

## INVESTMENT MANAGEMENT AGREEMENT

This Investment Management Agreement (the “Agreement”) is made as of January 13, 2016, by and between Marathon Blue Grass Credit Fund, LP, a Delaware limited partnership (the “Partnership”) and Marathon Asset Management, L.P., a Delaware limited partnership (the “Investment Manager”). Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Partnership’s Limited Partnership Agreement (the “Partnership Agreement”).

### WITNESSETH:

WHEREAS, the Partnership desires on behalf of the Partnership to retain the Investment Manager to, among other things, invest and trade assets.

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

Section 1. Duties of the Investment Manager. Throughout the term of this Agreement, the Investment Manager shall be the sole investment manager for the Partnership and shall:

(a) Enter into, execute and deliver stock, bond, debenture, note and other securities subscription, purchase and sale agreements, participation agreements, assignments, brokerage agreements, custodian agreements and any and all other agreements, documents or instruments deemed by the Investment Manager to be necessary or appropriate to the effective and proper performance of the Investment Manager’s duties or exercise of the Investment Manager’s powers under this Agreement;

(b) Purchase, hold, sell, borrow or otherwise trade or invest in securities, commodities and other assets;

(c) Sell (long or short), borrow, dispose of, trade or exchange the assets of the Partnership, including but not limited to the management of any reserves established by the Partnership, for such consideration and on such other terms and conditions and evidenced by such documents or instruments as the Investment Manager deems appropriate;

(d) Open, maintain and transfer margin accounts with securities brokers and custodial accounts with banks or securities brokers;

(e) Designate one or more securities brokers to custody and maintain assets of the Partnership in the names of nominees of such brokers;

(f) Borrow money or assets from banks and other lending institutions for any Fund purpose and, in connection therewith, mortgage, pledge or hypothecate any assets of the Partnership to secure repayment of the borrowed sums, and no bank, other lending institution or other person for which application for a loan is made by the Investment Manager shall be

required to inquire as to the purposes for which such loan is sought, and as between the Partnership and such bank, other lending institution or person, it shall be conclusively presumed that the proceeds of such loan are to be and will be used for purposes authorized hereunder;

(g) Enter into brokerage agreements with brokerage firms to execute or effect trades for the Partnership's accounts, and to make arrangements with those firms whereby the Investment Manager agrees to direct trades for the Partnership's accounts to those firms in exchange for certain non-monetary benefits offered by those firms which may include, among other things, quotation and/or office equipment, recordkeeping, research, research-related services, and other services within the "safe harbor" provided by Section 28(e) of the Securities Exchange Act of 1934, as amended. In addition, in negotiating commission rates the Investment Manager may take into account the financial stability and reputation of the broker, the quality of the investment research, investment strategies, special execution capabilities, clearance, settlement, custody, recordkeeping and other services provided by such broker;

(h) Maintain, or designate a third party fund administrator to maintain, a complete set of reports, account statements and other communications received from banks, brokers and dealers in respect of the Partnership's accounts; and

(i) Make investments consistent with the Partnership's investment guidelines set forth in the Partnership Agreement and its exhibits, subject to the condition that the Initial Limited Partners must consent to any investment by the Partnership in any Marathon Fund prior to the Partnership making such investment.

Section 2. Investment Objectives and Limitations. The Investment Manager shall invest on behalf of the Partnership in accordance with limitations set forth in the Partnership Agreement and its exhibits.

### Section 3. Management Fee.

(a) The Partnership shall pay the Investment Manager during the period the Partnership is in existence, as payment for services rendered as Investment Manager, a fee (the "Management Fee") equal to ██████████ of the balance of each Capital Account, payable in advance as of the first business day of each calendar quarter, subject to the fact that the Management Fee may be reduced in accordance with Sections 3.4(b) and 14.2 of the Partnership Agreement. The Management Fee shall be pro rated for partial periods. The Investment Manager, may at any time in its discretion, waive all or a portion of the Management Fee payable in respect of any Partner.

(b) Management Fees in respect of additions of capital to the Partnership other than at the beginning of a calendar quarter shall be pro rated, with the amount of such fee due with respect to such additional capital calculated as set forth in Section 3(a) and multiplied by a fraction, the numerator of which shall be the number of days, including the date on which such addition was made, remaining in such quarter and the denominator of which shall be 91.

(c) Management Fees in respect of withdrawals or distributions from the Partnership other than at the end of a calendar quarter shall be pro rated, with the amount of such

fee returned after such withdrawal or distribution equal to the Management Fee payable with respect to such calendar quarter as set forth in Section 3(a) multiplied by (i) a fraction, the numerator of which shall be the number of days remaining in such calendar quarter after giving effect to such redemption or distribution and the denominator of which shall be 91, and (ii) a fraction, the numerator of which shall be equal to the amount of such redemption or distribution and the denominator of which shall be the value of the Partnership immediately prior to giving effect to such redemption.

(d) Upon winding up of the Partnership, Management Fees for the Partnership's last quarter shall be prorated, with the amount of such fee due calculated as set forth in Section 3(a) and multiplied by a fraction, the numerator of which shall be the number of days during such quarter up to and including the day on which the Partnership is wound up and the denominator of which shall be 91.

(e) If the Investment Manager invests directly in another Marathon Fund, it will not receive any asset-based compensation from such Marathon Fund in respect of the Partnership's investments in such entity. All of the Investment Manager's or its affiliates' compensation in respect of the Partnership will be paid and/or allocated by the Partnership.

#### Section 4. Indemnification; Exculpation.

(a) To the fullest extent permitted by law, the Partnership shall indemnify, defend and hold harmless the Investment Manager and its members, officers and its affiliates and their respective partners, directors, members, officers, shareholders, employees and controlling persons (the "related parties") from and against any and all Losses resulting from a demand, claim, lawsuit, action or proceeding, in each case relating to conduct taken by the Investment Manager and its related parties relating to the business or activities undertaken (or omitted to be undertaken) on behalf of the Partnership, provided that such conduct did not constitute fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach; provided, further, that such Losses did not result solely from any action brought by any Marathon Party against any other Marathon Party.

"Losses" means losses, claims, damages, liabilities (joint and several), costs and expenses (including reasonable investigatory, legal and other expenses), judgments, fines, amounts paid in settlement and other amounts actually and reasonably paid or incurred by indemnified party or parties, defendant or defendants therein in connection with any and all claims, demands, actions, suits, or proceedings (including arbitration and mediation proceedings and actions), civil, criminal, administrative, or investigative, relating to, or arising in connection with, the business of or activities undertaken by the Investment Manager and its related parties pursuant to this Agreement (including, without limitation, any tax position taken or recommended to the Partnership by the Investment Manager) in which the Investment Manager and its related parties may be involved, or is threatened to be involved, as a party, witness, or otherwise, whether or not the same shall proceed to judgment or be settled or otherwise be brought to a conclusion.

(b) An indemnifying party shall be entitled to participate at its own expense in the defense or, if it so elects within a reasonable time after receipt of such notice, to assume the defense of any suit so brought, which defense shall be conducted by counsel chosen by it and reasonably satisfactory to the indemnified party or parties therein. Subject to the next sentence, in the event that such indemnifying party elects to assume the defense of any such suit and retain such counsel, the indemnified party or parties in the suit, shall bear the fees and expenses of any additional counsel thereafter retained by it or them. If in any action or claim as to which indemnity is or may be available, an indemnified party reasonably determines that its interests are or may be adverse, in whole or in part, to the interests of the indemnifying party or that there may be legal defenses available to the indemnified party which are or may be different from, in addition to, or inconsistent with the defenses available to the indemnifying party, the indemnified party may retain its own counsel in connection with such action or claim, and shall continue to be indemnified by the indemnifying party for any legal or other expenses reasonably incurred in connection with investigating or defending such action or claim. Expenses (including legal and other professional fees and disbursements) incurred in any proceeding will be paid by the Partnership in advance of the final disposition of such proceeding upon receipt of a written 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, provided that the Partnership shall not advance such costs or expenses in the event of any indemnification claim related solely to an action brought by the Initial Limited Partners.

(c) The foregoing agreements of indemnity shall be in addition to, and shall in no respect limit or restrict, any other remedies which may be available to an indemnified party. The termination of any demand, claim, lawsuit, action or proceeding by settlement shall not, in itself, create a presumption that the conduct in question constitutes fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach.

(d) The Investment Manager shall bear no liability to the Partnership for any Losses suffered by the Partnership relating to this Agreement or the transactions contemplated hereby, provided that such Losses did not arise out of or relate to any action or inaction of the Investment Manager which constituted fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach. The Investment Manager shall be liable to the Partnership for Losses only in the event of a final order of a court of competent jurisdiction finding that the relevant Losses arose out of or relate to the Investment Manager's fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach. The Investment Manager shall not be liable to the Partnership for Losses under this Agreement except as expressly set forth in this Section 4(d).

(e) Notwithstanding the foregoing, no indemnification or exculpation of an indemnified party shall be permitted hereunder to the extent such indemnification or exculpation would be inconsistent with the requirements of the U.S. securities laws or any other applicable law.

(f) The Investment Manager acknowledges its fiduciary obligations to the Partnership and the Initial Limited Partners under the Advisers Act.



Section 6. Other Clients and Activities of the Investment Manager.

(a) The Investment Manager and its affiliates may engage in any other business or act as adviser to or investment manager of any other person or entity, whether or not having investment objectives similar to the Partnership. The Investment Manager may recommend to any other person a particular strategy which it does not recommend to the Partnership. The persons employed by the Investment Manager to assist in the performance of its duties hereunder shall not devote their full time to such performance and nothing contained herein shall be deemed to limit or restrict the right of the Investment Manager or any of its affiliates to engage in and devote time and attention to other businesses or to render services of whatever kind or nature, provided that the Investment Manager duly performs all obligations under this Agreement.

(b) The Investment Manager shall devote so much of its time and effort to the affairs of the Partnership as may, in its judgment, be necessary to accomplish the purposes of the Partnership. The Partnership recognizes that the Investment Manager, its members, officers, employees and affiliates have investments of their own and may also be acting as investment manager for others. The Partnership also recognizes that the Investment Manager, its members, officers, employees or affiliates may be or become associated with other investment entities and engage in investment management for others. In this regard, the Investment Manager also serves as the investment manager to a number of investment vehicles and certain managed accounts, and expects to act as the investment manager to other investment vehicles and accounts in the future. Except to the extent necessary to perform its obligations hereunder, nothing herein shall be deemed to limit or restrict the right of the Investment Manager or its members, officers, employees and affiliates to engage in, or to devote time and attention to the management of any other business, whether of a similar or dissimilar nature, or to render services of any kind to any other corporation, firm, individual or association. As a result, the Investment Manager and its members, officers, employees and affiliates and other clients may hold substantial positions in securities that are owned by the Partnership. If the Investment Manager and its members, officers, employees and affiliates and other clients hold a substantial position in an issuer, liquidity and concentration considerations may limit the ability of the Investment Manager to add to the position on behalf of the Partnership or other clients or to readily dispose of the position. It is understood by the Partnership that although the availability at acceptable prices of investments may from time to time be limited, it is the policy of the Investment Manager and its members, officers, employees and affiliates to allocate purchases and sales of such securities in a manner generally deemed equitable to all clients, including the Partnership. The Investment Manager may on occasion give advice or take action with respect to those accounts that differ from the advice given with respect to the Partnership.

Section 7. Term. Unless sooner terminated pursuant to Section 8 hereof, this Agreement shall continue in effect until December 31, 2016; provided, however, this

Agreement will be automatically renewed as of each fiscal year-end of the Partnership thereafter unless terminated as of the end of such year by the Investment Manager upon at least 30 days' prior written notice.

Section 8. Termination; Assignment.

(a) The Partnership or the Investment Manager shall be entitled to terminate this Agreement upon 60 days' prior written notice to the other party for any reason or no reason. Notwithstanding the foregoing, the Partnership or the Investment Manager shall be entitled to terminate this Agreement immediately in the event of: (i) a material breach of this Agreement by either party (upon failure to cure following 10 business days' notice thereof), (ii) the bankruptcy or insolvency of any other party, (iii) the inability of any other party for regulatory reasons to perform its services or (iv) the dissolution of the Partnership. In the event of notice of termination (whether given by the Partnership or the Investment Manager), the Investment Manager may trade the Partnership's assets for liquidation only.

(b) This Agreement cannot be assigned by the Investment Manager without the consent of the Partnership except that the Investment Manager may assign this Agreement in whole or in part to one or more affiliates of the Investment Manager provided that (i) any such assignment shall have no adverse effect on the United States tax or regulatory treatment of the Partnership and (ii) that such assignment should not be an assignment for purposes of Section 205(a)(2) of the Investment Advisers Act of 1940, as amended.

Section 9. Notices.

(a) All notices shall be in writing and shall be deemed to have been duly given if delivered personally or if mailed by registered mail, postage prepaid, to the following respective addresses until a different address is specified in writing by a party to the other party:

To the Partnership:

Marathon Blue Grass Credit Fund, LP  
c/o Marathon Blue Grass Credit GP, LLC  
One Bryant Park, 38th Floor  
New York, New York 10036  
Attn: Mr. Andrew Rabinowitz  
Facsimile: [REDACTED]  
Email: [REDACTED]

To the Investment Manager:

Marathon Asset Management, L.P.  
One Bryant Park, 38th Floor  
New York, New York 10036  
United States of America  
Attn: Mr. Andrew Rabinowitz  
Telephone: (212) 500-3000

Section 10. Power of Attorney. The Partnership does hereby irrevocably constitute and appoint the Investment Manager and its successors and assigns, and the officers of the foregoing, as the undersigned's true and lawful Attorney-in-Fact, with full power of substitution, in the undersigned's name, place and stead, to: (i) file, prosecute, defend, settle or compromise litigation, claims or arbitrations on behalf of the Partnership; (ii) make, execute, sign, acknowledge, swear to, deliver, record and file any agreements, documents or instruments, including, but not limited to, wire transfer instructions, securities transfer documents (including stock and bond powers), and brokerage and/or bank account documentation, which may be considered necessary or desirable by the Investment Manager to carry out fully the provisions of this Agreement; and (iii) to perform all other acts contemplated by this Agreement or necessary, advisable or convenient to the day-to-day operations of the Partnership. This Power of Attorney shall be deemed to be coupled with an interest and shall be irrevocable and survive and not be affected by the undersigned's subsequent death, incapacity, disability, insolvency or dissolution.

Section 11. Amendment. This Agreement may not be amended except by the prior written consent of the Partnership and the Investment Manager.

Section 12. CPO DELEGATION.

(a) The General Partner (the "Delegator") hereby delegates to the Investment Manager, and the Investment Manager hereby accepts from the Delegator and agrees to perform, all of the Delegator's duties and responsibilities as the commodity pool operator ("CPO") of the Partnership.

(b) The Delegator acknowledges and agrees that the foregoing delegation does not relieve the Delegator from liabilities arising under, or for violations of, the U.S. Commodity Exchange Act (the "CEA") or the Part 4 Regulations of the U.S. Commodity Futures Trading Commission in connection with the operation of the Partnership.

(c) The Delegator acknowledges and agrees that it is and shall be jointly and severally liable together with the Investment Manager for any such violations of, or liabilities under, the CEA or the Part 4 Regulations; provided, however, that nothing herein shall relieve the Delegator from any contractual right to indemnification under any agreement or instrument, or to coverage under any policy of insurance, to the maximum extent permitted by law.

Section 13. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK U.S.A., WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. THE PARTIES HERETO CONSENT TO THE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN THE BOROUGH OF MANHATTAN IN THE STATE OF NEW YORK, IN THE CASE OF ANY DISPUTE OR CLAIM ARISING HEREUNDER.

Section 14. Entire Agreement; Counterparts. This Agreement sets forth the entire agreement of the parties relating to the subject matter hereof except as otherwise contemplated herein. This Agreement may be executed in one or more counterparts each of which shall, however, together constitute one and the same document.

Section 15. No Waiver. No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. Any waiver granted hereunder must be in writing and shall be valid only in the specific instance in which it was given.

Section 16. Severability. If any provision of this Agreement, or the application of any provision to any person or circumstance, shall be held to be inconsistent with any present or future law, ruling, rule or regulation of any court or governmental or regulatory authority having jurisdiction over the subject matter hereof, such provision shall be deemed to be rescinded or modified in accordance with such law, ruling, rule or regulation, and the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it shall be held inconsistent, shall not be affected thereby.

Section 17. Inconsistent Terms. In the event of any inconsistency between the terms set forth in this Investment Management Agreement and the Partnership Agreement, as in effect from time to time, the terms set forth in the Partnership Agreement shall control. Furthermore, nothing set forth in this Agreement shall abrogate any rights of the Limited Partner set forth in the Partnership Agreement.

Section 18. Headings. Headings to sections and subsections in this Agreement are for the convenience of the parties only and are not intended to be a part of or to affect the meaning or interpretation hereof.


\* \* \*



IN WITNESS WHEREOF, this Agreement has been as a deed executed for and on behalf of the undersigned as of the day and year above written.

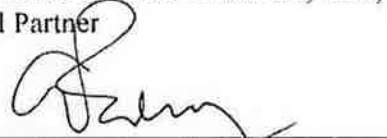
**MARATHON ASSET MANAGEMENT,  
L.P.**

By: Marathon Asset Management GP, L.L.C.,  
its General Partner

*MA* By:   
Name: *ANDREW RABINOWITZ*  
Title: *AUTHORIZED SIGNATORY*

**MARATHON BLUE GRASS CREDIT  
FUND, LP**

By: Marathon Blue Grass Credit GP, LLC,  
its General Partner

*MB* By:   
Name: *ANDREW RABINOWITZ*  
Title: *AUTHORIZED SIGNATORY*

**MARATHON BLUE GRASS CREDIT FUND, LP**

**LIMITED PARTNERSHIP AGREEMENT**

**Marathon Blue Grass Credit GP, LLC  
General Partner**

**Dated as of January 13, 2016**

**THE LIMITED PARTNERSHIP INTERESTS (“INTERESTS”) IN MARATHON BLUE GRASS CREDIT FUND, LP ISSUED PURSUANT TO THIS LIMITED PARTNERSHIP AGREEMENT (THE “AGREEMENT”) HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE “SECURITIES ACT”), OR THE SECURITIES LAWS OF ANY STATE. INTERESTS MAY NOT BE TRANSFERRED WITHOUT REGISTRATION UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. IT IS NOT ANTICIPATED THAT INTERESTS WILL BE REGISTERED UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS. IN ADDITION, TRANSFERS OF INTERESTS ARE SUBJECT TO THE RESTRICTIONS SET FORTH IN ARTICLE VII HEREOF.**

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## MARATHON BLUE GRASS CREDIT FUND, LP

### LIMITED PARTNERSHIP AGREEMENT

THIS LIMITED PARTNERSHIP AGREEMENT is entered into effective as of January 13, 2016, by and between Marathon Blue Grass Credit GP, LLC, a Delaware limited liability company (the “General Partner”), the Kentucky Retirement Systems and Kentucky Retirement Systems Insurance Trust Fund (the “Initial Limited Partners”) and those Persons who may hereafter be admitted to the Partnership as Limited Partners in accordance with the provisions hereof.

