

applicable to such Member determined as of such distribution date, 100% to the Unaffiliated Member;

(II) next, 100% to the Manager until the Manager has been distributed pursuant to this clause (c)(II) an amount equal to 25% of the aggregate amounts distributed pursuant to clause (c)(I) above and this clause (c)(II); and

(III) thereafter, 75% to such Unaffiliated Member and 25% to the Manager (the aggregate amount distributable to the Manager pursuant to clause c(II) above and this clause (c)(III), the “**Carried Interest**”).

4.2.2 For the avoidance of doubt, with respect to any distribution made by the Fund prior to the one (1) year anniversary of the Closing Date, the Carried Interest calculation shall be made (in accordance with Section 4.2.1) as a percentage of the total dollar amount of the portion of Reapportionable Proceeds for such period that represents net investment profits (and not as a percentage of annualized net investment return for such period).

4.2.3 Notwithstanding anything to the contrary in this Agreement, the Manager may, in its sole discretion, reduce, waive or rebate the Carried Interest with respect to any Member, including, without limitation, Affiliated Members, in each case without entitling any other Member to the same or similar reduction, waiver or rebate, and shall not be required to obtain the consent or approval of, or give notice to, any Member in connection therewith.

**4.3 Tax Distributions.** Notwithstanding the provisions of Section 4.2.1, prior to any distribution being made pursuant to Section 4.2.1, the Manager may cause the Fund to distribute to the Manager an amount equal to the sum of any taxable income of the Fund allocable to the Manager with respect to the applicable Fiscal Year on account of its entitlement to the Carried Interest, after taking into account all tax losses allocable to the Manager with respect to any Fiscal Year (to the extent that such tax losses have not previously been applied against taxable income allocable to the Manager with respect to such Fiscal Year or any prior Fiscal Year), multiplied by an assumed tax rate equal to (i) the highest combined marginal federal, state and local tax rate applicable to individuals residing in New York, New York, and (ii) to the extent applicable, the highest rates of tax imposed in respect of any self-employment and Medicare contribution tax, taking into account (A) taxable income classified for tax purposes as ordinary income and (B) taxable income classified for tax purposes as net long term capital gains (calculated in accordance with the Code). Distributions to the Manager pursuant to this Section 4.3 shall only be made to the extent that the Manager would not receive, for the applicable Fiscal Year, distributions pursuant to Section 4.2.1(c) in an amount equal to the amount described in this Section 4.3. Any amount distributed to the Manager pursuant to this Section 4.3 shall be treated as an advance against future Carried Interest distributions.

**4.4 Limitations on Distributions.** Notwithstanding anything to the contrary contained herein, no distribution pursuant to this Agreement shall be made if the Manager determines, based on the opinion of reputable outside legal counsel, that such distribution would violate the LLC Law or any applicable law. The Manager’s good faith determination of the restrictions and limitations set forth in the preceding sentence shall be final and conclusive as to all Members. If a distribution is suspended or delayed pursuant to this Section 4.4, then all amounts so retained by the Fund shall continue to be subject to all the liabilities of the Fund and such distribution shall be made promptly after the Manager reasonably determines that such payment restrictions and limitations are no longer in effect.