option to convert or exchange all or a portion of their respective equity interests in the Fund for equity interests in the IPO Entity; and

- Subsequent to the IPO, there must be a mechanism in place to permit investors in the Fund to elect, if they so choose, to receive equity interests in the IPO Entity in lieu of cash at the time they submit a redemption request to the Fund.

To the extent there is a Qualifying IPO, we have not yet determined the final structure of the IPO Entity, which remains subject to tax and other regulatory considerations. Specifically, the IPO Entity could be organized as a domestic or offshore corporation, partnership or limited liability entity, subject to the Investment Manager's ultimate judgment as to the best structure to utilize. In connection with the formation of the IPO Entity, a portion or all of the Fund's investment assets may be transferred (the "Transferred Assets") to one or more newly-created vehicles, one of which may be the IPO Entity (collectively, the "New Funds"), in exchange for a corresponding equity interest in the New Funds with the same value as the Transferred Assets. We expect that the IPO Entity will use the net proceeds of the IPO to either acquire certain Transferred Assets directly, or acquire equity interests in certain New Funds holding Transferred Assets, along with potentially additional investments. Depending on regulatory requirements, the IPO Entity may also be structured to control certain of the New Funds either contractually or through managing member or general partner interests therein.

We do not currently expect either the IPO Entity or any other New Funds to be required to register as an investment company under the Investment Company Act of 1940, as amended, though we can provide you with no assurance that such a registration may not ultimately be required depending on the assets each may hold.

*How will an IPO affect my investment in the Fund?*

The proposed IPO by the IPO Entity, if consummated, will not materially alter your current equity interest in the Fund. The Partnership Agreement provides that the Fund shall bear its proportionate share of the expenses associated with exploring and completing an IPO. As a result, you should be aware that the Fund, and you indirectly as a Limited Partner, will incur expenses relating to the proposed IPO, even if the IPO is delayed or ultimately abandoned.

*When will I be able to exchange my equity interests in the Fund for equity interests in the IPO Entity?*

We presently intend to offer investors in the Fund an opportunity to convert or exchange their equity interests in the Fund for equity interests in the IPO Entity, subject to tax and regulatory considerations, in connection with the consummation of a Qualifying IPO.

You should be aware that any equity interests that the IPO Entity may issue to Limited Partners in the Fund will likely be subject to a lock-up agreement between the IPO Entity and the underwriters for its IPO, which will likely prevent the transfer, assignment or sale of such IPO Entity equity interests for a period of at least 180 days subsequent to completion of the IPO. As a result, it is possible you will not be able to transfer or sell any equity interests in the IPO Entity that you may acquire in exchange for your equity interests in the Fund for a significant period of time following completion of the IPO Entity's IPO.

Given that we are unable at this point to provide further details regarding the IPO Entity and the Qualifying IPO beyond those included in this letter, prior to completion of any IPO, we expect to deliver to each Limited Partner of the Fund an election form (the "Election Form"), pursuant to which you will have the opportunity to elect whether or not you want to convert your LP Interests into corresponding equity interests in the IPO Entity, in each case upon the terms and subject to the conditions described in the Election Form. We anticipate that the Election Form will provide further details regarding the IPO Entity, including risk factors relating to investing in its equity interests, as well as tax and regulatory

considerations relating to converting a Limited Partner's LP Interests in the Fund into equity interests in the IPO Entity.