### PRELIMINARY STATEMENT

WHEREAS, Marathon Blue Grass Credit GP, LLC, in its capacity as the sole General Partner of the Partnership, has executed and filed on November 23, 2015, in the office of the Secretary of State of the State of Delaware a Certificate of Formation in order to form the Partnership under the Act;

WHEREAS, the Partnership was formed as a limited partnership pursuant to the Act in accordance with Section 17-218 of the Act for the purposes and under the terms and conditions as set forth more fully herein; and

WHEREAS, the parties desire to (1) set forth their respective interests, rights, powers, authority, duties, responsibilities, liabilities, and obligations in and with respect to the Partnership and (2) provide for the management and conduct of the business and affairs of the Partnership.

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

### ARTICLE I DEFINITIONS

Capitalized terms used in this Agreement have the meanings given them in this **Article I**, unless otherwise expressly provided herein or as otherwise required by the context.

“Accounting Period” means a period that shall (i) initially begin on the day of the first Capital Contribution to the Partnership and thereafter, on the day after the close of the preceding Accounting Period and (ii) end on the earlier of the close of the last day of each calendar month, the effective date of any resignation or expulsion of a Limited Partner, the day preceding the effective date of any Capital Contribution, the effective date of any Transfer of an Interest, Withdrawal, distribution, Transfer or other event which causes the Ownership Percentages of the Partners’ Capital Accounts to be recalculated, or such other day as may be determined by the General Partner.

“Act” means the Delaware Revised Uniform Limited Partnership Act.

“Administrator” means Citco Fund Services (Cayman Islands) Limited, which serves as the Partnership’s administrator, or any other Entity retained as a replacement administrator.

“Advisers Act” means the Investment Advisers Act of 1940, as amended.

“Affiliate” of a specified Person, means any Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

“Agreement” means this Limited Partnership Agreement and the Exhibits attached hereto, as originally executed and as subsequently amended and/or restated from time to time in accordance with the provisions hereof and the Act.

“Assignee” has the meaning given to it in Section 7.1(b).

“Available Cash” means cash determined by the General Partner to not be necessary to pay Partnership Expenses or implement the Partnership’s investment program.

“Business Day” means any day on which commercial banks settle payments and are open for general business in New York City or such other day as the General Partner may from time to time determine.

“Capital Account” of a Limited Partner, has the meaning given to it in Section 5.1(a).

“Capital Contribution” means a contribution of capital to the Partnership in the form of cash or, if the General Partner determines in its sole and absolute discretion in any particular case that a contribution of capital to the Partnership may be made in whole or in part in the form of property other than cash, such other property.

“Cause” shall mean (i) a breach of or reckless disregard of fiduciary or similar duties owed to the Partnership or the Initial Limited Partners by the General Partner, the Investment Manager or their respective Affiliates, (ii) an Uncured Breach of this Agreement by the General Partner or the Investment Manager, (iii) an act or omission constituting fraud, bad faith, willful misconduct or gross negligence by the General Partner, Investment Manager or their respective Affiliates with respect to this Agreement, or (iv) an overstatement of the Partnership’s Net Asset Value (as defined below) by 5% or more that is a result of the General Partner’s or the Investment Manager’s breach of or reckless disregard of its fiduciary duty owed to the Partnership and the Initial Limited Partners.

“Certificate” means the Certificate of Limited Partnership described in the first paragraph of this Agreement under the heading “Preliminary Statement,” as originally filed in the office of the Secretary of State of the State of Delaware and as subsequently amended and/or restated from time to time in accordance with the provisions hereof and the Act.

“Closing Balance” of a Capital Account has the meaning given to it in Section 5.1(b).

“Code” means the Internal Revenue Code of 1986, as amended.

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

“Consent of the Partnership” when used with respect to a particular transaction, practice, amendment to this Agreement or other action (any such transaction, practice, amendment or other action being referred to in this Agreement as a “Consent Transaction”), shall be deemed to have been obtained if a Majority in Interest of the Limited Partners affected by the potential Consent Transaction, determined as of the beginning of the Accounting Period in which Notification of such Consent Transaction is given to the affected Limited Partners in accordance with the provisions of this Agreement, approves such Consent Transaction. An affected Limited Partner who withdraws or is required to withdraw all amounts from its Capital Account pursuant to the provisions of this Agreement prior to the completion, consummation or implementation of such a Consent Transaction shall automatically cease to have any right to approve of such Consent Transaction upon such withdrawal.

“Control” whether such word is used as a noun or a verb or in adjectival form, has the meaning given to it in Rule 405 under the Securities Act.

“Entity” means any domestic or foreign corporation, partnership (whether general or limited), joint venture, limited liability company, business trust or association, trust, estate, unincorporated association or

organization, government (or political subdivision, department, or agency thereof), cooperative, or other entity, whether acting in an individual or representative capacity.

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

“Exchange Act” means the Securities Exchange Act of 1934.

“Expense Cap” means an annual cap on Transactional Expenses equal to .20% of the Net Asset Value of the Partnership determined as of January 1 of the applicable year.

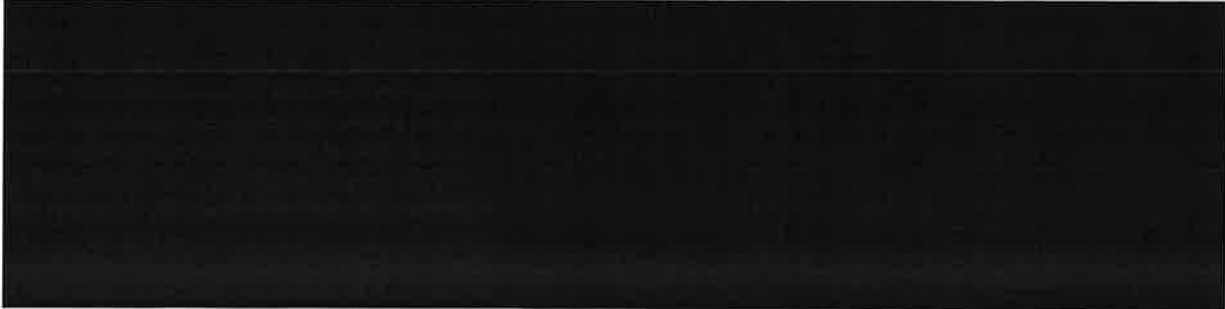
“Extraordinary Expenses” means, any extraordinary expenses or costs that the Partnership may incur, including but not limited to litigation expenses, damages, taxes or any indemnification obligations that the Partnership may owe service providers.

“FINRA” means the Financial Industry Regulatory Authority, Inc.

“Fiscal Year” means the fiscal year of the Partnership determined in accordance with the provisions of Section 9.2(a).

“GAAP” means U.S. generally accepted accounting principles.

“General Partner” means Marathon Blue Grass Credit GP, LLC, a Delaware limited liability company, and any substitute, successor or additional general partners of the Partnership which is admitted to the Partnership in accordance with the provisions of this Agreement, in its capacity as general partner of the Partnership.



“Indemnitee” has the meaning given to it in Section 10.2(a), and includes the Liquidator.

“Initial Limited Partners” has the meaning given to it in the preamble to this Agreement.

“Interest” shall mean a limited partnership interest as defined in the Act together with any rights provided in this Agreement in connection with such limited partnership interest.

“Investment Guidelines” means the Partnership’s investment guidelines as set forth in Exhibit A. Unless otherwise agreed to by the General Partner and the Initial Limited Partners, the Investment Guidelines may only be amended with the consent of both the General Partner and the Initial Limited Partners.

“Investment Manager” means Marathon Asset Management, L.P., a Delaware limited partnership.

“Investment Management Agreement” means the investment management agreement between the Partnership and the Investment Manager.

“Key Person” has the meaning given to it in Section 3.3.

“Legal Impediment” means any law, rule, regulation or order to which the Partnership or any of its property is subject that would be violated if an effective date of Withdrawal would not be postponed.

“Limited Partner” as of a particular time, means a Person, who has been admitted to the Partnership as a partner in accordance with the provisions of this Agreement and who has not resigned or withdrawn from the Partnership as a limited partner pursuant to the provisions of Section 6.4 or been required to withdraw from the Partnership as a limited partner pursuant to the provisions of Section 6.5.

“Liquid Portion” means the portion of a Limited Partner’s Capital Account balance attributable to non-Illiquid Investments.

“Liquid Portion Withdrawal Limitation” has the meaning given to it in Section 6.1(c).

“Liquidating Investments” has the meaning given to it in Section 6.1(d).

“Liquidation Reserves” has the meaning given to it in Section 12.2(b)(vii).

“Liquidator” has the meaning given to it in Section 12.2(a).

“Loss Carryforward Account” means a memorandum account maintained by the Partnership in respect of each Capital Account and adjusted in accordance with Section 5.2.

“Losses” of a Marathon Party, means any and all losses, claims, damages, liabilities (joint and several), costs and expenses (including reasonable investigatory, legal and other expenses), judgments, fines, amounts paid in settlement and other amounts actually and reasonably paid or incurred by such Marathon Party in connection with any and all claims, demands, actions, suits, or proceedings (including arbitration and mediation proceedings and actions), civil, criminal, administrative, or investigative, relating to, or arising in connection with, the business of or activities undertaken by such Marathon Party pursuant to this Agreement (including, without limitation, any tax position taken or recommended to the Partnership by the General Partner) in which such Marathon Party may be involved, or is threatened to be involved, as a party, witness, or otherwise, whether or not the same shall proceed to judgment or be settled or otherwise be brought to a conclusion.

“Majority in Interest” of all or a group of Limited Partners as of any date of determination, means Limited Partners, the aggregate Ownership Percentages of which at such date of determination falls, exceed 50% of the aggregate Ownership Percentages of all Limited Partners at such time.



“Management Fee” has the meaning set forth in Section 3.4(a).

“Marathon Fund” means any commingled pooled investment vehicle managed by the Investment Manager in which the Investment Manager directs the Partnership to invest subject to the provisions of this Agreement.

“Marathon Party” means any of the General Partner, any Affiliate of the General Partner, including the Investment Manager, and any member, partner, shareholder, manager, director, officer, employee or agent of the General Partner or any such Affiliate.

“Net Asset Value” means the value of the Partnership’s assets minus the amount of the Partnership’s liabilities (in each case determined generally in accordance with GAAP (except as provided in Section 9.2(b)) and the provisions of Sections 9.3 and 9.4 as of the close of business in New York City on the date of determination).

“Net Loss” in respect of a Capital Account or a portion thereof for any period is the amount, if any, by which (A) the Capital Account balance (or portion thereof) at the beginning of such period, exceeds (B) the Capital Account’s balance (or portion thereof) at the end of such period (including the debiting of any Management Fees but disregarding the accrual of any Incentive Allocations), adjusted for any Capital Contribution to or Withdrawals or distributions from such Capital Account during the period. Net Loss shall not include any unrealized profits or losses attributable to an Illiquid Investment but shall include any realized profits or losses attributable to such Illiquid Investment.

“Net Profit” in respect of a Capital Account or a portion thereof for any period is the amount, if any, by which (A) the Capital Account’s balance (or portion thereof) at the end of such period (including the debiting of any Management Fees but disregarding the accrual of any Incentive Allocations), exceeds (B) the Capital Account balance (or portion thereof) at the beginning of such period, adjusted for any Capital Contribution to or Withdrawals or distributions from such Capital Account during the period. Net Profit shall not include any unrealized profits or losses attributable to an Illiquid Investment but shall include any realized profits or losses attributable to such Illiquid Investment.

“New Audit Rules” means the new partnership audit rules enacted by the Bipartisan Budget Act of 2015.

“Notification” to a Person, shall mean a written notice that is deemed to be duly given to such Person on (i) the date of delivery if delivered in person to such Person, (ii) the date that transmission or receipt thereof is confirmed if sent to such Person by facsimile transmission or reputable overnight courier, (iii) the date of actual receipt if sent to such Person by electronic mail or (iv) on the earlier of actual receipt or three Business Days after the date of mailing if mailed to such Person by registered or certified mail (first class postage prepaid, return receipt requested). Any Notification required or permitted to be given to a party under this Agreement shall be sent to such party at such address, e-mail address or to such facsimile number as set forth in or pursuant to Section 14.4.

“Opening Balance” of a Capital Account, has the meaning given to it in Section 5.1(b).

“Ownership Percentage” associated with a Capital Account as of the beginning of an Accounting Period, means the percentage determined by dividing the Opening Balance of such Capital Account at such time by the sum of the Opening Balances of all Capital Accounts at such time. The sum of the Ownership Percentages associated with all Capital Accounts shall at all times equal 100%.

“Parallel Vehicle” means any investment fund managed by the Investment Manager or its Affiliates that has the same structure and investment program as the Partnership.

“Partner” means a Limited Partner or the General Partner.

“Partnership” means Marathon Blue Grass Credit Fund, LP, the Delaware limited partnership formed by the filing of the Certificate.

“Partnership Expenses” have the meaning given to it in Section 3.4(f).

“Partnership Property” at any particular time, means all interests, properties (whether tangible or intangible, and whether real, personal, or mixed), and rights of any type contributed to or acquired by the Partnership and owned or held by or for the account of the Partnership, whether owned or held by or for the account of the Partnership as of the date of the formation thereof or thereafter contributed to or acquired by the Partnership.

“Partnership Representative” has the meaning given to it in Section 9.8(d).

“Person” means any natural person, whether acting in an individual or representative capacity, or any Entity.

“Plan” has the meaning given to it in Section 13.1.

“Plan Assets Entity” has the meaning given to it in Section 13.2.

“Plan Fiduciary” has the meaning given to it in Section 13.1.

“Prior Accounting Period” has the meaning given to it in Section 9.3(b).

“Reserves” has the meaning given to it in Section 9.3(b).

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933.

“Securities Laws” means any one or more of the Advisers Act, the Securities Act, the Exchange Act and the Company Act.

“Side Letter” means the letter to the Initial Limited Partners from the Partnership, the General Partner and the Investment Manager dated as of January 13, 2016, a copy of which is attached hereto as Exhibit C.

“Similar Law” has the meaning given to it in Section 13.1.

“State” means any state, territory or possession of the United States and includes the District of Columbia and Puerto Rico.

“Sub-Account” has the meaning given to it in Section 5.1(a).

“Subscription Agreement” means, with respect to a Person, the Subscription Agreement (and related documents) in such form or forms as the General Partner may from time to time determine, as completed and executed by such Person and delivered by such Person to the General Partner, pursuant to which such Person (i) subscribes for an Interest by agreeing to contribute capital to the Partnership in such amount or amounts, at such time or times and otherwise in such manner as may be set forth therein or (ii) agrees to contribute additional capital to the Partnership in such amount or amounts, at such time or times and otherwise in such manner as may be set forth therein.

“Successor” means (i) with respect to any natural person, the executor, administrator, guardian, conservator or other legal representative of such natural person and (ii) with respect to any Entity, the legal representative or successor thereof.

“Tax Distributions” has the meaning given to it in Section 6.3(c).

“Tax Matters Partner” has the meaning given to it in Section 9.8(d).

“Transactional Expenses” means the direct fees and expenses related to the analysis, purchase or sale of an investment, such as legal fees and due diligence expenses.

“Transfer” whether such word is used as a noun or a verb or in adjectival form, means any transaction in which a Person assigns or purports to assign an Interest, or an interest therein, to another Person, and includes any transfer, sale, assignment, gift, exchange, pledge, mortgage or hypothecation, or any other conveyance, disposition or encumbrance, or any swap or other derivative transaction based on the value or change in value of an Interest, whether voluntary, involuntary or by operation of law, of such Interest, or interest therein.

“Treasury Regulations” means the income tax regulations promulgated under the Code.

“Uncured Breach” means a material breach of this Agreement or the Investment Management Agreement that remains uncured for a period of 10 days after the General Partner or the Investment Manager knows or reasonably should have known about such breach.

“Withdrawal” has the meaning given to it in Section 6.1(b).

“Withdrawal Date” has the meaning given to it in Section 6.1(b).

“Withdrawal Notice” has the meaning given to it in Section 6.1(b).

## ARTICLE II FORMATION AND PURPOSE

**2.1. Formation.** The Partnership has been formed as a limited partnership under the Act pursuant to the filing of the Certificate in the office of the Secretary of State of the State of Delaware.

**2.2. Name.** The name of the Partnership is “Marathon Blue Grass Credit Fund, LP.” The General Partner shall manage and conduct the business and affairs of the Partnership under that name or, to the extent permitted by applicable law, under such other name or names as the General Partner may determine from time to time, subject to the prior consent of the Initial Limited Partners.

**2.3. Purpose.** The business and purpose of the Partnership is to buy, sell (including short sales), hold, and trade, on margin or otherwise, in all cases subject to the Investment Guidelines, a broad range of listed and unlisted instruments, other securities and derivatives (including over-the-counter derivatives), rights and options on the foregoing and other investments, assets or property selected by the General Partner, and to carry on such other businesses, purposes, or activities as may be permitted by this Agreement; *provided, however,* that the Partnership may not carry on any business, purpose or activity that may not lawfully be carried on by a limited partnership formed under the Act. The Partnership shall possess and may exercise all the powers and privileges granted by the Act or by any other law or by this Agreement, together with any powers incidental thereto, so far as such powers and privileges are necessary, appropriate, advisable or convenient to the conduct, promotion or attainment of any business, purpose or activity of the Partnership.

