

*Proprietary and Confidential*

omission is taken or suffered in reliance upon and in accordance with the opinion or advice of legal counsel (as to matters of law), or of accountants (as to matters of accounting), or of investment bankers, accounting firms, or other appraisers (as to matters of valuation), *provided that* any such professional or firm is selected by any such Person with reasonable care.

**12.2 INDEMNIFICATION.****12.2.1 General.**

The Covered Persons, each liquidator and each partner, member, stockholder, director, officer, manager, trustee, employee, agent and Affiliate of any of the foregoing (each, an "Indemnitee") shall be indemnified (whether or not the Indemnitee continues to serve in such capacity at the time such action, suit or proceeding is brought or threatened), subject to the other provisions of this Agreement, by the Partnership (out of Partnership assets, including unpaid Subscriptions, the proceeds of liability insurance and as set forth in 12.4) against any claim, demand, controversy, dispute, cost, loss, damage, expense (including legal and accounting fees and expenses, costs of investigations and sums paid in settlement), judgment and/or liability of any kind or nature, whatsoever or however arising incurred by or imposed upon the Indemnitee in connection with any action, suit or proceeding (including any proceeding before any administrative or legislative body or agency), to which the Indemnitee may be made a party or otherwise involved or with which the Indemnitee shall be threatened, by reason of the Indemnitee's being at the time the cause of action arose or thereafter, a Covered Person, a liquidator, a partner, member, stockholder, director, officer, manager, trustee, employee, agent or Affiliate of any of the foregoing, or a partner, member, stockholder, director, officer, manager, trustee, employee, consultant or agent of any other organization in which the Partnership owns or has owned an interest or of which the Partnership is or was a creditor, which other organization the Indemnitee serves or has served as a partner, member, stockholder, director, officer, manager, trustee, employee, consultant or agent at the request of the Partnership, or by reason of actions or omissions taken or suffered in any such capacity.

**12.2.2 Limitation on Indemnification.**

An Indemnitee shall not be indemnified with respect to matters as to which the Indemnitee shall have been finally adjudicated in any such action, suit or proceeding (a) to have acted in bad faith or to have acted with gross negligence or willful misconduct, or (b) with respect to any criminal action or proceeding, to have had reasonable cause to believe that such Person's conduct was unlawful.

**12.2.3 Advance Payment of Expenses.**

The Partnership may, in the General Partner's sole discretion, pay the expenses incurred by an Indemnitee in connection with any such action, suit or proceeding, or in connection with claims arising in connection with any potential or threatened action, suit or proceeding, in advance of the final disposition of such action, suit or proceeding, upon (a) the assignment by such Indemnitee of any and all rights that the Indemnitee may have to seek indemnification from a Third-Party Indemnifier with respect to such action, suit or proceeding, and (b) the execution of a written agreement between the Partnership and the Indemnitee reflecting that, as a result of the advancement of such expenses, the Partnership is subrogated to the Indemnitee's rights to pursue a claim for indemnification from a Third-Party Indemnifier with respect to such action, suit or proceeding, and (c) the receipt of an undertaking by such Indemnitee to repay such payment if the Indemnitee shall be determined to be not entitled to indemnification for such expenses pursuant to this Article 12.2 (whether by virtue of such person's conduct, the receipt of a corresponding indemnification payment from a Third-Party Indemnifier with respect to such matter, or otherwise); *provided, however*, that in such instance the Indemnitee is not defending an actual or threatened claim, action, suit or proceeding against the Indemnitee by the General Partner directly or