**2.4. Status and Duration.** The Partnership shall be a separate legal entity whose existence commenced upon the filing of the Certificate and whose existence shall continue until the Certificate is canceled. The Certificate shall be canceled at the time and in the manner prescribed by Section 17-203 of the Act. The Partnership shall be dissolved and wound up in accordance with the provisions of Article XII.

**2.5. Registered Office and Registered Agent; Principal Office.**

(a) Subject to the provisions of Section 17-104(b) of the Act, the registered office of the Partnership required by the Act to be maintained in the State of Delaware shall be the registered office named in the Certificate or such other office (which may but need not be a place of business of the Partnership) as the General Partner may designate from time to time in accordance with the provisions of the Act.

(b) Subject to the provisions of Section 17-104(b) of the Act, the registered agent for service of process on the Partnership required by the Act to be maintained in the State of Delaware shall be the registered agent initially named in the Certificate or such other Person as the General Partner may designate from time to time in accordance with the provisions of the Act.

(c) The principal office of the Partnership shall be c/o Marathon Blue Grass Credit GP, LLC, One Bryant Park, 38<sup>th</sup> Floor, New York, New York 10036 or at such other place as the General Partner may designate from time to time (which other place may but need not be in the State of Delaware); *provided, however*, that the General Partner shall give Notification to the Limited Partners of any change in the location of the principal office of the Partnership within 30 calendar days after the date of such change. The Partnership may have such other office or offices as the General Partner may designate from time to time.

**2.6. Limited Partners Not Agents.** Except as specifically provided herein, nothing contained herein shall be construed to constitute any Limited Partner as the agent of any other Limited Partner or any Limited Partner, as the agent of the Partnership and exercise any of its rights hereunder.

**ARTICLE III  
THE GENERAL PARTNER**

**3.1. Rights, Powers and Authorities of the General Partner.**

(a) Subject to the provisions of this Agreement and the requirements of applicable law, the General Partner shall possess and may exercise full, complete and exclusive right, power and authority to manage and conduct the business and affairs of the Partnership and exercise any of its rights hereunder. The General Partner may delegate to any other Person, including an Affiliate of the General Partner, any rights, powers, authority, duties and obligations as vested by this Agreement in the General Partner, except as prohibited by law. The General Partner may effect such delegation by directly contracting with such other Person or by causing the Partnership to enter into an agreement with such other Person.

(b) Without limiting the generality of the foregoing, but subject in each case to the provisions of this Agreement and the requirements of applicable law, the General Partner shall possess and may exercise the right, power and authority:

(i) to take such action for and on behalf of the Partnership and in the name of the Partnership and exercise any of its rights hereunder as the General Partner shall determine to be necessary, appropriate, advisable or convenient to effect the continuation of the Partnership and to carry on the businesses, purposes and activities for which the Partnership was formed, and including the execution, swearing to, acknowledgement, delivery, publication, and filing and recording in the appropriate public offices of:

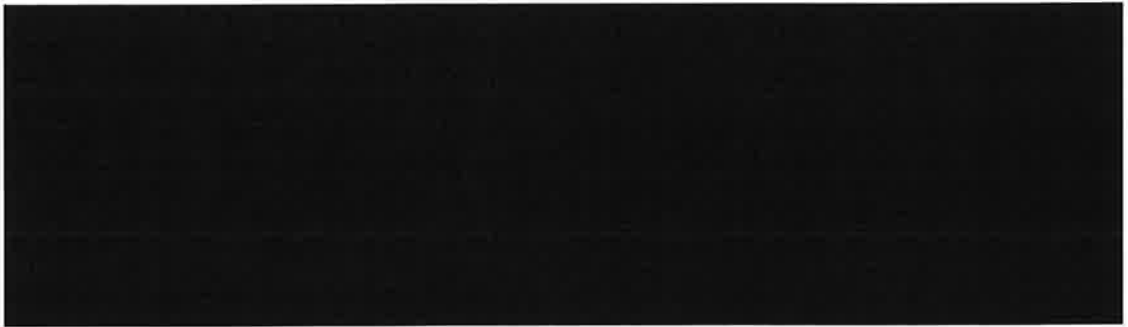
(A) all certificates, instruments, and other documents (including this Agreement and the Certificate and all amendments and/or restatements thereof) that the General Partner shall determine to be necessary, appropriate, advisable or convenient to effect such formation and to carry on such businesses, purposes and activities (including such certificates, instruments or other documents, and such amendments thereto, as the General Partner shall

determine to be necessary, appropriate, advisable or convenient to comply with the requirements for the operation of the Partnership as a limited partnership under the Act and the qualification of the Partnership to do business in any jurisdiction in which the Partnership owns property or conducts business);

(B) all certificates, instruments or other documents that the General Partner shall determine to be necessary, appropriate, advisable or convenient to reflect any amendment of this Agreement, or the Certificate effected in accordance with the provisions hereof;

(C) all conveyances and other certificates, instruments, and other documents that the General Partner shall determine to be necessary, appropriate, advisable or convenient to reflect the dissolution and winding up of the Partnership pursuant to the provisions of this Agreement and the Act, including a certificate of cancellation of the Certificate; and

(D) all certificates, instruments, and other documents relating to the admission, withdrawal, removal or substitution of any Partner pursuant to the provisions of this Agreement or the Capital Contribution by any Partner;



(iii) to cause the Partnership to enter into agreements with (A) brokers, dealers, banks, futures commission merchants, any counterparty, custodians, legal counsel, accountants, auditors, appraisers, investment bankers, and other consultants selected by the General Partner, and (B) one or more Persons, including an Affiliate of the General Partner, to serve as investment manager(s) for or investment adviser(s) to the Partnership on a discretionary or non-discretionary basis, in each case on such terms (including the ability of such investment manager or investment adviser to engage one or more Persons to serve as a sub-adviser with respect to the Partnership) and subject to such conditions as the General Partner may determine (it being understood and agreed that nothing herein shall require the General Partner to employ or continue to employ the services of any Person, or be construed to limit in any way the rights, powers and authorities of the General Partner hereunder); and

(iv) to act, in respect of any of its rights, powers, authority, duties, responsibilities or obligations hereunder, directly or by or through any duly authorized officer, employee or agent of the General Partner or the Partnership or any duly appointed attorney-in-fact of either (it being understood and agreed that each such officer, employee, agent, or attorney-in-fact shall, to the extent provided by the General Partner, possess full and complete right, power and authority to do and perform each and every act which is permitted or required to be performed by the General Partner hereunder, without thereby causing the General Partner to cease to be a general partner of the Partnership).

(c) The Partnership may implement its investment program by investing directly in investment assets or indirectly by investing in other Marathon Funds subject to the limitations described in this Agreement; subject to the condition that the Initial Limited Partners must consent to any investment by the Partnership in any Marathon Fund prior to the Partnership making such investment.

(d) Notwithstanding any other provision of this Agreement, the General Partner shall not have the right, power or authority, without the written consent of or ratification by all the Initial Limited Partners, to: (i) do any act that would make it impossible to carry on the ordinary business of the Partnership (it being understood and agreed, for the avoidance of doubt, that this **clause (i)** shall not affect the General Partner's right, power or authority to dissolve the Partnership in accordance with the provisions of **Article XII**); (ii) confess a judgment against the Partnership; or (iii) possess Partnership Property for other than a proper Partnership purpose.

(e) To the extent the duties, responsibilities or obligations of the General Partner require expenditures of funds to be paid to third parties, the General Partner shall not have any duty, responsibility, liability or obligation hereunder except to the extent that funds of the Partnership are reasonably available to it for the performance of such duties, responsibilities or obligations, and nothing herein contained shall be deemed to require the General Partner, in its capacity as such, to expend its individual funds for payment to third parties or to undertake any specific liability or litigation on behalf of the Partnership.

(f) Except as expressly provided in the Act, no Limited Partner shall be liable for any liabilities, or for the payment of any debts and obligations, of the Partnership.

**3.2. Reliance by Third Parties.** Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full right, power and authority to pledge, mortgage, hypothecate, encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, including, but not limited to, subscription or other agreements, executing broker agreements, account agreements, and such Person shall be entitled to deal with the General Partner as if it were the Partnership's sole party in interest, both legally and beneficially. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the provisions of this Agreement have been complied with or to inquire into the necessity or expedience of any act or action of the General Partner or its representatives. Each and every certificate, instrument or other document executed on behalf of the Partnership by the General Partner shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (a) at the time of the execution and delivery of such certificate, instrument or document, this Agreement was in full force and effect, (b) the Person executing and delivering such certificate, instrument or document was duly authorized and empowered to do so for and on behalf of the Partnership, and (c) such certificate, instrument or other document was duly executed and delivered in accordance with the provisions of this Agreement and is binding upon the Partnership.

**3.3. Key Persons.** The General Partner agrees to promptly notify the Initial Limited Partners in writing if any of the persons listed on **Exhibit B** (collectively, "Key Persons") cease to be actively involved in the day-to-day management or operations of the General Partner.

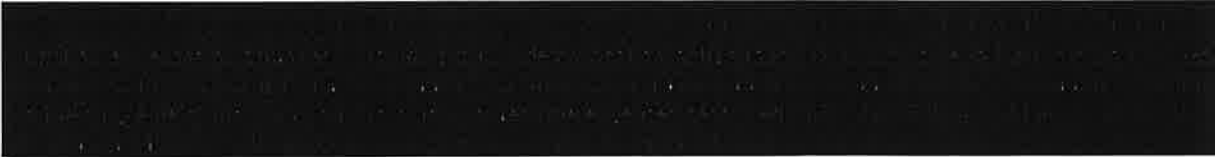
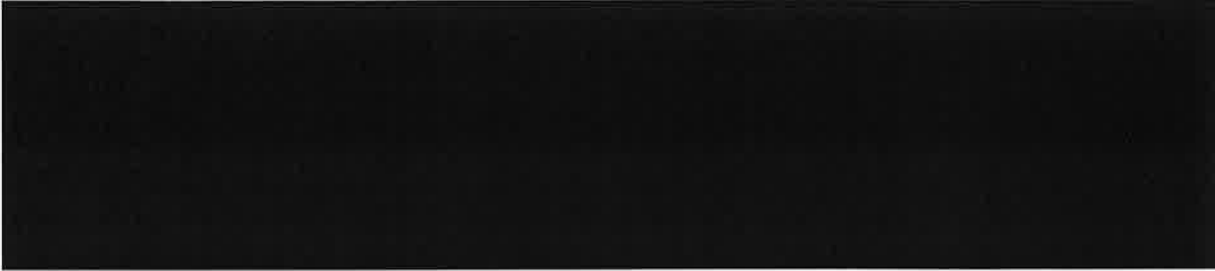
**3.4. Compensation and Reimbursement of Expenses.**

(a) The Investment Manager shall be entitled to receive from the Partnership a management fee ("Management Fee") [REDACTED]

[REDACTED] The Management Fee shall be pro rated for partial periods. The General Partner, in consultation with the Investment Manager, may at any time in its discretion waive all or a portion of the Management Fee payable in respect of any Partner.

[REDACTED]

[REDACTED]



**3.5. Activities of the General Partner and Affiliates.**

(a) Although nothing herein shall require any Marathon Party to devote its full time or any material portion of its time to the Partnership, the General Partner shall use its commercially reasonable efforts to further the businesses, purposes and activities of the Partnership and to devote to such businesses, purposes and activities such of its time and activity (and the time and activity of its employees) during normal Business Days and hours as it determines to be necessary for the Partnership to achieve its business objectives; *provided, however*, that nothing contained in this **Section 3.5(a)** shall preclude any Marathon Party from acting, consistent with the foregoing, either individually or as a member, partner, shareholder, director, trustee, officer, official, employee or agent of any Entity, in connection with any type of enterprise (whether for or not for profit), regardless of whether the Partnership or any Marathon Party has dealings with or invests in such enterprise. No Limited Partner shall, by reason of any provision of this Agreement or the General Partner's carrying out the businesses, purposes and activities of the Partnership, be entitled to any interest, economic or otherwise, in any such enterprise.



(c) The Marathon Parties may give advice to and take action in connection with providing services to other clients or their own accounts that differs from advice given, or in the timing and nature of action taken, with respect to the Partnership, even though the Partnership and such other clients may be similarly situated. Without limiting the generality of the foregoing, while the Marathon Parties will act in a fair and reasonable manner in allocating suitable investment opportunities among their proprietary and client accounts (including the

Partnership), the Marathon Parties shall not be obligated to cause the Partnership to invest in a particular opportunity even if such opportunity is of a character which is suitable for the Partnership, and each Marathon Party shall have the right to take for its own account or for the account of any of its clients, or to recommend to other individuals or entities, any such particular investment opportunity.

(d) In choosing brokers and dealers, the General Partner (or its designee) shall not be required to consider any particular criteria. The General Partner (or its designee) shall not be required to select the broker or dealer that charges the lowest transaction cost, even if that broker provides execution quality comparable to other brokers or dealers. The General Partner (or its designee) may consider the value of various services or products, beyond execution, that a broker-dealer provides to the Partnership and/or the General Partner (or its designee).



**ARTICLE IV  
LIMITED PARTNERSHIP INTERESTS**

**4.1. General.**

(a) Interests and Limited Partners shall have the relative rights, powers, authority, privileges, preferences, duties, responsibilities, liabilities and obligations applicable to such Interests and such Limited Partners as are set forth in this Agreement.

(b) Interests shall be deemed to be personal property giving only the rights, powers, authority, privileges and preferences provided herein, notwithstanding the nature of the property held by the Partnership. No Limited Partner shall have any right, title or interest in or to any specific Partnership Property, nor shall any Limited Partner have any right to call for a partition or division, or possession, of the same or for an accounting.

**4.2. Issuance and Sale of Interests.**

(a) A Person may be admitted to the Partnership as a Limited Partner only if such admission is effected in accordance with the provisions of Section 4.2(b) or Section 7.1(c).

(b) The General Partner shall cause the books and records of the Partnership to reflect the admission to the Partnership, as a Limited Partner, of each Person who purchases an Interest, as of such calendar day as the General Partner shall determine following the satisfaction of all of the following conditions: (i) the General Partner has accepted such Person's Subscription Agreement relating to such Interest (which acceptance the General Partner may withhold, in whole or in part, in its sole and absolute discretion); (ii) the Partnership has received from such Person (A) a counterpart of this Agreement that has been duly executed by such Person as a Limited Partner of the Partnership or (B) a writing that has been duly executed by such Person in which such Person has agreed to be bound hereby as a Limited Partner (which may include the Subscription Agreement); and (iii) the Partnership has received from such Person a Capital Contribution on or prior to the date of the admission of such Person to the Partnership as a Limited Partner under such Subscription Agreement, and such Person shall thereupon become a Limited Partner.





(c) A Person who has been admitted to the Partnership as a Limited Partner and who wishes to make one or more additional voluntary Capital Contributions to the Partnership may do so with the approval of the General Partner (which approval the General Partner may withhold, in whole or in part, in its sole and absolute discretion, and which may be conditioned upon such Limited Partner's completion, execution and delivery of an additional Subscription Agreement relating to any such additional contribution).

(d) Subject to the provisions of Section 17-502 of the Act, the General Partner may modify or waive any obligation a Limited Partner may have to the Partnership under its Subscription Agreement (including an obligation to contribute capital to the Partnership), on such terms and subject to such conditions as the General Partner may determine.

**4.3. Nonassessability of Interests.** All Interests, when issued and paid for in accordance with the provisions of this Article IV, shall be fully paid and nonassessable, and neither the Partnership nor any officer, employee, or agent of the Partnership, shall have the right, power or authority to call upon any Limited Partner for the payment of any sum of money or assessment whatsoever in respect of an Interest, whether in the form of a Capital Contribution, a loan to the Partnership, or otherwise, other than as such Limited Partner may at any time personally agree to pay by way of a subscription for such Interest or otherwise. Notwithstanding the foregoing, the General Partner may require a Limited Partner or former Limited Partner to return to the Partnership any distribution received by such Limited Partner or former Limited Partner, to the extent of such Person's share of any liabilities or losses of the Partnership arising out of events occurring during any Accounting Period in which such Person was a Limited Partner in the Partnership (determined in accordance with the aggregate Ownership Percentage associated with such Person's Capital Account as of the beginning of such Accounting Period).

**4.5. No Participation in Management.**

(a) Except as may be set forth herein, no Limited Partner shall, in its capacity as such, take part in the management or conduct of the business or affairs of the Partnership, transact any business in the name of the Partnership, or otherwise for or on behalf of the Partnership, or have the right, power or authority to sign documents for or otherwise bind the Partnership or to incur any indebtedness or expenditures on behalf of the Partnership.

(b) No Limited Partner, in its capacity as such, shall have the right, power or authority to approve, agree to, vote on, or consent to any matter affecting the Partnership except to the extent any such right, power or authority is expressly granted to such Limited Partner by this Agreement or by provisions of the Act that may not lawfully be modified or nullified by agreement among the limited partners of a limited partnership formed under the Act.

**4.6. No Appraisal Rights.** Except as may otherwise be determined by the General Partner or as otherwise expressly provided for in this Agreement, Limited Partners shall have no appraisal rights in connection with any action taken by the Partnership, including any transaction contemplated by Article XII or any amendment of the Certificate or this Agreement.

**4.7. Ownership of Interests.** The ownership of Interests shall be recorded on the books and records of the Partnership, and no certificates certifying the ownership of Interests shall be issued except to the extent and in such manner as the General Partner may determine from time to time. The books and records of the Partnership as maintained by the Partnership (or by an administrator or other Person appointed by the General Partner) shall be conclusive as to who are the holders of Interests and as to the balances of the Capital Accounts.

**4.8. Power of Attorney.**

(a) Each Limited Partner constitutes and appoints the General Partner, the Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to: execute, swear to, acknowledge, deliver, publish and file and record in the appropriate public offices: (i) all certificates, instruments, and other documents (including this Agreement and the Certificate and all amendments and/or restatements thereof) that the General Partner or the Liquidator shall determine to be necessary, appropriate, advisable or convenient to effect the formation of the Partnership and to carry on the businesses, purposes and activities for which the Partnership was formed (including such certificates, instruments or other documents, and such amendments thereto, as the General Partner or the Liquidator shall determine to be necessary, appropriate, advisable or convenient to comply with the requirements for the operation of the Partnership as a limited partnership under the Act and the qualification of the Partnership to do business in any jurisdiction in which the Partnership owns property or conducts business); (ii) all certificates, instruments or other documents that the General Partner or the Liquidator shall determine to be necessary, appropriate, advisable or convenient to reflect any amendment of this Agreement or the Certificate effected in accordance with the provisions hereof; (iii) all conveyances and other certificates, instruments and other documents that the General Partner or the Liquidator shall determine to be necessary, appropriate, advisable or convenient to reflect the dissolution and winding up of the Partnership pursuant to the provisions of this Agreement and the Act, including a certificate of cancellation of the Certificate; and (iv) all certificates, instruments and other documents relating to the admission, withdrawal, removal or substitution of any Limited Partner pursuant to the provisions of this Agreement or the Capital Contribution by any Limited Partner.

(b) The foregoing appointment is irrevocable and shall be deemed to be a power coupled with an interest, in recognition of the fact that the Initial Limited Partners will be relying upon the power of the General Partner or the Liquidator, as the case may be, to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive the Transfer of an Interest, or any interest therein, and shall extend to the Successor of each transferring Limited Partner.

(c) Nothing contained in this **Section 4.8** shall be construed as authorizing the General Partner or the Liquidator to amend this Agreement except in accordance with the provisions of **Article XI**.

**4.9. Admission of Additional General Partners.** The General Partner may, with the Consent of the Initial Limited Partners, admit additional or substitute general partners to the Partnership.

**ARTICLE V  
CAPITAL ACCOUNTS; ALLOCATIONS**

**5.1. Capital Account.**

(a) The General Partner shall cause the Partnership to establish and maintain, for each Partner, a separate capital account (a "Capital Account"). For accounting purposes, each Capital Account may be divided into separate sub-accounts (each, a "Sub-Account"). The balance of any Capital Account at any time shall equal the sum of all of the balances of the Sub-Accounts within such Capital Account, if any.

(b) The balance in a Capital Account as of the beginning of each Accounting Period shall be referred to herein as the "Opening Balance" of such Capital Account for such Accounting Period, and the balance in a Capital Account as of the end of each Accounting Period shall be referred to herein as the "Closing Balance" of such Capital Account for such Accounting Period.

(c) The Opening Balance of a Capital Account as of the beginning of the first Accounting Period in which a Capital Contribution is credited to such Capital Account shall equal the amount of such Capital Contribution. The Opening Balance of a Capital Account as of the beginning of each subsequent Accounting Period

shall equal the Closing Balance of such Capital Account as of the end of the immediately preceding Accounting Period plus any additional Capital Contributions in respect of such Capital Account made as of the beginning of such Accounting Period.

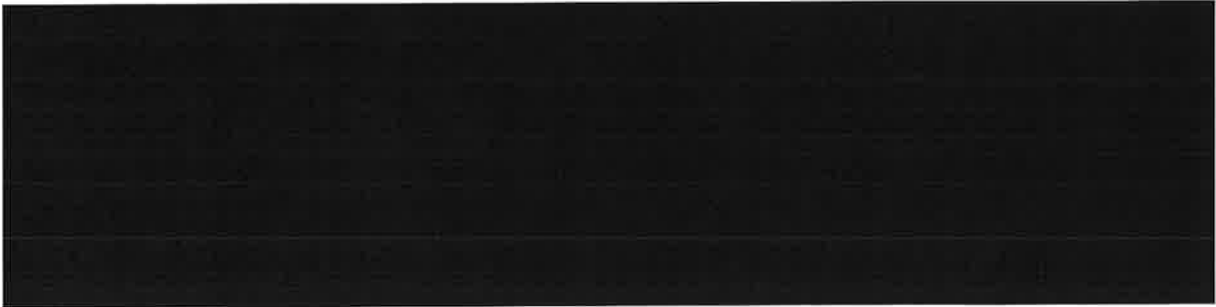
(d) The Closing Balance of a Partner's Capital Account as of the end of an Accounting Period shall be equal to the Opening Balance of such Capital Account as of the beginning of such Accounting Period, adjusted in the following manner:

(i) First, the Capital Account shall be adjusted to reflect the deduction for any Management Fee accrued in respect of such Capital Account in respect of such Accounting Period;

(ii) Second, the Capital Account shall be adjusted for any increase or decrease in Net Asset Value of the Partnership (excluding the accrual of any Management Fees in respect of any Partner) for such Accounting Period, which shall be credited or debited (as the case may be) to such Opening Balance, *pro rata* in accordance with the Ownership Percentage associated with such Capital Account as of the beginning of such Accounting Period (calculated prior to the accrual of the Management Fee in **Section 5.1(d)(i)**) *except that* if any U.S. federal, state or local laws or regulations, or the rules or regulations of FINRA, prohibit such Partner from sharing in the appreciation or depreciation in any assets held directly or indirectly by the Partnership, or if such Partner's sharing in the appreciation or depreciation in any such assets would cause any other Person to be in violation of any such laws, rules, or regulations, the General Partner may exclude, without any compensation adjustments, from such Closing Balance any portion of such increase or decrease in Net Asset Value that is attributable to such appreciation or depreciation;

(iii) Third, if applicable, the Capital Account shall be adjusted to reflect any Incentive Allocation pursuant to **Section 5.2**; and

(iv) Fourth, the Capital Account shall be reduced by any Withdrawals or other distributions distributed from such Capital Account as of the end of such Accounting Period.



**5.3. Loss Carryforward Account.**

(a) The balance of the Loss Carryforward Account for each Capital Account initially shall be zero. As of the end of each Incentive Allocation Period, each Loss Carryforward Account will be (A) credited with the amount of Net Loss allocated to such Capital Account, if any, for such Incentive Allocation Period and (B) reduced (but not below zero) by the amount of Net Profit allocated to such Capital Account, if any, for such Incentive Allocation Period.

(b) For purposes of making the adjustments set forth in **Section 5.3(a)**, Net Profit will be included in determining any modifications to the Loss Carryforward Account balance even if the Net Profit does not equal or exceed the applicable Hurdle Amount as of such date.

(c) Any balance in a Loss Carryforward Account for an Incentive Allocation Period shall be carried forward to subsequent Incentive Allocation Periods and charged against Net Profit otherwise attributable to the relevant Capital Account, if any, generated in such subsequent Incentive Allocation Periods. If a Loss Carryforward Account for a Limited Partner has a balance greater than zero at the time of a Withdrawal by such Limited Partner, the balance of such Loss Carryforward Account shall be adjusted by multiplying the balance of such Loss Carryforward Account by a fraction, (A) the numerator of which shall equal the balance of such Capital Account after such Withdrawal has been made and (B) the denominator of which shall equal the balance of such Capital Account before such Withdrawal has been made.

**5.4. Tax Allocations.**

(a) As of the end of each Fiscal Year (or such other time as required by the Code), for federal, state and other income tax purposes only, each item of income, gain, loss and deduction of the Partnership shall be allocated among the Partners in the same manner as the corresponding items of profit or loss are allocated pursuant to Section 5.1. Notwithstanding anything in this Section 5.4 to the contrary, the General Partner may make such income tax allocations as it reasonably determines to be necessary or appropriate to give economic effect to the provisions of this Agreement taking into account such facts and circumstances as the General Partner reasonably determines to be necessary or appropriate for this purpose.

(b) In the event that all or a portion of an Interest has been assigned, the allocations prescribed by this Section 5.4 shall be made with respect to the assigned portion of the Interest without regard to the assignment except that in the year of assignment the allocations prescribed by this Section 5.4 shall be divided between the assignor and the assignee based on the number of days each held the assigned portion of such Interest. Allocations with respect to an Interest, a portion of which has been assigned, in the year of assignment shall be divided between the assigned portion of the Interest and the remaining portion of the Interest *pro rata* based on the value of such portions of the Interest as of the date of assignment. Thereafter, each portion of the Interest shall constitute a separate Interest.

**5.5. No Interest on Capital Contributions.** Partners shall not be entitled to interest on their Capital Contributions or on their Capital Accounts.

**ARTICLE VI  
DISTRIBUTIONS AND WITHDRAWALS**

**6.1. Withdrawals by Limited Partners from Capital Accounts.**

(a) No Limited Partner shall have the right to withdraw, or receive any return of, or the fair value of, any portion of any of such Limited Partner's Capital Contribution(s) to or Capital Account in the Partnership except as set forth in this Agreement.



(d) The General Partner, in its sole discretion, may delay the Withdrawal of any withdrawal request attributable to a Limited Partner's Illiquid Portion until it or the Investment Manager has liquidated the Illiquid Investments attributable to the Illiquid Portion (the "Liquidating Investments") in accordance with this Section 6.1(d). Following the Withdrawal Date as of which a Limited Partner requests a Withdrawal of its Illiquid Portion, the Investment Manager shall manage the Liquidating Investments with the goal of maximizing the returns of such Liquidating Investments in a manner consistent with its fiduciary obligations to the Partnership and any other client accounts that have exposure to the same Liquidating Investments. The Partnership shall pay cash distributions to such Limited Partner each time such Liquidating Investments are partially or fully liquidated. During the time period between the relevant Withdrawal Date and the liquidation of the Liquidating Investments, the withdrawing Limited Partner shall continue to bear the risk of the performance of the Liquidating Investments.

(e) If the Partnership is invested in a Marathon Fund, the Partnership shall be subject to limitations on withdrawals imposed by such Marathon Fund (except that any initial lock-up period in each such Marathon Fund shall be and hereby is waived) and such limitations shall further delay the date of when a Limited Partner's withdrawal request will be effected.

(f) Withdrawals shall be effective as of the closing of business on the relevant date, and the Capital Account balances and the amount of withdrawal proceeds for each withdrawing Limited Partner shall be calculated as of the close of business as of such date.

(g) Subject to Section 6.2, the proceeds of Withdrawals generally will be paid within 30 days after the date on which the Withdrawal is effective or as soon as practicable thereafter. Withdrawal proceeds shall not bear interest from the effective date of Withdrawal to the date of payment. Notwithstanding the foregoing, a Limited Partner that withdraws an amount from its Capital Account may be credited with interest in respect of payments deferred under this Section to the extent that doing so would, in the General Partner's sole and absolute discretion, be equitable.

(h) Once received by the Partnership, each Withdrawal request shall be irrevocable unless the General Partner determines in its sole discretion to release the Initial Limited Partner from such request.

(i) Any of the provisions of this Section 6.1 may be waived in whole or in part in the General Partner's sole discretion.

## **6.2. Certain Limitations in Respect of Withdrawals.**

(a) Notwithstanding any other provision of this Agreement, the General Partner shall not cause the Partnership to make any distribution to a Limited Partner or return to a Limited Partner any part of any Capital Contribution of such Limited Partner to the extent that, after giving effect to such distribution or return, the Partnership's liabilities, other than (i) liabilities to Limited Partners on account of their Interests and (ii) liabilities for which the recourse of creditors is limited to specified property of the Partnership, would exceed the fair value of the Partnership's assets, except that the fair value of Partnership property that is subject to a liability for which the recourse of creditors is limited shall be included in the Partnership's assets only to the extent that the fair value of that property exceeds that liability. A Limited Partner who receives a distribution or return in violation of the foregoing shall be liable to the Partnership for the amount of such distribution or return, regardless of whether such Limited Partner had knowledge of such violation at the time of such distribution or return; *provided, however*, that, subject to the provisions of Section 17-502 of the Act, the General Partner may compromise or waive any such liability on such terms and subject to such conditions as the General Partner may determine. Further, if the Net Asset Value as of the relevant Withdrawal Date is adjusted downwards after the date on which the Withdrawal proceeds are paid as a result of an annual audit, the Initial Limited Partner shall be liable to the Partnership for the amount of any excess payment.

(b) No Limited Partner, regardless of the nature of such Limited Partner's Capital Contribution(s), shall be entitled to demand or receive a return of such contribution(s) in a form other than cash, or to demand or receive property other than cash in connection with any other distribution made by the Partnership (which, for the avoidance of doubt, includes any distribution made to such Limited Partner in connection with any Withdrawal from such Limited Partner's Capital Account permitted or required under the provisions of this Agreement and any distribution made in connection with the winding up of the Partnership), but all distributions made pursuant to any provision of this Agreement may be made in cash or other property, or any combination thereof, as may be determined by the General Partner (or by the Liquidator, in the case of a distribution made pursuant to **Article XII**).

(c) Notwithstanding any other provision of this Agreement, proceeds from Withdrawals shall be paid solely in cash and shall not be made in-kind, unless the relevant Limited Partner consents to such in-kind distribution. In the event such Limited Partner agrees to receive an in-kind distribution, the General Partner agrees to make such distribution to the Limited Partner or such other parties that the Limited Partner designates in writing to hold in an escrow account on behalf of the Limited Partner.

(d) The General Partner may suspend or delay the payment of Withdrawal proceeds if there has been a suspension in the calculation of Net Asset Value pursuant to **Section 6.2(d)(i)**.

(e) Suspension.

(i) Notwithstanding anything herein to the contrary, under any of the following circumstances, in the sole determination of the General Partner, the Partnership may suspend its calculation of Net Asset Value, Withdrawals, and/or payment of Withdrawal proceeds to withdrawing Limited Partners: (A) when any exchange on which investments held by the Partnership are quoted is closed (other than for ordinary holidays and weekends) or during periods in which a material portion of exchange trading is halted, restricted or suspended and the General Partner determines that such suspension or limitation is material to the ability of the Partnership to make the withdrawal payment; (B) when the prices or values of a material portion of the Partnership's investments cannot reasonably be accurately ascertained for any reason during any period of at least 10 consecutive Business Days; (C) there exists a Legal Impediment; or (D) the General Partner has determined in its reasonable discretion that a redemption could cause the assets of the Partnership to be determined "plan assets" under ERISA.

(ii) Limited Partners who have requested Withdrawals of amounts from their Capital Accounts shall be notified in writing of any suspension of the calculation of the Net Asset Value, Withdrawals and/or payment of Withdrawal proceeds, and shall be promptly notified upon the termination of such suspension. Withdrawal requests may be withdrawn during the continuance of any such suspension, and if not withdrawn shall be processed in the usual course on the first Business Day following the end of such suspension.

### **6.3. Distributions.**

(a) In addition to the Withdrawal provisions described in **Section 6.1** above, the Partnership may in the General Partner's sole discretion, make distributions of cash to Partners at such times and in such amounts as the General Partner may determine. The General Partner is not required to make any such distributions pursuant to this **Section 6.3**.



(c) Notwithstanding any other provision of this Agreement, the General Partner may at any time, in its sole discretion, cause the Partnership to make distributions to the General Partner from the General Partner's Capital Account, in amounts intended to enable the General Partner (or any Person whose tax liability is determined by reference to the income of the General Partner) to discharge such Person's respective U.S. federal, state and local income tax liabilities arising from allocations pursuant to Section 5.1 made (or to be made) to the General Partner ("Tax Distributions"). Such Tax Distributions shall be based upon the rate that is the highest U.S. federal, state and local income tax rate, including any taxes imposed under Section 1411 of the Code, applicable during the relevant tax year of the General Partner (without taking into account any limitations on deductions) for an individual residing and working in New York, New York.

(d) Any payment by the Partnership under the New Audit Rules of an imputed underpayment that the General Partner in good faith determines to be attributable to a Partner shall be treated as a distribution to such Partner for purposes of this Section 6.3.

**6.4. Resignation and Voluntary Withdrawal of Limited Partners.** Prior to the completion of the winding up of the Partnership, no Limited Partner shall have the right to resign or withdraw as such, unless such resignation or withdrawal is permitted by this Agreement or is otherwise approved by the General Partner.

**6.5. Mandatory Withdrawal of Limited Partners.** The General Partner, in its sole discretion, may require any Limited Partner to withdraw all or any portion of its Capital Account as of any date by giving not fewer than 10 calendar days' Notification to such Limited Partner if: (i) the continued participation of such Limited Partner might cause the assets of the Partnership to be deemed to be "plan assets" for purposes of ERISA or Section 4975 of the Code, (ii) the continued participation of such Limited Partner is materially adverse to the Partnership, the Investment Manager or any of the Investment Manager's other client accounts or (iii) such Limited Partner materially breaches this Agreement, its Subscription Agreement or the Side Letter.

**6.6. General Partner Withdrawals.**

(a) The General Partner may withdraw as a General Partner of the Partnership upon 90 calendar days' Notification to the Limited Partners; *provided* that the withdrawing General Partner is replaced by an Affiliate that will maintain the same Capital Account balance as is required by Section 3.6.

(b) The General Partner may make a withdrawal from its Capital Account at any time so long as such withdrawal does not decrease its Capital Account balance below the amount set forth in Section 3.6.

**ARTICLE VII  
TRANSFERS OF INTERESTS**

**7.1. Restrictions on Transfers of Interests.**

(a) Interests may be Transferred only by operation of law or with the prior written consent of the General Partner (which consent may be withheld in the sole discretion of the General Partner), except that the Initial Limited Partners may assign all or part of their Interests to one or more qualified affiliates.

(b) Except as provided in Section 7.1(a), no Person to whom an Interest has been Transferred pursuant to the provisions of this Agreement (an "Assignee") shall be admitted to the Partnership without agreeing to the terms of this Agreement and the consent of the General Partner, which consent may be withheld in the General Partner's sole and absolute discretion.

(c) In the case of a Transfer of an Interest, or an interest therein, arising by operation of law, the Successor of the transferor shall be deemed (i) to be bound hereby as an Assignee and (ii) to have assumed all of the duties, responsibilities, liabilities and obligations of the transferor under this Agreement (including under this

**Article VII**) with respect to such Transferred Interest or interest therein, unless the General Partner agrees otherwise.

(d) The General Partner's interest in the Partnership may be assigned only to the extent permitted by applicable law and with the prior written consent of the Initial Limited Partners.

**7.2. Obligations of Transferors of Interests.**

(a) If a Person desires to Transfer an Interest, or an interest therein, pursuant to the provisions of **Section 7.1(a)**, such Person shall be responsible for compliance with all conditions of Transfer imposed by this Agreement and under applicable law and for any expenses incurred by the Partnership for legal and/or accounting services in connection with reviewing the Transfer or obtaining legal opinions in connection therewith. Upon the request of the General Partner, a Person desiring to Transfer an Interest, or any interest therein, shall either cause the Partnership to be provided with, or authorize the Partnership to obtain, an opinion of counsel satisfactory to the General Partner that the proposed Transfer complies with the Securities Act and all other applicable securities laws.

(b) Unless otherwise expressly agreed by the General Partner, no Transfer of an Interest, or any interest therein, other than pursuant to a statutory merger or consolidation of the transferor wherein all duties, responsibilities, liabilities and obligations of the transferor are assumed by a successor corporation by operation of law, shall relieve the transferor of its obligations under this Agreement.

**7.3. Obligations of Transferees of Interests.**

(a) A Person admitted to the Partnership as a Limited Partner pursuant to the provisions of **Section 7.1(c)** shall, to the extent of the Interest, or interest therein, Transferred to such Person, succeed to all of the rights, powers and authorities of the transferor Limited Partner under this Agreement in the place and stead of such transferor Limited Partner (which succession, in the event of a pledge, encumbrance, hypothecation or mortgage properly authorized by the General Partner, may be entered into and become effective at the time of foreclosure or other realization of such pledge or mortgage). Each such transferee of an Interest, or an interest therein, shall be required to agree to the terms of this Agreement and such other terms determined by the General Partner in its sole discretion.

(b) Any Person to whom an Interest, or an interest therein, is Transferred, whether or not such Person is admitted to the Partnership as a Limited Partner, shall, to the extent of such Interest or interest therein, succeed to the duties, responsibilities, liabilities and obligations of the transferor hereunder and be subject to the restrictions to which such transferor is subject hereunder (unless such Transfer is a pledge, encumbrance, hypothecation, or mortgage that was properly authorized by the General Partner and which has not theretofore been foreclosed or otherwise realized upon).

**7.4. Effective Dates of Transfers.**

(a) Transfers of Interests, or interests therein, pursuant to this **Article VII** may be made on any day, but for purposes of this Agreement, the effective date of any such Transfer shall be (i) the first day of the month in which such Transfer occurred if such Transfer occurred on or prior to the 15th calendar day of a month, (ii) the first day of the month immediately following the month in which such Transfer occurred, if such Transfer occurred after the 15th calendar day of a month, or (iii) such other date determined by the General Partner pursuant to such convention as may be administratively feasible and consistent with applicable law.

(b) If any Interest, or any interest therein, is Transferred in compliance with the provisions of this **Article VII**, on any day other than the first day of a calendar year, then each item of the Partnership's income, gain, deduction, loss and credit attributable thereto for such year shall be allocated to the transferor, and, in the case of a Transfer other than via a withdrawal, to the transferee, by taking into account their varying interests during such year in accordance with Section 706(d) of the Code, using any method permitted thereunder. All distributions



pursuant to **Section 6.3** attributable to such Transferred Interest or interest therein (i) with respect to which the distribution record date is before the effective date of such Transfer (other than a pledge, encumbrance, hypothecation or mortgage properly authorized by the General Partner) shall be made to the transferor, and (ii) with respect to the first distribution record date after the effective date of such Transfer (other than a pledge, encumbrance, hypothecation or mortgage properly authorized by the General Partner) shall be paid to the transferee.

(c) For the avoidance of doubt, a Transfer shall be treated as a simultaneous Withdrawal and a Capital Contribution for purposes of this Agreement unless otherwise determined by the General Partner in its sole discretion.

**7.5. Effect of Non-Complying Transfers.** Any Transfer of any Interest, or interest therein, that would (a) violate the provisions of this Agreement, (b) violate any of the Securities Laws or applicable State securities laws, (c) cause the termination of the Partnership's classification as a partnership for U.S. federal income tax purposes, (d) cause the Partnership to be treated as a "publicly traded partnership" within the meaning of Section 7704 of the Code and the Treasury Regulations, or (e) cause the assets of the Partnership to be treated for any purpose of ERISA or Section 4975 of the Code as assets of any "employee benefit plan" as defined in and subject to ERISA or of any plan or account subject to Section 4975 of the Code or would result in a non-exempt "prohibited transaction" as defined in ERISA or Section 4975 of the Code, shall be wholly null and void *ab initio* and of no legal force or effect and shall not effectuate the Transfer contemplated thereby. The Partnership shall have the right to obtain injunctive relief (in addition to and not in lieu of any other remedies available to it) in the event of any breach of the provisions of this **Article VII**.

## ARTICLE VIII OWNERSHIP OF PARTNERSHIP PROPERTY

Title to and beneficial interest in Partnership Property shall be deemed to be held and owned by the Partnership, and no Partner or Partners, individually or collectively, shall have any title to or beneficial interest in specific Partnership Property or any portion thereof. Each Limited Partner irrevocably waives any right that it may have to maintain an action for partition with respect to its interest in the Partnership or any Partnership Property.

Any Partnership Property may be held or registered in the name of the Partnership, the name of the General Partner, the name of any Affiliate of the General Partner, the name of a nominee, or in "street name," as the General Partner may determine; *provided, however*, that (a) any Partnership Property for which legal title is held in the name of the General Partner or an Affiliate of the General Partner shall be held by the General Partner or such Affiliate for the use and benefit of the Partnership in accordance with the provisions of this Agreement and (b) Partnership Property shall be recorded as the property of the Partnership on the Partnership's books and records, irrespective of the name in which legal title to such Partnership Property is held.

Any corporation, brokerage firm or transfer agent called upon to transfer any assets to or from the name of the Partnership shall be entitled to rely upon instructions or assignments signed or purporting to be signed by the General Partner or its agents without inquiry as to the authority of the Person signing or purporting to sign such instruction or assignment or as to the validity of any transfer to or from the name of the Partnership.

## ARTICLE IX RECORDS AND ACCOUNTING; REPORTS

### **9.1. Partnership Records.**

(a) The General Partner shall cause the Partnership to maintain the books and records of the business of the Partnership. Such books and records shall, upon at least 24 hours prior notice to the Partnership, be

open to the inspection and examination by the Limited Partners or their representatives during normal business hours at the principal office (or other applicable office) of the Partnership.

(b) Each Limited Partner agrees that it shall not disclose (and shall require its representatives to forebear from disclosing) to third parties any information of a proprietary nature which is obtained by such Limited Partner pursuant to the provisions of this Section 9.1, except that the Initial Limited Partners may disclose information regarding the Partnership (i) to their officers, directors, representatives, agents, fiduciaries, counsel and accountants and (ii) as required by applicable law or regulation, as necessary to make governmental filings, or as requested by any regulator having jurisdiction over the Initial Limited Partners. Notwithstanding the foregoing, the Initial Limited Partners agree to (i) limit the extent of the information disclosed to what is necessary or required under the circumstances or to the minimum requested by a regulator having jurisdiction over the Initial Limited Partners and (ii) request that any information so disclosed be afforded confidential treatment.

**9.2. Fiscal Year; Accounting Methods.**

(a) The Fiscal Year of the Partnership shall end on December 31 of each year, unless the General Partner determines otherwise.

(b) The Partnership shall keep its books and records in accordance with the provisions of this Agreement under the accrual method of accounting, and, as to matters not specifically covered in this Agreement, generally in accordance with GAAP (except for certain reserves or certain costs). All matters concerning accounting practices not specifically and expressly provided for by the provisions of this Agreement shall be determined by the General Partner in good faith. Absent bad faith or manifest error, the General Partner's (or its designee's) valuation determinations are conclusive and binding on all Limited Partners.

**9.3. Expense Accruals; Reserves.**

(a) For purposes of determining the amount of the Partnership's liabilities, the General Partner may estimate expenses that are incurred on a regular or recurring basis over yearly or other periods and treat the amount of any such estimate as accruing in equal proportions over any such period.

(b) The General Partner may determine to establish such reserves for the Partnership for contingent, unknown, or unfixed debts, liabilities, or obligations of the Partnership as the General Partner may deem advisable ("Reserves"). Such Reserves shall be treated as liabilities of the Partnership and shall reduce each Partner's Capital Account balance on a *pro rata* basis in accordance with the Ownership Percentage associated with each Capital Account as of the beginning of the Accounting Period during which the Reserves are established. The General Partner agrees to notify the Initial Limited Partners of the creation of any Reserves. In addition, the General Partner may determine to treat any liability or expenditure of the Partnership that becomes fixed or is incurred in an Accounting Period subsequent to the Accounting Period to which such liability or expenditure relates (the "Prior Accounting Period") as arising in such Prior Accounting Period, in which case such liability or expenditure shall be charged to Persons who were Limited Partners during such Prior Accounting Period (whether or not such Persons are Limited Partners during the Accounting Period in which such liability is fixed or such expenditure is incurred) in accordance with the Ownership Percentages associated with their Capital Accounts as of the beginning of such Prior Accounting Period, and the Partnership may collect amounts previously distributed to such Persons in accordance with and subject to the provisions of Section 4.3.

**9.4. Calculation of Net Asset Value.** Subject to Section 9.5, the Net Asset Value shall be determined as of the close of business on the last calendar day of each month or such other dates the General Partner shall determine. For all purposes of this Agreement, including the determination of the Partnership's Net Asset Value and the balances of the Capital Accounts, the Partnership's assets shall be valued in accordance with the following guidelines:

(a) no value shall be assigned to goodwill;

(b) accrued Management Fees and other fees shall be treated as liabilities;

(c) the market value of positions in securities shall be as follows: securities that are listed on a stock exchange and are freely transferable shall be valued at their last sales price on the date of determination on the stock exchange which is the principal exchange for such securities, or, if no sales occurred on such day, at the "bid" price on such exchange at the close of business on such day if held long and at the "ask" price at the close of business on such day if sold short. Securities traded over the counter which are freely transferable shall be valued at the last sales price on the date of determination, or, if no sales occurred on such day, at the "bid" price at the close of business on such day if held long and at the "ask" price at the close of business on such day if sold short. Notwithstanding the foregoing, if, in the reasonable judgment of the General Partner in its discretion, the listed price for any security held by the Partnership does not accurately reflect the value of such security, the General Partner may value such security at a price which is greater or less than the quoted market price for such security;

(d) the market value of a commodity future, forward or similar contract or any option on any such instrument traded on an exchange shall be the most recent available closing quotation on such exchange; *provided* that if the General Partner determines that such closing price does not accurately reflect market value due to price limit constraints, such contract or option shall be valued at fair market value as reasonably determined by the General Partner;

(e) assets and liabilities for which no market prices are available generally shall be carried on the books of the Partnership at fair value (which may be cost or less than cost) as reasonably determined by the General Partner and may be based on valuations provided by third-party valuation agents engaged by the Partnership; and

(f) all other assets and liabilities of the Partnership shall be valued in the manner reasonably determined by the General Partner or the Investment Manager to reflect their fair market value, so that generally illiquid or difficult to value investments shall be valued first by consulting with independent dealers and pricing services and then, if needed, by looking at, among other things, valuation reports provided by third-party valuation agents engaged by the Partnership and the value of similar investments (so that the General Partner or the Investment Manager can make an accurate determination).

The General Partner or the Investment Manager may determine to use a different value for the Partnership Property than would be assigned to such property pursuant to clauses (a)-(e) above if the General Partner (or the Investments Manager) reasonably determines that doing so would better reflect fair value. Absent bad faith or manifest error, the General Partner's or the Investment Manager's valuation determinations shall be conclusive and binding on all Partners in the Partnership.

In connection with the calculation of the value of the assets of the Partnership, the General Partner may consult with and shall be entitled to reasonably rely upon and will not be responsible for the accuracy of, financial data furnished to it by the Partnership's brokers, market makers, valuation agents, pricing services, custodians or other third-party advisors. Where the Partnership engages a third-party valuation agent to value a particular investment, the General Partner shall rely on the last available report provided by such valuation agent. In no event and under no circumstances shall the General Partner (or the Investment Manager) incur any individual liability or responsibility for any determination it makes or other action it takes or omits in determining the value of the securities or other assets of the Partnership, *provided* that the General Partner (or the Investment Manager) makes such determination or takes or omits such action reasonably and in good faith.

**9.5. Suspension of Net Asset Value.** The General Partner may suspend the determination of Net Asset Value in respect of the Partnership if any of the conditions set forth in **Section 6.2(d)(i)** exist. Limited Partners in the Partnership shall be notified of any such suspension.

**9.6. Reports.** The Partnership shall provide each Limited Partner with (i) monthly account statements, (ii) annual audited financial statements prepared generally in accordance with GAAP, including a report of the certified public accounting firm that audited such financial statements within 120 days following the end of the

Partnership's Fiscal Year and (iii) monthly snapshots of the Partnership's portfolio. Furthermore, if the Partnership is invested in a Marathon Fund, the Partnership will provide each Limited Partner with any reports such Marathon Fund customarily provides to its investors.

**9.7. Notice of Certain Events.** The General Partner shall notify the Limited Partners promptly of any change in the Partnership's Administrator, auditor or prime broker (if any).

**9.8. Tax Matters.**

(a) The General Partner shall cause U.S. federal, state, and local income tax returns for the Partnership to be prepared and timely filed (subject to the General Partner's discretion to obtain extensions) with the appropriate authorities. The General Partner, in its sole and absolute discretion, shall determine the accounting methods and conventions under the tax laws of the United States, the several states, and other relevant jurisdictions as to the treatment of items of income, gain, deduction, loss, and credit or any other method or procedure related to the preparation of such tax returns. In addition, the General Partner, in its sole and absolute discretion, may cause the Partnership to make (or refrain from making) any and all tax elections permitted by such tax laws, including the election referred to in Section 754 of the Code.

(b) As soon as reasonably practicable after the end of each Fiscal Year, the General Partner shall cause to be delivered to each Person who was a Limited Partner at any time during such Fiscal Year such tax information and schedules as shall be necessary for the preparation by each such Person of its U.S. federal income tax return (it being understood and agreed that the tax returns of the Partnership may be delayed so that it may be necessary for the Limited Partners to obtain extensions for the filing of their own tax returns).

(c) Each Limited Partner agrees in respect of any year in which such Limited Partner had an Interest that, unless otherwise agreed by the General Partner, such Limited Partner shall not: (i) treat, on its individual tax returns, any item of income, gain, loss, deduction or credit relating to such investment in a manner inconsistent with the treatment of such item by the Partnership, as reflected on the Schedule K-1 or other information statement furnished by the Partnership to such Limited Partner or (ii) file any claim for refund relating to any such item based on, or which would result in, any such inconsistent treatment.

(d) The General Partner is hereby appointed the "Tax Matters Partner" of the Partnership for all purposes pursuant to Sections 6221-6231 of the Code. With respect to taxable years of the Partnership beginning after December 31, 2017, the General Partner is hereby designated as the "partnership representative" of the Partnership (the "Partnership Representative") in accordance with Section 6223 of the Code (as enacted by the Bipartisan Budget Act of 2015), and the General Partner, in its capacity as the Partnership Representative, may exercise any authority granted to the Partnership Representative under the Code.

**ARTICLE X  
EXCULPATION AND INDEMNIFICATION**

**10.1. Exculpation.**

(a) Notwithstanding anything to the contrary set forth in this Agreement, each Marathon Party shall bear no liability to the Partnership or any Limited Partner for any Losses suffered by the Partnership or any Limited Partner relating to this Agreement or the transactions contemplated hereby, *provided* that such Losses did not arise out of or relate to any action or inaction of the Marathon Party which constituted fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach. The Marathon Party shall be liable to the Partnership and the Initial Limited Partners for Losses only in the event of a final order of a court of competent jurisdiction finding that the relevant Losses arose out of or related to a Marathon Party's fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach. The Marathon

Parties shall not be liable to the Partnership or any Limited Partner for Losses under this Agreement except as expressly set forth in this Section 10.1(a).

(b) Notwithstanding the foregoing, no exculpation of a Marathon Party shall be permitted hereunder to the extent such exculpation would be inconsistent with the requirements of the Securities Laws or any other applicable law. If this Section 10.1 is deemed to be unenforceable, whether in whole or in part, such unenforceable portion will be stricken or modified so as to give effect to this Section 10.1 to the fullest extent permitted by law.

(c) The Investment Manager acknowledges its fiduciary obligations to the Partnership and the Initial Limited Partners under the Advisers Act.

## **10.2. Indemnification.**

(a) To the fullest extent permitted by law, the Partnership shall indemnify, defend and hold harmless each Marathon Party (each, for purpose of this Article X, an "Indemnitee") from and against any and all Losses resulting from a demand, claim, lawsuit, action or proceeding, in each case relating to conduct taken by the Indemnitee relating to the business or activities undertaken (or omitted to be undertaken) on behalf of the Partnership, *provided* that such conduct did not constitute fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach; provided, further, that such Losses did not result solely from any action brought by any Marathon Party against any other Marathon Party.

(b) An indemnifying party shall be entitled to participate at its own expense in the defense or, if it so elects within a reasonable time after receipt of such notice, to assume the defense of any suit so brought, which defense shall be conducted by counsel chosen by it and reasonably satisfactory to the Indemnitee. Subject to the next sentence, in the event that such indemnifying party elects to assume the defense of any such suit and retain such counsel, the Indemnitee in the suit, shall bear the fees and expenses of any additional counsel thereafter retained by it. If in any action or claim as to which indemnity is or may be available, an Indemnitee reasonably determines that its interests are or may be adverse, in whole or in part, to the interests of the indemnifying party or that there may be legal defenses available to the Indemnitee which are or may be different from, in addition to, or inconsistent with the defenses available to the indemnifying party, the Indemnitee may retain its own counsel in connection with such action or claim, and shall continue to be indemnified by the indemnifying party for any legal or other expenses reasonably incurred in connection with investigating or defending such action or claim. Expenses (including legal and other professional fees and disbursements) incurred in any proceeding will be paid by the Partnership in advance of the final disposition of such proceeding upon receipt of a written undertaking by or on behalf of such Indemnitee to repay such amount if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified by the Partnership as authorized hereunder, provided that the Partnership shall not advance such costs or expenses in the event of any indemnification claim related solely to an action brought by the Initial Limited Partners.

(c) The foregoing agreements of indemnity shall be in addition to, and shall in no respect limit or restrict, any other remedies which may be available to an Indemnitee. The termination of any demand, claim, lawsuit, action or proceeding by settlement shall not, in itself, create a presumption that the conduct in question constitutes fraud, gross negligence, willful misconduct, a material violation of applicable law, or an Uncured Breach.

(d) Notwithstanding the foregoing, no indemnification of a Marathon Party shall be permitted hereunder to the extent such indemnification would be inconsistent with the requirements of the Securities Laws or any other applicable law.

**10.3. Notification of Claims.** If an Indemnitee believes that it is entitled to indemnification under this Article X, such Indemnitee shall promptly give Notification to the Partnership describing such claim for indemnification, the amount thereof, if known, and the method of computation, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such claim shall have occurred;

*provided, however*, that the omission by such Indemnitee to give Notification as provided herein shall not relieve the Partnership of its indemnification obligation under this **Article X** except to the extent that the Partnership is materially damaged as a result of such failure to give Notification. Any Indemnitee entitled to indemnification hereunder shall use its commercially reasonable efforts to minimize the amount of any claim for indemnification hereunder.

**10.4. Third-Party Claims.** In the event of any claim for indemnification hereunder resulting from or in connection with any claim or legal proceeding by a third-party, the Indemnitee or Indemnitees claiming such indemnification shall give Notification thereof to the Partnership not later than 20 Business Days prior to the time any response to the asserted claim is required, if possible, and in any event within 15 Business Days following the date such Indemnitee has actual knowledge thereof; *provided, however*, that the omission by such Indemnitee or Indemnitees to give Notification as provided herein shall not relieve the Partnership of its indemnification obligation under this **Article X** except to the extent that the Partnership is materially damaged as a result of such failure to give Notification. In the event of any such claim for indemnification by an Indemnitee or Indemnitees resulting from or in connection with a claim or legal proceeding by a third-party, the Partnership may, at its sole cost and expense, assume the defense thereof; *provided, however*, that counsel for the Partnership, who shall conduct the defense of such claim or legal proceeding, shall be reasonably satisfactory to such Indemnitee or Indemnitees; and *provided, further*, that if the defendants in any such actions include both such Indemnitee or Indemnitees and the Partnership and such Indemnitee or Indemnitees shall have reasonably concluded that there may be legal defenses or rights available to it or them which have not been waived and are in actual or potential conflict with those available to the Partnership, such Indemnitee or Indemnitees shall have the right to select one law firm reasonably acceptable to the Partnership to act as separate counsel, on behalf of such Indemnitee or Indemnitees, at the expense of the Partnership. Unless such Indemnitee or Indemnitees are represented by separate counsel pursuant to the second proviso of the immediately preceding sentence, if the Partnership assumes the defense of any such claim or legal proceeding, it shall not consent to entry of any judgment, or enter into any settlement, that (a) is not subject to indemnification in accordance with the provisions in this **Article X**, (b) provides for injunctive or other non-monetary relief affecting such Indemnitee or Indemnitees, or (c) does not include as an unconditional term thereof the giving by each claimant or plaintiff to such Indemnitee or Indemnitees of a release from all liability with respect to such claim or legal proceeding, without the prior written consent of such Indemnitee or Indemnitees (which consent, in the case of **clauses (b)** and **(c)**, shall not be unreasonably withheld or delayed); and *provided, further*, that, unless such Indemnitee or Indemnitees is or are represented by separate counsel pursuant to the second proviso of the immediately preceding sentence, such Indemnitee or Indemnitees may, at its or their own expense, participate in any such proceeding with the counsel of their choice. So long as the Partnership is in good faith defending such claim or proceeding, such Indemnitee or Indemnitees shall not compromise or settle such claim or proceeding without the prior written consent of the Partnership, which consent shall not be unreasonably withheld or delayed. If the Partnership does not assume the defense of any such claim or litigation in accordance with the provisions hereof, such Indemnitee or Indemnitees may defend against such claim or litigation in such manner as it or they may deem appropriate, including settling such claim or litigation (after giving prior Notification of the same to the Partnership and obtaining the prior written consent of the Partnership, which consent shall not be unreasonably withheld or delayed) on such terms and subject to such conditions as such Indemnitee or Indemnitees may deem appropriate, and the Partnership will promptly indemnify such Indemnitee or Indemnitees in accordance with the provisions of this **Article X**.

**10.5. Limit on Liability of Limited Partners.** The indemnification set forth in this **Article X** shall in no event cause the Limited Partners, or the General Partner to incur any personal liability beyond their respective Capital Accounts, nor shall it result in any liability of the Limited Partners or the General Partner to any third-party.

## ARTICLE XI AMENDMENT; CONSENTS FOR OTHER PURPOSES

**11.1. Amendments.** Subject to the provisions of **Section 11.4**, this Agreement may be amended solely with the prior written consent of each Partner.

**11.2. Waiver.** The General Partner has general authority to waive the provisions of this Agreement, *provided* that any such waiver will not, in the good faith judgment of the General Partner, have a material adverse effect on the Partnership or the Initial Limited Partners.

**11.3. Amendments of Certificate.** The General Partner shall cause the Certificate to be amended and/or restated at such time or times, to such extent and in such manner as may be required by the Act.

**11.4. Consents for Other Purposes.** The General Partner may from time to time determine to submit to the Limited Partners, for its approval, actions that are not required to be approved by the Partnership or the Limited Partners pursuant to the provisions of this Agreement. Any such action will be deemed to be approved by the Limited Partners if: (i) no later than 30 calendar days prior to the proposed effectiveness of such action, the General Partner gives Notification to the Initial Limited Partners describing such action in reasonable detail and (ii) prior to the effectiveness of such action, the General Partner obtains the Consent of the Partnership to such action.

## ARTICLE XII DISSOLUTION AND WINDING UP

**12.1. Events Causing Dissolution.** The Partnership shall be dissolved upon the first to occur of the following events, and, except as otherwise required by the Act or other applicable law, no other event shall cause the dissolution of the Partnership:

(a) the General Partner declares in writing that the Partnership shall be dissolved and gives Notification thereof to the Limited Partners;

(b) the date which occurs 30 days after the date on which the Initial Limited Partners give written notice to the General Partner that the Partnership shall be dissolved, unless such notice states a later date on which the Partnership shall dissolve, in which case, the Partnership shall dissolve on such later date;

(c) immediately upon the Initial Limited Partners giving written notice to the General Partner that the Partnership shall be dissolved for Cause; or

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

**12.2. Winding Up.** If the Partnership is dissolved or terminated pursuant to **Section 12.1**, the Partnership shall be wound up as soon as reasonably practicable thereafter in the manner set forth below.

(a) The winding up of the Partnership shall be carried out by a liquidator (the "Liquidator"). The Liquidator of the Partnership shall be the General Partner or a Person selected by the General Partner. The Liquidator shall be considered an Indemnitee for purposes of **Article X**.

(b) In winding up the Partnership, the Liquidator shall possess full, complete and exclusive right, power, and authority, in the name of and for and on behalf of the Partnership to do or take any one or more of the following things or actions, without affecting the liability of Limited Partners and without imposing liability on the Liquidator (and shall, to the extent required by the Act or otherwise required by law, do or take the following things or actions):

(i) prosecute and defend suits, whether civil, criminal, administrative or investigative, and other claims, actions or proceedings;

(ii) collect Partnership Property, including debts, liabilities and obligations owed to the Partnership, as applicable;

(iii) gradually settle and close the business and affairs of the Partnership;

(iv) sell, retire or otherwise dispose of and convey Partnership Property, and in connection therewith determine the timing, manner and terms of any such sale, retirement or other disposition, having due regard for the activity and condition of the relevant market and general financial and economic conditions;

(v) exercise all of the rights, powers and authorities conferred upon the General Partner under the provisions of this Agreement to the extent necessary, appropriate, advisable or convenient in the Liquidator's judgment to perform its duties, responsibilities and obligations under this **Article XII** (it being understood and agreed that the exercise of any one or more of such rights powers or authority shall not result in the Liquidator being deemed to be a General Partner of the Partnership);

(vi) pay, out of the proceeds of the sale, retirement or other disposition of Partnership Property, all reasonable selling costs and other expenses (including the compensation of the Liquidator as provided in **Section 12.4**) incurred in connection with the winding up of the Partnership;

(vii) (A) pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured contractual claims, known to the Partnership; (B) make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the Partnership which is the subject of a pending action, suit or proceeding to which the Partnership is a party; and (C) make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the Partnership or that have not arisen but that, based on facts known to the Partnership, are likely to arise or to become known to the Partnership within ten years after the date of dissolution or termination (any claims or obligations for which provision is so made by the Liquidator being referred to herein as "Liquidation Reserves");

(viii) distribute assets to creditors of the Partnership in accordance with the provisions of **Section 12.5(a)(i)**;

(ix) distribute any remaining assets to Limited Partners and former Limited Partners in accordance with the provisions of **Sections 12.5(a)(ii)** and **(iii)**; and

(x) prepare, execute, swear to, acknowledge, deliver, publish and file and record in the appropriate public offices, such certificates (including a certificate of cancellation under the Act), instruments and other documents (including tax returns) that in the Liquidator's judgment are necessary, appropriate, advisable or convenient under any applicable law, to effect the winding up of the Partnership.

**12.3. Post-Dissolution Portfolio Procedures.** Upon any dissolution of the Partnership, the Liquidator shall take the following actions with respect to the Partnership's portfolio, subject to **Section 12.2(b)**:

(a) the Liquidator shall use its reasonable best efforts to liquidate all investments held by the Partnership and deliver the proceeds thereof to the Initial Limited Partners within 60 days of the date of dissolution that have not been designated as Illiquid Investments; and

(b) the Liquidator shall liquidate all Illiquid Investments held by the Partnership in its good faith discretion with the goal of maximizing returns for the Partnership subject to any fiduciary obligations that the Liquidator may have to its other client accounts.

**12.4. Compensation of Liquidator.** The Liquidator shall be entitled to receive reasonable compensation from the Partnership, but only from the Partnership's assets, for its services as liquidator.



**12.5. Distribution of Property and Proceeds of Sale Thereof.**

(a) Upon completion of all desired sales, retirements and other dispositions of Partnership Property, the Liquidator shall, in accordance with the provisions of Section 17-804(a) of the Act, distribute the proceeds of such sales, retirements and dispositions, and any Partnership Property that is to be distributed in kind, in the following order of priority:

(i) to pay or make reasonable provision for the payment (through the Liquidation Reserves) of the debts, liabilities and obligations of the Partnership to creditors of the Partnership, including, to the extent permitted by applicable law, Limited Partners and former Limited Partners who are creditors of the Partnership (other than (A) debts, liabilities and obligations in respect of which provision has already been made through the Liquidation Reserves and (B) liabilities for distributions to Limited Partners and former Limited Partners under Sections 17-601 or 17-604 of the Act);

(ii) to satisfy liabilities of the Partnership to Limited Partners and former Limited Partners for distributions under Sections 17-601 or 17-604 of the Act; and

(iii) to the Partners, in an amount equal to the positive balances in their respective Capital Accounts after allocating all items for all periods prior to and including the date of distribution, including items relating to sales and distributions pursuant to this **Article XII** and any Incentive Allocation.

(b) A Person who receives a distribution following dissolution of the Partnership in violation of **Section 12.5(a)** shall be liable to the Partnership for the amount of such distribution, regardless of whether the Person had knowledge of such violation at the time of such distribution; *provided, however*, that, subject to the provisions of Section 17-502 of the Act, the Liquidator may compromise or waive any such liability on such terms and subject to such conditions as the Liquidator may determine.

(c) All distributions required under this **Section 12.5** shall be made by the end of the Fiscal Year in which the completion of the winding up of the Partnership occurs or, if later, within 90 calendar days after the date of such completion.

(d) Pursuant to the provisions of Section 17-804(b) of the Act, if there are sufficient assets to satisfy the claims of all priority groups specified above, such claims shall be paid in full and any such provision for payment shall be made in full. If there are sufficient assets to satisfy the claims of one or more but not all priority groups specified above, the claims of the highest priority groups that may be paid or provided for in full shall be paid or provided for in full, before paying or providing for any claims of a lower priority group. If there are insufficient assets to pay or provide for the claims of a particular priority group specified above, such claims shall be paid or provided for ratably to the claimants in such group to the extent of the assets available to pay such claims.

(e) Amounts in the Liquidation Reserves shall be paid to creditors of the Partnership as set forth in **Section 12.5(a)(i)**. Any amounts remaining in the Liquidation Reserves after such payments shall be paid as provided in **Sections 12.5(a)(ii)** and **(iii)**.

**12.6. Final Audit.** Within a reasonable time following the completion of the winding up of the Partnership (excluding, for purposes of this **Section 12.6**, the liquidation of the related Liquidation Reserves), the Liquidator shall furnish to each Limited Partner a statement setting forth the assets and the liabilities of the Partnership as of the date of such completion and each Limited Partner's share of distributions pursuant to **Section 12.5**.

**12.7. Deficit Capital Accounts.** Notwithstanding anything to the contrary contained in this Agreement, and notwithstanding any custom or rule of law to the contrary, to the extent that the deficit, if any, in any Limited Partner's Capital Account results from or is attributable to deductions and losses of the Partnership (including non-cash items such as depreciation), or distributions of money pursuant to this Agreement to Limited Partners in proportion to the Ownership Percentages associated with their Capital Accounts, upon termination of the Partnership

such deficit shall not be an asset of the Partnership and such Limited Partner shall not be obligated to contribute such amount to the Partnership to bring the balance of such Capital Account to zero.

### ARTICLE XIII BENEFIT PLAN INVESTORS

**13.1. Investment in Accordance with Law.** Each Limited Partner that is, or is investing assets on behalf of, an “employee benefit plan” as defined in and subject to the fiduciary responsibility provisions of ERISA, a “plan” as defined in, and subject to, Section 4975 of the Code, or any governmental plan as defined in Section 3(32) of ERISA and subject to any federal, state or local law substantially similar to the fiduciary responsibility provisions of ERISA or Section 4975 of the Code (“Similar Law”) (each such employee benefit plan, plan and governmental plan, a “Plan”), and each fiduciary thereof who has caused the Plan to become a Limited Partner (a “Plan Fiduciary”), represents and warrants that (a) the Plan Fiduciary has considered an investment in the Partnership for such Plan in light of the risks relating thereto; (b) the Plan Fiduciary has determined that, in view of such considerations, the investment in the Partnership for such Plan is consistent with the Plan Fiduciary’s responsibilities under ERISA; (c) the investment in the Partnership by the Plan does not violate and is not otherwise inconsistent with the terms of any legal document constituting the Plan or any trust agreement thereunder; (d) the Plan’s investment in the Partnership has been duly authorized and approved by all necessary parties; (e) none of the General Partner, the Investment Manager, any placement agent, any of their respective affiliates or any of their respective agents or employees: (i) has investment discretion with respect to the investment of assets of the Plan used to purchase Interests; (ii) has authority or responsibility to or regularly gives investment advice with respect to the assets of the Plan used to purchase Interests for a fee and pursuant to an agreement or understanding that such advice will serve as a primary basis for investment decisions with respect to the Plan and that such advice will be based on the particular investment needs of the Plan; or (iii) is an employer maintaining or contributing to the Plan; and (f) the Plan Fiduciary (i) is authorized to make, and is responsible for, the decision for the Plan to invest in the Partnership, including the determination that such investment is consistent with the requirement imposed by Section 404 of ERISA (or any comparable requirement under Similar Law) that Plan investments be diversified so as to minimize the risks of large losses; (ii) is independent of the General Partner, the Investment Manager, each placement agent, and each of their respective affiliates; and (iii) is qualified to make such investment decision.

**13.2. Disclosures and Restrictions Regarding Benefit Plan Investors.** Each Limited Partner that is a “benefit plan investor” (defined as any Plan, and any entity (“Plan Assets Entity”) deemed for any purpose of ERISA or Section 4975 of the Code to hold assets of any Plan) represents that the individual signing the Subscription Agreement on behalf of such Limited Partner has disclosed such Limited Partner’s status as a benefit plan investor by accurately responding to the applicable questions in the Subscription Agreement. Each Limited Partner that is not a “benefit plan investor” represents and agrees that if at a later date such Limited Partner becomes a benefit plan investor, such Limited Partner will immediately notify the General Partner of such change of status. In addition, each Plan Assets Entity agrees to promptly provide information to the General Partner, upon the General Partner’s reasonable request, regarding the percentage of the Plan Assets Entity’s equity interests held by benefit plan investors. Notwithstanding anything herein to the contrary, the General Partner, on behalf of the Partnership, may take any and all action including, but not limited to, refusing to admit persons as Limited Partners or refusing to accept additional Capital Contributions, and requiring the withdrawal of the Interests of any Limited Partner in accordance with Section 6.5 hereof, as may be necessary or desirable to assure that at all times less than 25% of the total value of each “class of equity interests in the Partnership” as determined pursuant to United States Department of Labor Regulation Section 2510.3-101 and Section 3(42) of ERISA, is held by benefit plan investors (not including the investments of the General Partner, the Investment Manager, any other person who provides investment advice for a fee (direct or indirect) with respect to the Partnership, any other person who has discretion or control over the assets of the Partnership, and individuals and entities (other than benefit plan investors) that are “affiliates,” as such term is defined in the applicable regulation promulgated under ERISA, of any such Person) or to otherwise prevent the Partnership from holding “plan assets” under Section 3(42) of ERISA.

**ARTICLE XIV  
MISCELLANEOUS**

**14.1. Construction and Governing Law.**

(a) To the extent that the Partnership is invested in a Marathon Fund and the provisions of this Agreement conflict with the operative documents of such Marathon Fund, the terms of this Agreement shall control, except that the Initial Limited Partners agree that the Partnership's investment in a Marathon Fund shall be subject to its *pro rata* share of the Marathon Fund's expenses (other than any management fees paid or incentive allocations made to a Marathon Party in respect of such Marathon Fund) and liabilities relating to indemnification.

(b) This Agreement, together with the Side Letter, the Initial Limited Partner's Subscription Agreement, the Investment Management Agreement and the Certificate, contain the entire understanding among the parties hereto with respect to the subject matter hereof and thereof, and supersede all prior agreements, understandings, arrangements, inducements or conditions, express or implied, oral or written, between or among any of the parties hereto with respect to the subject matter hereof and thereof.

(c) All provisions of this Agreement and the Certificate, and all questions relating to (i) the validity, interpretation, application or enforcement of such provisions, (ii) the duties, responsibilities, liabilities or obligations of the General Partner and/or the Partnership to any one or more Limited Partners under this Agreement or the Act, (iii) the duties, responsibilities, liabilities or obligations of any one or more Limited Partners to the General Partner and/or the Partnership under this Agreement or the Act, (iv) the duties, responsibilities, liabilities or obligations of any one or more Limited Partners to any one or more other Limited Partners under this Agreement or the Act, (v) the rights, powers or authority of, or limitations or restrictions on, the General Partner and/or the Partnership under this Agreement or the Act, and/or (vi) the rights, powers, authority, privileges, or preferences of, or limitations or restrictions on, any one or more Limited Partners under this Agreement or the Act, shall be governed by and construed and administered in accordance with the internal substantive laws of the State of Delaware without regard to principles of conflict of laws (to the extent not preempted by the Securities Laws).

(d) In case any one or more of the provisions contained herein shall, for any reason, be found or held invalid, illegal, or unenforceable in any respect in any jurisdiction, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality, or unenforceability without invalidating the remainder of such invalid, illegal, or unenforceable provision or provisions or any other provisions of this Agreement in that or any other jurisdiction, unless such a construction would be unreasonable.

(e) In applying the provisions of Sections 14.1 (a)-(c):

(i) it is understood and agreed that this Agreement is executed and delivered by the General Partner pursuant to the Act, and that the parties intend that the provisions hereof be given full force and effect pursuant to the principles set forth in Sections 17-1101 (a), (b), and (c) of the Act. Accordingly, to the extent this Agreement modifies or nullifies any provision of the Act that would apply in the absence of such modification or nullification, as permitted by the Act (any such provision of the Act being referred to herein as a "default" provision), such modification or nullification shall apply in preference to such "default" provision;

(ii) to the extent there is a direct conflict between the provisions of this Agreement and any provision of the Act that may not lawfully be modified or nullified by agreement among the parties, such provision of the Act shall control; and

(iii) if the General Partner shall determine, with the advice of counsel, that any provision of this Agreement is in conflict with (A) the Securities Laws, (B) the provisions of Subchapter K of the Code, or (C) other applicable laws, rules, regulations, or orders, whether generally or in a particular application, the conflicting provision or such particular application thereof, as the case may be, shall not be deemed to constitute a part of this Agreement for so long as such conflict exists (*provided, however, that*

such determination shall not affect any of the remaining provisions of this Agreement or any lawful application of any provision, or render invalid or improper any action taken or omitted prior to such determination).

(f) In construing the meaning or application of the Securities Laws, the General Partner may consider the effect of any applicable order or interpretative release issued by the SEC, or any applicable “no action” or interpretative position issued by the staff of the SEC, that modifies or interprets the Securities Laws.

(g) Each reference in this Agreement to a particular statute or regulation, or provision thereof, shall be deemed to refer to such statute or regulation, or provision thereof, or to any superseding statute or regulation, or provision thereof, as is from time to time in effect, as well as to applicable regulations thereunder.

(h) References to agreements or documents are to be construed to include all such agreements and documents as amended, modified or supplemented from time to time pursuant to the terms thereof.

(i) In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays, and holidays; *provided, however*, that if the final day of any time period falls on a Saturday, Sunday, or holiday on which national banks are or may elect to be closed in the United States, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or such holiday.

(j) Except as otherwise stated in this Agreement, references in this Agreement to Articles and Sections are to Articles and Sections of this Agreement.

(k) The headings to Articles and Sections are for convenience of reference only and shall not form part of or affect the meaning or interpretation of this Agreement.

(l) Where appropriate, each definition and pronoun in this Agreement includes the singular and the plural, and reference to the neuter gender includes the masculine and feminine, and *vice versa*.

(m) As used in this Agreement, except as otherwise specified herein or as the context may otherwise require: (i) capitalized terms used in this Agreement have the respective meanings assigned them herein for all purposes of this Agreement; (ii) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole (including any attachments hereto) and not to any particular section or other subdivision; (iii) the word “including” and correlative words shall be deemed to be followed by the phrase “without limitation”; (iv) unless used in conjunction with the word “either”, the word “or” is always used inclusively herein (for example, the phrase “A or B” means “A or B or both”, not “either A or B but not both”); (v) references to a person include references to such person’s successors and assigns; (vi) all determinations, including calculations, conclusions, judgments, elections and decisions made by the General Partner or the Investment Manager shall be final and conclusive, and discretion to make such determinations shall be deemed to be sole and absolute; (vii) references to an agreement or other document are to it as amended, supplemented, restated and otherwise modified from time to time and to any successor document; (viii) references to a statute, regulation or other government rule are to it as amended from time to time and, as applicable, are to corresponding provisions of successor governmental rules; (ix) any determination to be made by the General Partner or the Investment Manager may be made in respect of any one or more or all applicable Limited Partners, in the discretion of the General Partner or the Investment Manager, as applicable; and (x) the terms “purchase” or “sale” and similar expressions include any form of participation or transfer of such participation rights, respectively.

(n) The express provisions hereof control and supersede any course of performance or usage of the trade inconsistent with any of the provisions hereof.

**14.2. Fee Terms.** The Management Fee and the Incentive Allocation applicable to the Partnership is the most favorable fee and allocation arrangement offered by the General Partner, the Investment Manager and their respective Affiliates to any Parallel Vehicles that have an equal or lower Net Asset Value than the Partnership. In the event that the General Partner, the Investment Manager or their respective Affiliates manage a Parallel Vehicle

with a more favorable management fee and incentive allocation arrangement than that set forth herein, the General Partner and Investment Manager agree to promptly disclose such fee and allocation arrangement to the Initial Limited Partners in writing, and shall provide the Partnership with the benefit of such favorable management fee and incentive allocation arrangement, effective as of the date they become effective with respect to such Parallel Vehicle. This Agreement shall be deemed amended as of such date to reflect the implementation of such favorable fee and incentive allocation arrangement. The foregoing representation and warranty shall be deemed to be made on the date hereof and repeated every day in which this Agreement is in effect.

**14.3. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories. Any writing that has been duly executed by a Person in which such Person has agreed to be bound hereby as a Limited Partner shall be considered a counterpart for purposes of the foregoing.

**14.4. Notices and Communications.** All notices and communications made pursuant to this Agreement shall be in writing and may be delivered in person, sent by registered mail, postage prepaid, delivered by overnight courier, or sent by facsimile or electronic mail to the following respective addresses until a different address is specified in writing by a party to the other party:

To the Partnership:

Marathon Blue Grass Credit Fund, LP  
c/o Marathon Blue Grass Credit GP, LLC  
One Bryant Park, 38th Floor  
New York, New York 10036  
Attn: Mr. Andrew Rabinowitz  
Facsimile: [REDACTED]  
Email: [REDACTED]

To the General Partner:

Marathon Blue Grass Credit GP, LLC  
One Bryant Park, 38th Floor  
New York, New York 10036  
Attn: Mr. Andrew Rabinowitz  
Facsimile: [REDACTED]  
Email: [REDACTED]

To the Initial Limited Partners:

Kentucky Retirement Systems  
1260 Louisville Road  
Frankfort, Kentucky 40601  
Attn: Rich Robben  
Email: Rich.Robben@kyret.ky.gov

Kentucky Retirement Systems Insurance Trust Fund  
1260 Louisville Road  
Frankfort, Kentucky 40601  
Attn: Rich Robben  
Email: Rich.Robben@kyret.ky.gov

To the Administrator:

Citco Fund Services (Cayman Islands) Limited  
c/o Citco Fund Services (USA) Inc.  
3 Second Street  
Harborside Plaza 10-6th Floor  
Jersey City, New Jersey 07311  
Facsimile: [REDACTED]  
Email: [REDACTED]

**14.5. Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties (and Indemnitees as provided under **Article X**) and their respective Successors.

**14.6. Remedies for Breach; Effect of Waiver or Consent.** A waiver or consent, express or implied, of or to any breach or default by any Person in the performance by that Person of his duties, responsibilities or obligations with respect to the Partnership is not a consent to or waiver of any other breach or default in the performance by that Person of the same or any other duties, responsibilities or obligations of that Person with respect to the Partnership. Failure on the part of a Person to complain of any act of any other Person or to declare any other Person in default with respect to the Partnership, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

**14.7. Further Assurances.** In connection with this Agreement and the transactions contemplated hereby, each Limited Partner shall, promptly upon the request of the General Partner: (a) execute and deliver, or cause to be executed and delivered, such additional instruments, certificates and other documents; (b) make, or cause to be made, such additional filings, recordings and publishings; (c) provide, or cause to be provided, such additional information; and (d) do, or cause to be done, such further acts and things, in each case as may reasonably be determined by the General Partner to be necessary, appropriate, advisable or convenient to carry out the intent and purpose of this Agreement and as are not inconsistent with the provisions hereof. Without limiting the generality of the foregoing, each Limited Partner shall, promptly upon the request of the General Partner, execute and deliver or cause to be executed and delivered such certificates, instruments and other documents, and make or cause to be made such filings, recordings and publishings, as the General Partner reasonably determines to be necessary, appropriate, advisable or convenient to comply with the requirements for the operation of the Partnership as a limited partnership under the Act and the qualification of the Partnership to do business in any jurisdiction in which the Partnership owns property or conducts business.

IN WITNESS WHEREOF, the undersigned have executed this Limited Partnership Agreement on the date below, effective as of the date first above written.


GENERAL PARTNER:

Marathon Blue Grass Credit GP, LLC

LIMITED PARTNERS:

All Persons now and hereafter admitted as limited partners of the Partnership by the General Partner and who executed a counterpart of this Agreement or are deemed to have executed this Agreement by execution of their Subscription Agreements.

By:

  
Name: ANDREW KABINOVITCH  
Title: AUTHORIZED SIGNATORY  
Date: JAN 13, 2016

Kentucky Retirement Systems:

By:

\_\_\_\_\_  
Name:  
Title:  
Date:

Kentucky Retirement Systems Insurance Trust Fund:

By:

\_\_\_\_\_  
Name:  
Title:  
Date:

IN WITNESS WHEREOF, the undersigned have executed this Limited Partnership Agreement on the date below, effective as of the date first above written.

GENERAL PARTNER:

Marathon Blue Grass Credit GP, LLC

LIMITED PARTNERS:

All Persons now and hereafter admitted as limited partners of the Partnership by the General Partner and who executed a counterpart of this Agreement or are deemed to have executed this Agreement by execution of their Subscription Agreements.

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

Name:

Title:

Date:

Kentucky Retirement Systems:

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

Name: James R. Robben

Title: Deputy CFO

Date: 1/14/16

Kentucky Retirement Systems Insurance Trust Fund:

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

Name: James R. Robben

Title: Deputy CFO

Date: 1/14/16



**EXHIBIT A**  
**INVESTMENT GUIDELINES**



**EXHIBIT B**

**KEY PERSONS**



**EXHIBIT C**  
**SIDE LETTER**

Marathon Blue Grass Credit Fund, LP  
c/o Marathon Blue Grass Credit GP, LLC  
One Bryant Park, 38<sup>th</sup> Floor  
New York, New York 10036

January 13, 2016

Kentucky Retirement Systems  
1260 Louisville Road  
Frankfort, Kentucky 40601

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

Re: Marathon Blue Grass Credit Fund, LP (the "Partnership")

Dear Sirs:

As a condition to the subscription of the Kentucky Retirement Systems and Kentucky Retirement Systems Insurance Trust Fund (the "Initial Limited Partners") for an interest in the Partnership and the Initial Limited Partners' continued membership therein, each of Marathon Blue Grass Credit GP, LLC (the "General Partner") and Marathon Asset Management, L.P. (the "Investment Manager"), on behalf of (i) the Partnership and (ii) itself as General Partner and Investment Manager, respectively, hereby acknowledges and agrees that the terms and conditions set out in the Limited Partnership Agreement of the Partnership dated as of January 13, 2016 (the "Limited Partnership Agreement") and the Partnership's Subscription Agreements with the Initial Limited Partners are modified as follows (the "Side Letter"):

1. Public Records.

(a) The Partnership hereby acknowledges and agrees that (i) the Initial Limited Partners are public agencies subject to Kentucky's public record law (the "Open Records Act," Kentucky Revised Statutes sections 61.870 to 61.884), which provides 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) the Initial Limited Partners will generally treat all information received from the General Partner or the Partnership as open to public inspection under the Open Records Act unless such information falls within an exemption under the Open Records Act and (iii) the Initial Limited Partners will not be deemed to be in violation of any provision of the Limited Partnership Agreement or the Subscription Agreement relating to confidentiality if the Initial Limited Partners disclose or make available to the public any information regarding the Partnership to the extent required pursuant to or under the Open Records Act.

(b) The General Partner acknowledges that the Initial Limited Partners consider certain fund level information public under the Open Records Act and that the Initial

Limited Partners have concluded that they are obligated to disclose such information upon request. Notwithstanding any provision in the Limited Partnership Agreement or the Subscription Agreement to the contrary, the General Partner agrees that the Initial Limited Partners may disclose the following information without notice to the General Partner or the Partnership: (i) the name of the Partnership, (ii) the date in which an Initial Limited Partner's initial Capital Contribution was made to the Partnership; (iii) the aggregate amount of an Initial Limited Partner's Capital Contributions, (iv) the aggregate distributions received by an Initial Limited Partner from the Partnership as of a specified date, (v) the estimated current value of an Initial Limited Partner's investment in the Partnership as of any previous date, (vi) the net asset value of the Partnership as of a specified date, (vii) the estimated IRR of an Initial Limited Partner's investment in the Partnership as of a specified date, which shall be clearly disclosed to have been calculated by the Initial Limited Partners or its representatives and not to have been provided or approved by the General Partner or the Partnership and (viii) the amount of Management Fees (or amounts paid in lieu of Management Fees) paid and Incentive Allocations allocated to the Investment Manager and its Affiliates with respect to an Initial Limited Partner's Interest. Nothing contained herein shall require the General Partner to disclose to the Initial Limited Partners information not otherwise made available to all Limited Partners pursuant to the Limited Partnership Agreement.

(c) The General Partner agrees that the Initial Limited Partners may disclose confidential information to any governmental body that has oversight over it and its statutory auditor without notice to the General Partner or the Partnership; provided that such information retains the same confidential treatment with the recipient.

2. Indemnification. The General Partner acknowledges that the Initial Limited Partners have advised it that indemnification obligations under the Limited Partnership Agreement and the Subscription Agreement that may be attributed to the Initial Limited Partners are not expressly authorized by the laws of the Commonwealth of Kentucky. As a result thereof, the Initial Limited Partners 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 Initial Limited Partners in the Limited Partnership Agreement or the Subscription Agreement shall be deemed to be modified so as to be consistent with the provisions of the preceding sentence.

3. Tax Assistance. The General Partner acknowledges that Initial Limited Partners are tax-exempt under (i) IRC § 115 as a governmental entity and (ii) IRC § 401(a) as a qualified pension plan. As a result, the Initial Limited Partners are exempt from taxation and tax withholding in most jurisdictions. The General Partner agrees to advise taxing authorities, including foreign and U.S. federal, state and local tax authorities, of the Initial Limited Partners' status whenever relevant in the conduct of the Partnership's affairs. Furthermore, the General Partner agrees to notify the Initial Limited Partners in writing in the event a foreign or U.S. federal, state or local taxing authority determines that the Initial Limited Partners are subject to taxation or withholding and to assist the Initial Limited Partners when Partnership assistance is needed to avoid taxation or to reclaim taxes withheld, whether by the Partnership. In any event, the General Partner will not withhold or make payments to governmental authorities, including any foreign or U.S. federal, state or local taxing authorities, with respect to the Initial Limited Partners without prior written notice to the Initial Limited Partners, and the General Partner will

provide the Initial Limited Partners with the opportunity and assistance as needed to contest any claim that the Initial Limited Partners are subject to taxation.

4. Foreign Tax and Filing Requirements. The General Partner agrees that it will use reasonable efforts to structure investments so as not to cause the Initial Limited Partners to become subject to tax (“Tax Requirements”) or to be required to make any tax filings in any jurisdiction (“Filing Requirements”) solely as a result of being a Limited Partner of the Partnership. If, despite such efforts, the General Partner becomes aware of the fact that the Initial Limited Partners would become subject to Tax Requirements or Filing Requirements, the General Partner will (i) as soon as practicable notify the Initial Limited Partners, (ii) take appropriate steps in order to minimize the amount of taxes on the Initial Limited Partners, (iii) use reasonable best efforts to provide the Initial Limited Partners with any information and any tax form reasonably necessary to enable the Initial Limited Partners to prepare any Tax Requirements or Filing Requirements, (iv) provide the Initial Limited Partners and its tax advisors with reasonable access to the Partnership’s tax advisors in connection with the preparation by the Initial Limited Partners of any such tax return, in each case at the Initial Limited Partners’ expense and (v) provide other reasonable assistance to the Initial Limited Partners in order to comply with the Tax Requirements and Filing Requirements.

5. Reservation of Immunities. The Initial Limited Partners hereby reserve all immunities, defenses, rights or actions arising out of its sovereign status or under the Eleventh Amendment to the United States Constitution, and no waiver of any such immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by its entry into the Limited Partnership Agreement, the Subscription Agreement or this Side Letter (the “Investment Agreements”), by any express or implied provision thereof or by any actions or omissions to act on behalf of the Initial Limited Partners or any representative or agent of the Initial Limited Partners, whether taken pursuant to the Limited Partnership Agreement or the Subscription Agreement or prior to the entry by the Initial Limited Partners into the Limited Partnership Agreement or the Subscription Agreement. Notwithstanding the foregoing sentence, the Initial Limited Partners hereby acknowledge that the foregoing sentence in no way compromises or otherwise limits the obligations (including the contractual liability) of the Initial Limited Partners under the Investment Agreements nor shall it reduce or modify the rights of the General Partner and the Partnership to enforce such obligations at law or in equity, in each case including but not limited to any obligation to reimburse or otherwise pay the Partnership or any other Partner for any loss, damage or liability arising from a breach of any representation, warranty or agreement of the Initial Limited Partners contained in the Limited Partnership Agreement or the Subscription Agreement.

6. Placement Agent Fees; Conflicts of Interest.

(a) No fees, bonuses or other compensation, including placement fees or finder’s fees, have been paid by or on behalf of the General Partner or its Affiliates to any placement agent, finder or other individual or entity in connection with the Initial Limited Partners’ investments, or which could be charged to the Initial Limited Partners directly or indirectly.

(b) 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 KRS Board of Trustees and (ii) any person which is a trustee, staff member, or employee of the Initial Limited Partners.

(c) 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 the Initial Limited Partners’ investments. 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.

(d) 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.

(e) 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), except as otherwise disclosed in the confidential offering memorandum of an underlying Marathon Fund in which the Partnership invests.

(f) The term “in connection with the Initial Limited Partners’ investments,” as used in this paragraph 6, includes (i) obtaining an introduction to the Initial Limited Partners or any of the Initial Limited Partners’ officers or employees and (ii) obtaining a favorable recommendation with respect to the Initial Limited Partners’ investments. The term “agent,” as used in this paragraph 6, includes anyone who is acting at the behest of any of the persons identified above.

(g) The General Partner agrees to provide the Initial Limited Partners 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.

7. Notice of Certain Events. The General Partner agrees to use its reasonable best efforts to provide the Initial Limited Partners with prompt notice following each of the following events: (i) amendment of the Limited Partnership Agreement and (ii) use of the Power of Attorney.

8. Power of Attorney. The General Partner agrees that any power of attorney provisions in the Limited Partnership Agreement, the Subscription Agreement or other document authorizing the General Partner to take actions in the name of the Initial Limited Partners shall

not apply to any action by the General Partner that is illegal or otherwise a violation of the law, and such power of attorney shall be revocable by the Initial Limited Partners in the event of (i) bankruptcy or insolvency of the General Partner or (ii) a finding (other than a temporary, preliminary or similar injunction) by any court or governmental body of competent jurisdiction in a final and non-appealable judgment, verdict or order that the General Partner or the Investment Manager has committed embezzlement or fraud or acted in bad faith, in connection with the performance of their respective duties under the terms of the Limited Partnership Agreement and the individuals who engaged in such conduct are not terminated from employment with the General Partner, the Investment Manager and their Affiliates within 30 days of such finding.

9. Website Information. If the Investment Manager and the General Partner designate a website to disseminate information about the Partnership, the Investment Manager and the General Partner agree that if the terms of use or other confidentiality, end-user or license agreements of such website are inconsistent with or contrary to the terms of the Limited Partnership Agreement, the Subscription Agreement or this Side Letter, the terms of the Limited Partnership Agreement, the Subscription Agreement or this Side Letter, as applicable, shall control.

10. No Bad Acts/Litigation. The Partnership and the General Partner represents and warrants that (i) there are no actions, proceedings or investigations pending or, to the knowledge of the Partnership or the General Partner, threatened against the Partnership, the Investment Manager, the General Partner, any managing member of the General Partner or any Affiliates of the Investment Manager or General Partner and (ii) during the five years prior to the date hereof none of the Investment Manager, General Partner or any managing member of the General Partner has been the subject of any action, proceeding or investigation that claimed or alleged fraud, misrepresentation, or violation of any federal or state securities law, rule or regulation.

11. Notice of Certain Matters (Investigations, Litigation). The General Partner shall notify the Initial Limited Partners as soon as reasonably practicable of (i) any claims for indemnification formally made against the Partnership pursuant to Section 10.2 of the Limited Partnership Agreement, (ii) the commencement of any lawsuit against the Partnership or General Partner, (iii) the commencement of any lawsuit against the Investment Manager that could reasonably be expected to have a material adverse effect on the Partnership or the Initial Limited Partners' investments and (iv) the receipt of a "Wells Notice" or similar notice from a federal, state or other regulatory authority by the Partnership, the General Partner, the Investment Manager or any of their Affiliates regarding the commencement of any legal or disciplinary proceeding that could reasonably be expected to have a material adverse effect on the Partnership or the Initial Limited Partners' investments.

12. Notice of Material Events Related to Auditors. The General Partner agrees that it will provide the Initial Limited Partners with prompt notification if the General Partner takes or fails to take any action that (i) would materially reduce the scope of functions to be performed by the auditors or (ii) would directly cause the auditor's report to the audited annual financial statements provided by the General Partner to include any qualification due to scope limitations, lack of sufficient competent evidential matter, or a departure from generally accepted accounting principles.



13. Opinion of Counsel. The General Partner hereby agrees that in connection with any opinion of counsel to be rendered on behalf of the Initial Limited Partners, the opinion of the general counsel of the Initial Limited Partners, as well as other outside legal counsel, shall be deemed to be acceptable to the General Partner for all purposes of the Limited Partnership Agreement. In connection therewith, the General Partner shall provide to the Initial Limited Partners all information that is reasonably requested in order to enable the Initial Limited Partners' counsel to render any such opinion (so long as providing such information does not cause the General Partner any undue burden).

14. Certificate in Lieu of Opinion. In connection with the incurrence by the Partnership of any indebtedness, if and to the extent that any lender or holder of such indebtedness seeks to require the Initial Limited Partners to issue a legal opinion, the General Partner shall cause such lender or holder accept an officer's certificate of the Initial Limited Partners, in lieu of any such legal opinion.

15. Financial Reporting. In the annual reports delivered to the Initial Limited Partners, the General Partner hereby agrees to furnish the Initial Limited Partners with the following information:

(a) a description of the amount and use of all outstanding debt guarantees of the Partnership; and

(b) a description of the amount of the Management Fees paid to the Investment Manager and the Incentive Allocation allocated to the General Partner.

16. Accountants Certification. The General Partner will use its reasonable best efforts to cause the Partnership's independent certified accountants (i) to certify in its annual audit that allocations and distributions to Initial Limited Partners were made in accordance with the Limited Partnership Agreement and (ii) in the event that, despite such reasonable best efforts, such independent certified accountants do not make such certification, to certify in its annual audit that allocations and distributions to the General Partner, on the one hand, and the Initial Limited Partners, as a group, on the other hand, were made in accordance with the Limited Partnership Agreement.

17. Transaction Fee Disclosure. The General Partner agrees that it will provide the Initial Limited Partners with an annual statement showing any fees received by the General Partner or any of its Affiliates in connection with the Partnership (other than the Management Fee or the Incentive Allocation). Such annual statement shall specify the nature of such fees (*e.g.*, transactional, directors, monitoring fees, etc.).

18. Notice of Dissolution. The General Partner shall notify the Initial Limited Partners promptly if the Partnership is dissolved.

19. Anti-Bribery Laws. Each of the Investment Manager and the General Partner, on behalf of the Partnership, and each of their respective officers, managers, employees, independent contractors, representatives or agents, covenants and maintains that it is in material compliance with policies and procedures reasonably designed to prevent to the violation of applicable anticorruption laws, including without limitation, the U.S. Foreign Corrupt Practices

Act, the United Kingdom Bribery Act of 2010, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and any other applicable anticorruption laws in countries where the Partnership engages in investment activities.

20. Investments Consistent with the Limited Partnership Agreement. The General Partner covenants that it will cause the Partnership's investments in its reasonable judgment to be materially consistent with (i) the investment program, objectives and limitations described in the Limited Partnership Agreement, as may be amended, modified, supplemented or issued from time to time.

21. Investment Manager's Annual Report. Within 120 days of the end of each fiscal year of the Partnership, the CFO of the Investment Manager shall execute and deliver to the Initial Limited Partners a letter stating that to his or her knowledge (i) the annual audited financial statements of the Partnership fairly present in all material respects the financial condition of the Partnership for the periods presented, (ii) the General Partner has no knowledge of the existence of any material breach of the Limited Partnership Agreement and (iii) distributions by the Partnership to the Initial Limited Partners for that fiscal year have been made in accordance with the Limited Partnership Agreement; provided that if he or she cannot make such statements the letter shall instead provide a description of the reasons therefor.

22. Tax Efficient Structure. When structuring portfolio investments of the Partnership, the General Partner shall consider the tax consequences to the Initial Limited Partners and shall use commercially reasonable efforts to structure such investments and entities in a tax-efficient manner, taking into account relevant alternatives and subject to the Partnership's objective of maximizing pre-tax returns.

23. Management Fee Calculation. Within 120 days after the end of each fiscal year of the Partnership, the General Partner will provide the Initial Limited Partners with details on the calculation of the Management Fee for each calendar quarter and any Incentive Allocation for such fiscal year.

24. Waiver. The General Partner confirms that, in the absence of a separate express prior written consent, amendment or waiver executed by the Initial Limited Partners, the making of any Capital Contribution by the Initial Limited Partners 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 Limited Partnership Agreement, the Subscription Agreement, the Investment Management Agreement and this Side Letter, irrespective of whether or not the Initial Limited Partners 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.

25. 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 to be acquired by the Initial Limited Partners pursuant to the Limited Partnership Agreement and the Subscription Agreement represent duly and validly issued interests in the Partnership.

(b) Each of the Limited Partnership Agreement and the Subscription Agreement, a copy of each of which has been furnished to the Initial Limited Partners, has been duly executed and delivered on behalf of the General Partner and constitutes the legal, valid and binding obligation of the General Partner, enforceable against the General Partner in accordance with its terms. This Side Letter has been duly executed and delivered on behalf of the General Partner and constitutes the legal, valid and binding obligation of the General Partner, enforceable against the General Partner in accordance with its terms.

(c) The General Partner has all requisite power and authority to conduct its business as described in the Limited Partnership Agreement.

(d) Except as may be contemplated under the laws of the Commonwealth of Kentucky, neither the execution and delivery of the Limited Partnership Agreement, the Subscription Agreement, this Side Letter nor the consummation of any of the transactions contemplated thereby or hereby, will result in a violation of any order, writ, injunction, decree or award of any court or governmental authority to which the Partnership, the General Partner, the Investment Manager, or any of their respective Affiliates may be subject. Except as may be contemplated under the laws of the Commonwealth of Kentucky, the execution and delivery by the General Partner of the Limited Partnership Agreement, the Subscription Agreement and this Side Letter do not require any filing with, or the approval or consent of, any governmental authority which has not already been made or obtained, except, if deemed necessary or advisable by the General Partner, the filings under applicable securities laws.

## 26. Anti-Money Laundering.

(a) The General Partner confirms that it interprets its duties to require that it conduct the business of the Partnership in compliance with all applicable laws in all material respects, and shall use its commercially reasonable efforts to cause the Partnership to comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (the "USA PATRIOT Act"), the Trading with the Enemy Act (50 U.S.C. § 1 et seq., as amended), the substantive prohibitions of the anti-boycott laws of the United States, any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended), and any enabling legislation or executive order relating thereto.

(b) The General Partner agrees that it will use its commercially reasonable efforts to avoid any investment in the Partnership by and to cause the Partnership to avoid any transactions with any Person whom the General Partner knows after reasonable inquiry (i) appears on the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control in the United States Department of the Treasury, (ii) is a Person with which a transaction is prohibited by Executive Order 13224, the USA PATRIOT Act, the Trading with the Enemy Act or the foreign asset control regulations of the United States Treasury Department, in each case as amended from time to time, (iii) is controlled by any Person described in the foregoing items (i) or (ii) (with ownership of 20% or more of outstanding voting securities being presumptively a control position), or (iv) is a Person having its principal place of business, or the majority of its business operations (measured by revenues), located in any country described in the foregoing item (ii). The General Partner shall use commercially

reasonable efforts not to, and shall use commercially reasonable efforts to cause the Partnership not to, make any payment to any Person in violation of the substantive prohibitions of the anti-boycott laws of the United States, any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended), and any enabling legislation or executive order relating thereto. The General Partner agrees that for purposes of this paragraph, the term “Person” includes governments, territories and other political entities.

27. Credit Facility. In connection with any credit facility entered into by the Partnership for which the Initial Limited Partners’ Capital Contributions are to be pledged as security, the General Partner confirms that, in consideration of the Initial Limited Partners’ status as an instrumentality of the Commonwealth of Kentucky, it shall not impose on the Initial Limited Partners any obligation to provide financial information that is not publicly available to any lender, any lender consent requirement for any Transfer, any requirement to deliver a legal opinion, or any other obligations or restrictions with respect to the Initial Limited Partners’ Interests other than to fulfill their Capital Contributions as provided in the Limited Partnership Agreement without their consent.

28. Co-Investments. The General Partner acknowledges the Initial Limited Partners’ interest in receiving the co-investment opportunities. In the event the General Partner offers the Initial Limited Partners the opportunity to co-invest with the Partnership, the Initial Limited Partners may assign such co-investment opportunity to a vehicle reasonably acceptable to the General Partner formed by Initial Limited Partners primarily for the purpose of taking advantage of co-investment opportunities offered to the Initial Limited Partners.

29. Initial Limited Partners Reporting Requirements. The General Partner shall furnish at the Partnership’s expense, to the extent reasonably available to it, to the Initial Limited Partners such additional information as the Initial Limited Partners may reasonably request from time to time and upon reasonable written notice as is necessary to (i) comply with the Initial Limited Partners’ reporting requirements, (ii) complete the Initial Limited Partners’ income tax or information returns or (iii) comply with any disclosure requirements of any governmental body, regulatory agency, official or authority having jurisdiction over the Initial Limited Partners.

30. Schedule of Limited Partners. The General Partner agrees that it will furnish to the Initial Limited Partners a list of the Limited Partners within 30 days after the Initial Limited Partners’ subscriptions to the Partnership, along with the respective contact information of such Limited Partners, except to the extent limited by confidentiality provisions or other agreements applicable to the General Partner.

31. Books and Records. A complete set of the Partnership’s books and records, including the Limited Partner register, shall be maintained in the United States for inspection by the Initial Limited Partners or their designee(s) for the term of the Partnership and for a period of six years thereafter.

32. FATCA Compliance. In the event amounts are withheld from payments made to the Partnership under the Foreign Account Tax Compliance Act (“FATCA”) as a result of the action or inaction of another Limited Partner, the General Partner shall use commercially

reasonable efforts to operate in a manner that ensures that Initial Limited Partners do not bear the burden of any such withheld taxes.

33. Reliance on Side Letter. The General Partner agrees that the Initial Limited Partners are allowed to rely upon this Side Letter received by the Initial Limited Partners in connection with Initial Limited Partners' subscriptions for limited partnership interests of the Partnership.

34. Binding. This Side Letter shall be binding upon and inure to the benefit of each party signatory hereto, each person indemnified or protected by the confidentiality provisions hereunder and each of their respective successors and permitted assigns.

35. Enforceability/Conflicts. This Side Letter is binding and enforceable against the Partnership, the General Partner and the Initial Limited Partners notwithstanding any contrary provisions in the Limited Partnership Agreement or the Subscription Agreement, and in the event of a conflict between the provisions of this Side Letter and the Limited Partnership Agreement or the Subscription Agreement, the provisions of this Side Letter shall control with respect to the Initial Limited Partners.

36. Amendments. Except as required to comply with applicable law, the Partnership agrees that none of Investment Agreements may be amended without first obtaining the consent of Initial Limited Partners, if any such amendment would be adverse to Initial Limited Partners. In addition, the Partnership agrees not to alter the Partnership's capital structure if such alteration would be adverse to Initial Limited Partners. The Partnership will promptly provide Initial Limited Partners with a copy of all amended Investment Agreements.

37. Closing Documents. Within 90 days of the Initial Limited Partners' subscriptions, the General Partner will provide each of the Initial Limited Partners and their outside counsel, Jussi P. Snellman at Reinhart Boerner Van Deuren, a closing binder containing executed copies of (i) the Limited Partnership Agreement, (ii) this Side Letter, (iii) the Subscription Agreement and (iv) the Investment Management Agreement, (v) all opinions of counsel (if any) issued to the Initial Limited Partners or the Limited Partners, and (vi) any other agreements entered into with respect to the Initial Limited Partners' investment. The General Partner hereby agrees to distribute to the Initial Limited Partners copies of all amendments thereto no later than 90 days after the date of their execution.

All capitalized terms which are not otherwise defined in this Side Letter shall have the meanings set forth in the Limited Partnership Agreement and the Subscription Agreement, as applicable. Any inconsistency between the terms of this side letter and the Limited Partnership Agreement or the Subscription Agreement shall be controlled by this Side Letter. This letter shall survive delivery of fully executed originals of the Limited Partnership Agreement, Subscription Agreement and other agreements. This Side Letter shall terminate upon the complete withdrawal of the Initial Limited Partners from the Partnership. This Side Letter may be amended only in writing.

[Signature Page Follows]

If the foregoing is acceptable, please execute this Side Letter in the space indicated below. This Side Letter may be signed by the parties hereto in counterparts.

Very truly yours,

**MARATHON BLUE GRASS CREDIT FUND, LP**, a Delaware limited partnership

By: MARATHON BLUE GRASS CREDIT GP, LLC, a Delaware limited liability company, its general partner

By: *a*

Name: *Andrew Rabnowitz*  
Title: *Authorized Signatory*

**MARATHON BLUE GRASS CREDIT GP, LLC**, a Delaware limited liability company

By: *a*

Name: *Andrew Rabnowitz*  
Title: *Authorized Signatory*

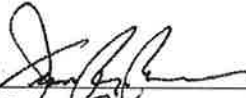
**MARATHON ASSET MANAGEMENT, L.P.**, a Delaware limited partnership

By: *er*


Name: *Andrew Rabnowitz*  
Title: *COO, Partner*

AGREED AND ACCEPTED:

KENTUCKY RETIREMENT SYSTEMS

  
By: \_\_\_\_\_  
Name: James R. Robben  
Deputy CIO

KENTUCKY RETIREMENT SYSTEMS INSURANCE TRUST FUND

  
By: \_\_\_\_\_  
Name: James R. Robben  
Deputy CIO.